

ZONING BOARD OF ADJUSTMENT
JUNE 4, 2019 DRAFT MEETING MINUTES

Present: Jack Dearborn, Chairman; Michael Meyer, Vice-Chairman; Malcolm Wright, Member; Marc Morette, Member; Gary Shelto, Alternate; Bobbi-Jo Plamondon, Alternate.

Guests: Eleanor Chapman, Bob Chapman, Sandra Pierre, Robin Rojek, Glynn Ossilun.

Chairman Jack Dearborn called the meeting to order at 7:31 PM.

I. INTRODUCTION/ADMINISTRATIVE ITEMS

Chairman Dearborn asked all members present to introduce themselves. Continuing, he read through the agenda and then explained how the meeting will be run. He will read the outline of the case at hand, then ask the Board for a motion to accept the application, making sure the application is complete. Upon getting a motion and a second, and after discussion, a vote will be made. Only then will the Board hear the case. If at any point during the hearing there is a discrepancy with the application, the Chair will stop the meeting and ask for clarification, and if need be, the hearing will be continued, so the applicant has a chance to return with the additional requested information. Once the Board has accepted the application and the Chair has read the case in more detail, the applicant will be asked to come forward to read the five points of hardship out loud, both the question and the answer. This is necessary as only the Board has the application in front of them to refer to. The applicant must read to the group because it benefits not only the listening audience but provides the opportunity to read the it into the record. After the applicant has had the opportunity to speak, the Chair will ask the applicant to sit down and request that approving abutters, disapproving abutters, public at large and other boards come forward to speak. The applicant would then come back up and refute anything necessary. The process will be repeated, with the close the public hearing just after. The Chair then will ask for a motion to accept (he stated that the reason is yes means yes, and no means no). From that perspective, all five points of hardship of the variance, each individually, shall progress with a motion, a second, a discussion, and then a vote. After the fifth point is read, in order for the variance to carry, the applicant will need to have all five points pass with at least 3 positive affirmations. For example, if you get four points to pass, and one point gets only two or one positive votes, the whole variance fails. In this case, the only action for the applicant would be a re-hearing before the Board, taken on advisement, resulting in a vote on whether the Board wants to hear the case again or not. Additionally, in the case of a special exception, the applicant must meet seven (7) mandatory conditions in the positive, per Article 6, Section 6.1.4 of the Zoning Ordinance.

II. PUBLIC HEARINGS

Ms. Plamondon was seated at the table.

a. Case #0619 Special Exception Article 19.1.10 A request to allow an attached accessory dwelling unit at 226 Colby Road, Tax Map 412, Lot #165 in a R/A Zone for Eleanor and Robert G Chapman Jr.

Mr. Meyer moved, Mr. Wright seconded, to accept Case #0619 and all were in favor; 5-0. The applicant rose and read thru the 7 conditions to be met for the record.

“As stated for the record, the undersigned hereby request a special exception as provided in Article 19.1, Section 10 of the Zoning Ordinance. The following seven (7) conditions per Article 6, Section 6.1.4 of the Zoning Ordinance must be met in the positive to warrant the granting of a special exception.

- 1. The proposed change is within the character and zoning of the neighborhood. The site is our primary residence and there is an existing bedroom that is used for family visits. It will provide a housing opportunity for a family member.*
- 2. The modifications proposed will not be visible from the street as the change will occur within the existing structure. Entry is from the rear of the home. The neighborhood supports other multi-family dwellings at this time.*
- 3. The proposed use will only allow for 1-2 residents. The road is currently heavily traveled by a wide variety of vehicle traffic.*
- 4. There is little to no effect foreseen to town services, other than the use of Town Offices for registrations, etc.*
- 5. There is ample off-street parking at this time, with easy access.*
- 6. No buffers should be required as the changes will not be visible from the street and being done within the structure. The home has limited visibility from neighbors.*
- 7. Owner will obtain any permits that may be required.”*

Mr. Meyer then read thru the Zoning Ordinance description of accessory dwelling units and asked appropriate questions to the applicant. Vice-chairman Meyer stated all seven points were fulfilled. The chair asked the applicant to sit down.

Chairman Dearborn asked for approving abutters; there were none.

Chairman Dearborn asked for disapproving abutters; there were none.

Chairman Dearborn asked for other boards; there were none.

Chairman Dearborn asked for public-at-large; there were none.

At 7:46 PM the public hearing closed.

The Chair asked for a motion in the affirmative. Mr. Morette moved, Mr. Wright seconded, to grant the special exception for Case #0619. There was no discussion. All were in favor; 5-0.

b. Case #0719 Variance Article 18.2.3

Robin Rojek and Amanda Cook are seeking relief from setback requirements at Tax Map 408, Lot #116, 995 South Stark Highway on the West side in a Residential Zone. The applicant explained that a good faith misstep occurred, and resulted in the house to be built 1.8' away from an abutter's property, located at 997 South Stark Highway. The Chair proposed to use the equitable waiver per RSA 674:33-A. The applicant then read the following per the Chair request.

“As stated per RSA 674:33-A, the undersigned hereby requests an equitable waiver of the dimensional requirements from Article 18 Section 2.3 of the zoning ordinance to permit: the current location of the house to remain in location that is nonconforming with the ordinance requirements of a 25' side setback to the property line. Nonconformity was not discovered until well after the footing were poured, house placed on foundation and the surveyors came out and replotted the new location of the house. However, nonconformity wasn't fully away/verified until the town inspector received the new

plot plans from the surveyors for another application 7-10 days. The house was relocated out of good faith and the safety of the structure because of the presents of a wet spot of the original planned location that would have placed the southwest corner of the footing in water. The new location was picked with clear understanding that the house would still be within regulatory guidance to meet the ordinance of the required 25 ft side setback to property line. Nonconformity does not constitute a nuisance nor diminish the value or interfere with future use of the other property in the area because Lot 1116 and 117 already have shared common driveway, both lots are large wooded lots, and the nonconformity is unnoticeable to the general public. There is also plenty of privacy and distance between both residences of Lot 116 and Lot 117; currently residences are barely visible from one another residences. I, Robin Rojek, owner of Lot 116 has spoken to the owner, Sandra Pierre of Lot 117, about the issue and she expressed no concern with the location of the house. We have even discussed the option of swapping land or sale/purchase of the footage/property to gain the required footage to meet the ordinance side setback of 25ft. The cost of correction of this honest mistake outweigh any public gained benefits because per rough estimate by project manager the correction/relocation of the house would cost approximated \$70-80 thousand dollars this would cause myself, the owner, to have to forfeit the loan. This would cause the house to remain unfinished, vacant and to be foreclosed on which would cause other properties to diminish in value. I also believe the public would lose 5 great people to add to this amazing community.

Chairman Dearborn asked for approving abutters.

Sandra Pierre of Lot 117 rose and agreed that this error was made in good faith and that the visibility of the new structure is nil, so therefore she has no issue with this waiver request.

Chairman Dearborn asked for disapproving abutters; there were none.

Chairman Dearborn asked for other boards; there were none.

Chairman Dearborn asked for public-at-large; there were none.

The public hearing closed at 8:03 PM. Mr. Meyer moved, Mr. Wright seconded, to allow Case# 0719 an equitable waiver per RSA 674:33-A. All were in favor; 5-0.

III. MINUTES

Tabled until the next meeting.

IV. UPCOMING MEETINGS

*Tuesday, July 2, 2019

Adjournment was declared at 8:06 PM.

Respectfully submitted,

C. Provencher

Transcribed from notes