

ZONING BOARD OF APPEALS
Public Hearing
AGENDA

Monday, June 25, 2001
7:00 P.M. at the Town Office

ATTENDANCE: Peter Leavitt, Chairman; Aurel Gagne; Michael Higgins; Lawrence Murch; and Jack Cooper, Code Enforcement Officer.

1. Call to order. Peter Leavitt called the meeting to order at 7:01 p.m.
2. Consideration of previous minutes dated April 30, 2001.

MOTION: Michael Higgins motioned to accept the minutes as written. Seconded by Aurel Gagne.

VOTE: Unanimous.

3. Cragin, Charles & Maureen Map 16 Lot 25 85 Spring Valley Road

Requesting an administrative appeal to construct a roof over a walkway.

DISCUSSION: Peter Schofield and Bob Durgin addressed the Board as representatives of Mr. & Mrs. Cragin. Mr. Durgin explained that the Cragins plan to roof over a gazebo and walkway to protect a generator and to protect the walkway for safe passage in the winter months.

Mr. Durgin stated that at a recent meeting of the association there were no objections to the proposed expansion.

Mr. Higgins requested Mr. Cooper simplify the issue for the Board.

Mr. Cooper responded that the Cragins are requesting a walkway because access to the dwelling from the road way is very steep.

Mr. Leavitt asked Mr. Cooper to explain what the challenge is in this case.

Mr. Cooper responded that the Cragins are proposing to enclose a structure less than 30' from the rear property line.

Mr. Leavitt then confirmed the setback issues with Mr. Cooper.

Mr. Cooper indicated that the original permit was issued for renovations and did not include covering the walkway. Mr. Cooper further indicated that a covered gazebo was not discussed when the permit was issued.

Mr. Durgin stated that the proposed walkway would be 100' long.

Mr. Leavitt indicated that he was in agreement with the terrain issue and then explained runoff and phosphate contamination for the benefit of the public. Mr. Leavitt also stated that an open structure would not keep ice and snow off the walkway.

Mr. Higgins noted that there is similar construction down the road at the Ruben residence. Mr. Higgins then confirmed with Jack Cooper that the proposed structure would be within the road right-of-way.

Mr. Cooper stated that the setback requirement is 30' and that if constructed as proposed, the generator would be located within 30' of the right-of-way line.

MOTION: Mr. Higgins motioned to support the decision of the Code Enforcement Officer. Seconded by Peter Leavitt.

VOTE: Unanimous.

4. Beers, Richard & Elizabeth Map 19 Lot 50 12 Hummingbird Lane

Requesting a 10' lot setback reduction to construct a garage.

DISCUSSION: Richard and Elizabeth Beers were present and addressed the Board with a description of their plan to construct a 20 x 24' garage. Mr. Beers discussed the lot design and the best location for the garage.

There was no one present in favor or in opposition to the request.

Mr. Cooper explained that the required setback is 20' and the Richards are requesting a 10' setback reduction.

Mr. Murch clarified that the garage would accommodate two cars.

Mr. Leavitt read into the record a letter from Sue Pringle and Cathy Johnson, 6 Hummingbird Lane, in support of the setback reduction request.

Mr. Higgins requested Mr. Cooper's recommendation in this matter. Mr. Cooper responded that he has no objection to the request if the setback is at least 10' from the property line.

MOTION: Aurel Gagne motioned to approve the setback reduction. Seconded by Larry Murch.

VOTE: Unanimous.

NOTE: Peter Schofield, representative of Charles Cragin requested clarification of the decision in the Cragin appeal. Mr. Cooper responded that they couldn't roof over the walkway. Mr. Leavitt added that otherwise, everything else on the permit has been granted.

5. Loughery, Joseph & Vicki Map 39 Lot 43 25 Kings Grant

Requesting a 9.29' setback reduction.

DISCUSSION: Mr. Leavitt noted that Joseph & Vicki Loughery had not arrived yet.

MOTION: Mr. Leavitt motioned to carry this agenda item to the end of the Agenda. Seconded by Larry Murch.

VOTE: Unanimous.

6. Power, Georgiana Map 19 Lot 53 7 Stonewall Crossing

Requesting an administrative appeal to construct a 28 x 40' structure for a day care.

DISCUSSION: Mr. Leavitt noted that Georgiana Power was not in attendance. Mr. Cooper suggested tabling the matter.

MOTION: Mr. Leavitt motioned to table the matter to the next Appeals Board meeting. Seconded by Aurel Gagne.

VOTE: Unanimous.

7. Boylan, Daniel Map 34 Lot 6 99 River Road

Requesting an administrative appeal to enclose a porch.

DISCUSSION: Mr. Boylan addressed the Board with a description of his plan to finish a room that is now 70% complete. Mr. Boylan referred to the photos included in the Board's packet. Mr. Boylan explained that there are seven glass windows in place right now and he would like to replace two screen windows with glass windows and install a sliding glass door. Mr. Boylan further explained that he would not be increasing the roofline, footprint of the building, or the foundation.

Mr. Charles Thoits, abutter, spoke in favor of the request stating that there would be no additional impact on the lake and that the construction is within the original structure.

Mr. Leavitt read into the record a letter from Frederick and Patricia Palmer in support of the Boylan appeal.

Dan Ticcioni, abutter, also spoke in favor of the Boylan appeal stating that the impact on the lake would be minimal if any.

Mr. Gagne clarified the Boylan's proposal as enclosing 16' of 26'. Mr. Boylan confirmed that the total square footage would be 135 sq. ft.

Mr. Higgins confirmed with Mr. Cooper that the structure is within the 100' setback from the water and that therefore, the two issues would be:

1.) encroachment on the lake; and

2.) 30% volume expansion rule.

Mr. Cooper explained that they had used up some of their 30% expansion but not all of it.

Mr. Higgins discussed the variety of similar cases previously before the Board with decks and porches typically being denied. Mr. Higgins indicated that he felt that with this request, the roof is already there, the walls and floors are already there and therefore, he doesn't find any problem with this request.

Mr. Leavitt indicated that he felt this request was significantly different than the previous requests and that this is an interior matter.

MOTION: Larry Murch motioned to grant the request of Daniel Boylan, 99 River Road. Seconded by Michael Higgins.

VOTE: Unanimous.

8. Bolduc, James Map 67 Lot 21 Rusty Road

Requesting an administrative appeal to retain a camper on a vacant lot.

DISCUSSION: Mr. Bolduc explained that he was appearing before the Board because he has a camper has been on a lot for more than 90 days and he wants to keep it there for the remainder of the summer.

David Johnson, neighbor, stated that he has no objection to the camper staying on the lot for the remainder of the summer.

Rev. Vincent Tatarczuk spoke in opposition to the presence of the trailer explaining that the trailer had been there for three years and that there are regulations in place with good reason. Rev. Tatarczuk stated that he felt the trailer was "unsightly".

Jim Ferland also spoke in opposition to the presence of the trailer and offered photos for the Board to review. Mr. Ferland explained that the lot had previously been virgin forest and that it had since been stripped with gravel and sand being added all the way to the water and that he had personally witnessed sand being dumped and heavy equipment moving rocks. Mr. Ferland also stated that there is a septic system on the property which sits slightly above ground level.

Mr. Cooper responded that the lot was previously a wooded lot and it has been cleared which is a DEP issue. Mr. Cooper explained that the Appeals Board needs to determine whether or not the trailer should be there more than 90 days of the calendar year. Mr. Higgins confirmed that the trailer was on the lot on January 1, 2001 and that the 90 days are up. Mr. Cooper acknowledged that there is a septic system in place for a future residence. Mr. Cooper explained that there had been complaints from neighbors, which initiated a notice of violation. Mr. Cooper also explained the 30 day timeline involved and stated that he would confirm this timeline with the Town attorney. Mr. Cooper stated that normally the attorney is of the opinion that once the Board makes their decision, the applicant has 30 days to comply. Mr. Leavitt indicated that he also believed the applicant had 30 days from the date of the Appeals Board's decision to comply.

Mr. Murch asked if the applicant would agree to remove the trailer the day after Labor Day. Mr. Bolduc stated that the trailer had been in place for two years and that he would agree to move it one day after Labor Day.

Mr. Leavitt moved the question.

MOTION: Larry Murch motioned to allow the applicant to keep the trailer on the lot for the months of July and August provided the applicant removes the trailer the day after Labor Day. There was no second.

MOTION: Michael Higgins motioned to uphold the decision of the Code Enforcement Officer and that within 30 days or less the applicant must remove the trailer pending consultation with the Town attorney. Seconded by Aurel Gagne.

VOTE: Three (3) in favor. One (1) opposed (Larry Murch).

9. Loughery, Joseph & Vicki Map 39 Lot 43 25 Kings Grant

Requesting a 9.29' setback reduction.

DISCUSSION: Mr. Loughery explained to the Board that there was an oversight on the plot plan, which was certified with three stakes, but that on that side of the structure there are four stakes. Mr. Loughery further explained that when he applied for the building permit he pulled the string line from the first stake to the third stake and then to the fourth stake and that at the time, the measurements were acceptable. Mr. Loughery stated that the house is currently on the market and when a new survey was done the error was revealed. Mr. Loughery stated that the addition was built four years ago.

There was no one present in favor of the request.

Ben Severn, neighbor, stated that he has no problem with the request.

Mr. Loughery added that he had not broken any subdivision laws.

Mr. Cooper stated that the addition is more than 10' from the sideline.

Mr. Leavitt asked if there were a warranty deed for the property. The realtor replied that there was a warranty deed with a property description and that it was the recent Class D survey that revealed the discrepancy.

Mr. Cooper stated that he has no problem with the request.

MOTION: Aurel Gagne motioned to approve the setback reduction as requested. Seconded by Peter Leavitt.

VOTE: Unanimous.

10. Other business.

a. Nominations – Mr. Cooper informally nominated Peter Leavitt as Chairman. Mr. Leavitt respectfully declined.

NOMINATION: Mr. Leavitt then nominated Michael Higgins. Mr. Higgins accepted the nomination for a one-year term. Aurel Gagne seconded the nomination.

VOTE: Unanimous.

b. Ordinance changes – Mr. Cooper advised the Board to forward any suggested ordinance changes to the Planning Board who would then have a public hearing. Mr. Leavitt stated that the Board needs a clear definition of encroachment vs. expansion. Mr. Cooper further explained that the requested ordinance change would then be voted on at the annual town meeting as a warrant article. Mr. Leavitt referred to Sec. 12C, 1c of the Shoreland Zoning Provisions as the section to reword. Mr. Cooper encouraged the Board to submit any requests by January 2002. Mr. Cooper suggested a change to the ordinance that would allow him to approve setback reductions providing applicant can prove that there is no other place to put a structure on the lot and if Mr. Cooper doesn't approve then the matter would come before the Board.

c. Indian Point – Mr. Cooper informed the Board that only a few appellants had not come in for permits and that mainly all issues have been resolved.

MOTION: Peter Leavitt motioned to adjourn. Seconded by Larry Murch.

VOTE: Unanimous.

ADJOURNMENT: Peter Leavitt adjourned the meeting at 8:04 p.m.

Site Walk – July 22, 2001 – Please contact the secretary if you are unable to attend.

Next meeting of the Zoning Board of Appeals – July 30, 2001.

Respectfully submitted,

Elisa A. Trepanier
Recording Secretary