

**TOWN OF CHESTERFIELD, NH
ZONING BOARD OF ADJUSTMENT**

**MINUTES
November 10, 2009**

Present: Chairman Burt Riendeau, Andy Cay, John Perkowski, Alternates Jim Larkin and Lucky Evans, Selectman Cliff Emery and Code Enforcement Officer Chet Greenwood. Harriet Davenport (arriving after the public hearings) and Renee Fales were absent.

The Zoning Board of Adjustment met at the Chesterfield Town Office on November 10, 2009. Riendeau called the meeting to order at 7:30 pm. The following agenda items were discussed.

1. Ronald & Barbara Coburn request a variance from Article 203.4 Section C, Coverage to increase deck and egress size. The property is located at 163 Route 9A, Spofford (Map 5L Lot A3) Residential/Spofford Lake District.

Coburn advised that the deck is on a high ledge. During last winter there was ice damage to the leg of the deck. They rebuilt the deck in levels making it easier to access the lake. He advised it is all ledge under the deck.

The Board viewed the picture on the house on the tax card. The deck is shown as 310 sq ft. The Board also reviewed a previous variance application in 1999 requesting a storage shed attached to the existing garage. This variance was denied.

Coburn had submitted a plot plan showing the lot calculation at 42,000 sq ft and advising structure coverage is 4,721 sq ft and impervious surfaces if 4,956 sq ft. Coburn advised the hardship for the expanded deck is to improve access to the lake. The ledge is very steep and the expansion allows for safe access.

There were no abutters present.

Perkowski moved to close the public portion. Evans seconded the motion, which carried.

Larkin stated this is a huge expansion on the deck; more than is needed to accommodate safety. Perkowski stated there is a lot going on there and he would like to look at it. It was noted that there is 11.2% existing structure coverage. The deck is over 1,000 sq ft plus the stairs.

Greenwood presented pictures of the existing lakeside view and the picture that is in Potter's book of Lake Spofford; he thought the Board had these photos. There is a big discrepancy on the deck that was in Potter's book and what is there today.

Riendeau stated that the Board needs to look at this as if the deck was not there. Would we approve it? The consensus of the Board was no, they would not approve it.

Perkowski stated that proportionally this is not a large increase with what was submitted by Coburn; however, looking at the pictures there is a lot more there. Larkin stated he does not see the need for this size of an expansion for safety. He would like to see the deck and take measurements himself.

It was noted that the Potter photo shows a 10 x 14 ft deck. Cay stated he didn't think the Board needed to see the property. He stated the Board should require that Coburn complies with the 10% building structure maximum, noting that the assessment card shows a 310 sq ft deck. It is now 1,780 sq ft as calculated by Larkin.

Cay moved to deny the application as applied for. We find significant deviation in the information that has been presented relative to the records that we have for the sizing of the deck for the lot coverage and critical area calculations of the lot. We do not find that applicant meets the test of hardship and we find that the 10% required building coverage and 20% required site coverage has not previously been granted a waiver and should not be granted a variance now. We also find that on the other 4 points of the variance have not been met.

Criteria for approval:

A. Denial of the variance would result in unnecessary hardship for the property owner seeking it. Boccia analysis for hardship:

➤ The special conditions of the property make an area variance necessary in order to allow the development as designed. No

And;

➤ The same benefit sought cannot be achieved by some other reasonably feasible method for the applicant to pursue. No

B. The granting of the variance would not be contrary to the spirit and intent of the ordinance. No

C. The variance is in the public interest. No

D. Denial of the variance would result in injustice. No

E. The variance will not diminish the values of surrounding properties. No

Perkowski seconded the motion.

Discussion: The Board noted that the pictures conflict. The measurements presented show over on coverage and by Coburn's testimony he is over on both building coverage and total impermeable coverage.

Riendeau asked Cay if he were suggesting the building coverage be brought back to 10%. Cay stated he should bring the coverage back into compliance.

Larkin stated he is in the dark with what is there and what the accurate calculations are. It was noted that in researching this other issues have come forth.

The vote was called and the motion carried unanimously.

2. Russell Stoddard requests a Special Exception under Article 402.4 Home Industry, to permit a trucking business with the stockpiling of material. The property is located at 14 Stoddard Dr, W Chesterfield (Map 4 Lot A19) Rural/Agricultural zone.

Stoddard advised that he had a trucking business when he first applied for the Home Industry in July 2000. The Board reviewed the 2000 application and no stockpiling was requested at that time.

Stoddard advised there is no change in his business since then but it is used more now. Riendeau stated that the issue is the screening of the piles. Cay stated that if you come for trucking with storing 6 trucks and trailers without stockpiling noted, the application is different. Stoddard stated there was an original stockpile in 2000. He advised that Tayne Rancourt, his friend, uses it as a staging area for his materials until he needs it. Nothing is sold from the property.

Stoddard asked why he was required to come to the ZBA. Greenwood advised that a complaint from the Selectboard came to him asking him to check it out. He reviewed the previous application and the minutes from that meeting and stockpiling was not noted on the application.

It was noted that the topography is working against Stoddard because the property is below the road. Stoddard stated the piles are pretty much the same as they have been for 8 years. Cay noted that Stoddard doesn't own the glass or the dirt but is accommodating a friend.

The lot is 37 acres. Dave Smith advised that the Stoddard farm has been there since WW II. His father had a trucking operation for many years. The current business has been there many years and is low impact. This is a recycling operation for loam allowing local access to loam. He sees no impact on the local property values because they all went up 33% last year.

Stoddard submitted letters of support from 2 abutters, Mowrey and Leonard Stoddard.

Stoddard advised that the glass pile is approximately 25 ft wide by 20 ft high. The loam pile grasses over the summer and is basically a lump in the field.

Emery asked Ross who had made the complaint to the Selectboard. Ross stated she did not recall.

Perkowski moves to close the public portion. Larkin seconded the motion, which carried unanimously.

Larkin stated that he drives by the site every day and it fits with the area. He advised that the vegetation is sufficient in the summer to screen the material; however, it was noted that during the winter you cannot screen the site because the topography slopping down away from the road. Riendeau stated it seems like it is in character with the area. It was noted that the storage of material is the issue.

Cay stated that if Stoddard's home occupation includes trucking and stockpiling then he would meet the ordinance but Stoddard stated he lets Rancourt use the property to stockpile. To qualify as a home business it has to be his business and everything about it should be his business. He doesn't have a truck and he doesn't own the stockpiles.

Perkowski stated he doesn't see a problem. Larkin stated that when you look down at it, it looks like a commercial site. Cay stated that he is creating a construction staging area and does it fit a home occupation. Stoddard needs to testify that he is in the construction business. Cay noted that we all see it as a reasonable use if this were all Stoddard's. He can have an arrangement with Rancourt that he owns material and also rents space. If he got paid a fee, that seems a reasonable use for the home occupation in this area. The Board also recommended limiting the cubic yardage of the stockpiles.

Cay moves to continue the meeting to a site visit. Perkowski seconded the motion.

Cay moves to withdraw his motion for a site visit and to continue to the next month's meeting. Perkowski seconded the motion, which carried.

Cay asked if Ross could contact Stoddard and explain the spirit and intent of the ordinance as it relates to his property and to ask him to bring in the cubic yardage information. Larkin offered to see Stoddard.

3. Julie Champagne requests a variance from Articles 203.6b Sections B & C, Side and Lake Setbacks to permit rebuilding the cottage in the existing footprint, increasing the living space and changing the roof line. The property is located at 1B Silverdale Ave, Spofford (Map 5A Lot A1) Spofford Lake District.

The Champagnes and Doug Brown, Contractor, were present. Champagne advised that cottage has been in her family since the 1940's. Her father had passed away last year. The ice storm had damaged the roof and they wanted to make the cottage more useable. It does not even have a shower.

Currently the cottage is on piers. They want to put in a frost wall foundation under the living space. The porch will remain on piers. An approved septic design was received today for the property for a 2 bedroom cottage.

It was noted that the ridge height would be increased by 5 ft. There would be an increase in living space by expanding the upstairs and enclosing the side porches. The footprint would remain the same. The house is in both sides and the lake setbacks.

The existing living space is 644 sq ft and the proposed is 1,350 sq feet. These measurements do not include the porches. The minimum living space requirement is 750 sq ft. A depiction of the proposed structure was presented. It was noted that the topography of the lot goes up steeply to beyond the driveway towards Route 63.

The footprint remains the same and there is no advancing toward the sides or lake setbacks. This is a cubic increase. The existing 2nd floor has 224 sq ft.

Susan Campbell, abutter, was present and advised that she did the same thing 20 years ago and was permitted by the Town. The Board advised that the ordinances have changed since that time.

Larkin asked if all the vegetation would remain. Brown advised that the vegetation would remain; there would be pruning only.

Perkowski noted that the new septic design was approved for a 2 bedroom house. Brown advised this will be a clean solution and they will readdress this with the State. It was noted that a building permit could not be issued for more bedrooms than approved on the approved septic design. Cay advised that looking at the septic design submitted to the State, a 2 bedroom design is what was applied for. Brown asked what if he changed the floor plan for a 2 bedroom house. Cay stated that would satisfy the State.

The side setbacks were reviewed; the existing cottage is 4 ft from the northern side boundary and 15 ft on the southern boundary. Champagne advised that the parking area shouldn't change.

The Thompsons, abutters, had sent a letter of support for the project.

Perkowski moved to close the public portion. Larkin seconded the motion, which carried.

It was noted this is a large expansion of living space. There would be a crawl space only under the cottage. Riendeau stated that Article 503.1 should also be included as this is an expansion of a non-conforming structure even though it will be a rebuilt cottage.

Riendeau stated he would like to see the site to view massing and the structure in relation to the boundaries. Perkowski agrees as this is a huge living space expansion. Larkin stated it is the same box dimension but with a vertical expansion.

Riendeau asked what the hardship is. He read Article 503.1. Cay stated we should look to a reasonable use and is doubling the space consistent with what we have done in the past. Riendeau mentioned the property on Dompier Dr that had been expanded but it was allowed because the Building Inspector had erroneously given a permit because it was the same footprint and not realizing the living space expansion.

Cay stated it is reasonable to want a shower and increasing the knee walls to give more space. He noted the cottage is under the 750 sq ft minimum requirement for living space. It was asked if anyone would approve the application as it was submitted. Perkowski said no because he does not see the hardship in doubling the living space. Larkin stated that he likes the project and it is reasonable to improve the structure. He would like to see what the visual obstructions are in the neighborhood. Evans asked if it were consistent with the neighborhood.

Larkin moves to continue the meeting to a site visit to see the existing structure and the lay of the land. Evans seconded the motion, which was overturned. (Yes: Larkin & Evans No: Perkowski, Cay & Riendeau)

Perkowski moved to deny the application as applied for. The Board finds there is no hardship to permit this expansion that is much greater than necessary to have reasonable use of the property.

Criteria for approval:

A. Denial of the variance would result in unnecessary hardship for the property owner seeking it. Boccia analysis for hardship:

➤ *The special conditions of the property make an area variance necessary in order to allow the development as designed. No*

And;

➤ *The same benefit sought cannot be achieved by some other reasonably feasible method for the applicant to pursue. No*

B. The granting of the variance would not be contrary to the spirit and intent of the ordinance. No

C. The variance is in the public interest. No

D. Denial of the variance would result in injustice. No

E. The variance will not diminish the values of surrounding properties. No

Cay seconded the motion.

Discussion: Evans asked if it were a reasonable use. Perkowski stated it would be reasonable to allow a minor expansion to add a shower. Larkin ask how can we determine the reasonable use without looking at it inside and out. Perkowski thought increasing head room on the second floor and increasing expansion to comply with the minimum sq ft, some place between that and doubling the living space. There should be a middle ground. Judging how we've looked at others need to be consistent. Larkin stated it would be helpful to have the dimensions showing the ceiling height.

The vote was called and the motion passed by a majority. (Yes: Perkowski, Evans, Cay No: Larkin)

Brown asked for some clarification. What should they avoid above the square foot expansion? Cay stated they should keep the massing and scaling around what is existing. Brown stated he would encourage the Board to view the site.

4. Review October 6, 2009 Meeting Minutes.

Cay moves to approve the meeting minutes. Larkin seconded the motion, which carried.

Davenport stated that in regard to Goulet's letter it might seem that the Board moves quickly on approving minutes, however she gets the information ahead and reviews it thoroughly prior to the meeting. The public is not always aware of the reviews done by the Board prior to the meeting. She stated she takes this position very seriously and serves in a professional manner, just as she does her job.

5. Other

Riendeau advised he had sent a message to the Selectboard regarding Goulet's letter asking if it should be sent to Town council. He stated he is not inclined to do any action as it is not in the scope of the ZBA. The ZBA purview is variances, special exceptions and equitable waivers. He stated that until we have guidance back he would like to leave it to the Selectboard.

Emery stated he was not present at the last Selectmen's meeting but asks if the ZBA should take some of Goulet's recommendations, like have the builder present and getting a copy of the decision notice to the Building Inspector. Riendeau stated it is the responsibility of the Code Enforcement Officer to make sure that the building project follows along the ZBA's direction.

Perkowski asked if we can suspend a builder when they do not comply with the Town's ordinance. Larkin agreed there should be certification for builders. Riendeau stated if there is a violation going beyond what was allowed by the ZBA it should be resolved.

Riendeau stated that the Board can take what we can from the letter. We all try to do the best job that we can. We should not nit-pick all the things that are in the letter. It is not the job of the ZBA to enforce ordinances.

Perkowski stated it would be a good idea to send Greenwood to make sure the Cooke project was done as it should have been.

6. Adjournment: The Board adjourned at 10:45 pm.

Respectfully submitted,

Carol Ross
Secretary

Approved:

Burt Riendeau
Chairman, Zoning Board of Adjustment

Date:_____