

ZONING BOARD OF ADJUSTMENT
FEBRUARY 5, 2019 FINAL MEETING MINUTES

Present: Jack Dearborn, Chairman; Michael Meyer, Vice-Chairman; Stuart Richmond, Member; Gary Shelto, Alternate; Chip Meany, Land Use Coordinator.

Guests: Bobbi-Jo Plamondon, Gary Shelto, Don Hebert, Danielle Kiley, Patricia Hebert, Shelley Duquette, Gil Duquette, Lynn Carnara, Travis Corcoran, Jennifer Corcoran.

Chairman Jack Dearborn called the meeting to order at 7:30 PM.

I. ADMINISTRATIVE ITEMS: Chairman Dearborn stated we have a defined procedure for the meeting. He then read the agenda for the evening, asked all members present to introduce themselves and additionally, stated to everyone that all questions posed should be addressed to the Chair. He then reminded the audience that all cases will be taken separately and explained the course of action for the following hearings; first he will ask for a motion to accept the application to be heard, then review the synopsis of the front page of application, ask the Board if they have any questions concerning the application, then he will ask the applicant to come forward to state his name and speak to the seven conditions needed for a special exception that has been included in the application. The applicant will be asked to sit down. Next, the Chairman will ask for approving abutters, disapproving abutters, public at large and other boards. The applicant would then come back up and refute anything necessary. The process will be repeated, with the close the public hearing just after. Chairman Dearborn indicated that once the public hearing is closed, the Board will deliberate and come up with one of the following positions; approval with or without conditions, denied with conditions, continued with pending issues that require further information or should the Board want a legal opinion. All motions will be made in the affirmative.

Gary Shelto rose, and joined the Board to participate in the hearings.

II. PUBLIC HEARINGS

The Chairman began by stating that although there are five members on the Board, there are only 4 members present tonight. He explained that everyone before the Board is entitled to have five members present for their hearing, and if you desire a continuance because not all 5 members are present tonight, this is your choice.

a. CASE #1118 Administrative Appeal: George W. Merrill Tax Map 406, Lot 51.3 West side of River Road in a Residential Zone. Continued to March 05, 2019.

b. Case #1218 Request for reconsideration Mr. Travis Corcoran is appealing the Building Departments approval of an illegal building on a non-conforming lot at 271 Quaker Street Tax Map 404, Lot 84 in a Residential Zone. Continued until March 5, 2019.

c. CASE #0219 Variance Application Donald Hebert of 168 River Road, Tax Map 412, Lot 103 in a Rural Agricultural [R/A] Zone. Requesting to replace the current existing mobile home with a newer mobile home that resides on the same lot as the single family home at 168 River Road.

Mr. Hebert stated he wished to continue with his application. The members introduced themselves and Mr. Richmond made the motion to accept the application. Mr. Shelto then seconded; all were in favor. The Chairman asked the applicant to read the facts to support his waiver. Mr. Hebert then rose and addressed the Board providing reasoning for the waiver:

He stated the following:

The undersigned hereby requests a variance to the terms of Article 3, Section 3.5 of the Zoning Ordinance of the Town of Weare and asks that terms be waived to permit: To replace the current existing mobile home with a newer mobile home that resides on the same lot as the single family home at 168 River Road.

To qualify for a variance from the terms of the zoning ordinance, you must demonstrate that:

- 1.) **The Variance will not be contrary to the public interest because:** We are seeking to replace the existing mobile home that has been on the lot since the 1960's. The problem we are having is that currently the mobile home is 8'x42' (336 SF) and the mobile home manufacturers don't make that size today. We are looking to place a new mobile home in the same location regarding the side and front setbacks, but the footprint cannot be duplicated with the exact mobile home. The new ones are wider and the length varies, as well. Replacing the existing mobile home with a new one will not be contrary to public interest. The existing 1960's mobile consist of 336 SF and the upgrade is creating a more non-compliant situation (overall footprint) therefore needing a variance. The cost to upgrade the existing 1960's mobile home to include todays life safety items would be more of a financial burden, but it would be allowed.
- 2.) **Please describe how the spirit of the ordinance is observed:** The intent of the ordinance that was developed/voted on in 1988 was to have one dwelling unit on one lot. This site was has had two dwelling units since the 1960's which was long before zoning was approved, making it a non-conforming, grandfathered situation. The existing mobile home would be replaced with a current model, which has a large footprint because the old footprint is not available because of current codes. The side and front setbacks would remain the same, as the new mobile home would be placed o the same outer footprint. A renovated 1960's mobile home would be more of a financial burden than to replace with ta new upgraded model.
- 3.) **Please describe how substantial justice is done:** Substantial justice is done when the benefit to the landowner far outweighs the burden to the general public. In this case, we would be taking the current pre-existing outdated mobile home and replacing it with a newer much more attractive mobile home. There is no harm to the general public. The setbacks to the front and the abutting neighbor would remain the same. The only reason to obtain this variance is because the new mobile homes are not made in this foot print. The financial burden to upgrade the 336 SF 1960's mobile home with all the life-safety items would be much more costly then a newly upgraded model.
- 4.) **Please describe how the values of surrounding properties are not diminished:** The variance only pertains to this site. The surrounding properties will not be affected as the setbacks to the abutter and the roadway are not changing. The outer part of the new mobile home will be placed in the same locations so no infringement is being done. This is a non-conforming use that we are

asking for a variance because the strict allowance of a replacement of this mobile home on the same footprint cannot be achieved. Today's mobile homes are not made in the existing size, largely because of technology and life safety measures. The upgrade of a new mobile home will increase the current value and should not diminish the surrounding properties. The upgraded size that is being requested is considered making the current situation more non-compliant but a new upgrade would certainly not diminish the surrounding properties. There is enough room for this new upgrade.

5.) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

A. Please describe the special conditions of the property that distinguish it from other properties in the area; The special conditions of this property have existed since the 1960's which distinguish it from other properties in the area. The property has had two dwelling units on it since long before zoning was voted on. We are looking to continue the use, just replacing the existing size any longer, causing an unnecessary hardship for the owner to be able to upgrade. A state of the art mobile home. There are other mobile homes in the area. Mobile homes are allowed in the Rural Agricultural Zone.

i. Owing to the special conditions identified above, please indicate how no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property; The general purpose of the zoning ordinance was to have individual dwelling units on individual lots, but due to the fact that zoning did not come in to place until 1988. There are some pre-existing conditions on the property. Being able to continue to enjoy the rights as a property owner is consistent with all other taxpayers. This property has 2 dwelling units, a home and mobile home that pre-dated zoning. Our proposal is to replace the outdated mobile home with an updated model. The hardship that has been created is that there are no mobile homes today that meet this same footprint. As previously indicated, this new mobile home will be placed in the same location, meeting the current side and front setbacks.

ii. Owing to the special conditions identified above, please indicate how the proposed use is a reasonable one; The proposed use is a reasonable one and one that has been allowed since the 1960's. The issue is today's mobile homes are no longer made like the existing one (8x42). This new mobile home will be situated in the same locations. There will be no infringement on the side and front setbacks, so there will be no impact on the abutters or passing motorists.

Or

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

B. Please describe the special conditions of the property that distinguish it from other properties in the area; The special condition of this property is that in the 1960's two homes were located on this one piece of property. Again, a newer mobile home is requested to be placed in the

same location as the outdated mobile home, but the exact footprint cannot be achieved due to current regulations and codes. The proposed mobile home would be located on the same location with no infringement to the abutters.

Owing to the special conditions identified above, please indicate how the property cannot be reasonably used in strict conformance with the ordinance and a variance is there ore necessary to enable a reasonable use of it; Strict conformance of the ordinance would take away a pre-existing non-conforming use that the owner has had the enjoyment of since the 1960's. Two homes existed since the 1960's and today two homes would exist. It would be just a newer mobile home with a larger footprint and that is only because they don't make the outdated size mobile homes any longer.

Mr. Hebert reminded everyone that there will be the same set-backs, none would be altered. The Chairman asked about septic, and side-lines, and if there were additional rooms that would be added. The applicant responded everything will eventually be updated, but no upgrades would take place. The Chairman then asked the applicant to have a seat.

Chairman Dearborn asked for approving abutters. There were none.
Chairman Dearborn asked for disapproving abutters. There were none.
Chairman Dearborn asked for public at large. There were none.
Chairman Dearborn asked for other boards. There were none.
At 7:53 PM the public hearing closed.

The Board then granted the Variance by voting the following:
Point #1: Mr. Richmond moved to approve point #1; Mr. Shelto seconded. Vote: 4-0
Point #2: Mr. Meyer moved to approve point #2; Mr. Shelto seconded. Vote: 4-0
Point #3: Mr. Shelto moved to approve point #3; Mr. Meyer seconded. Vote: 4-0
Point #4: Mr. Richmond moved to approve point #4; Mr. Shelto seconded. Vote: 4-0
Point #5: Mr. Meyer moved to approve point #5 in its entirety; Mr. Shelto seconded. Vote: 4-0

The Chairman told the applicant the waiver passed without issue and Mr. Meany will be sending a notice of the approved variance.

III. MINUTES

*January 8, 2019 Draft minutes; Mr. Meyer moved to approve; Mr. Richmond seconded, and all were in favor of approval, 4-0.

IV. UPCOMING MEETINGS

*Tuesday, March 5, 2019
*Tuesday, April 2, 2019

V. ADJOURNMENT

Adjournment was called at 7:58 PM.

Respectfully submitted,

*C. Provencher, Recorder
Transcribed from notes*