

ZONING BOARD OF ADJUSTMENT

TOWN OF BARNSTEAD

TOWN HALL

Monday, April 17, 2023 @7:00 P.M.

MINUTES

CALL TO ORDER: David Brown, Chair called the meeting to order at 7:00 P.M.

ROLL CALL: David Brown – Chair, Dean Diemdowicz - Member, Paula Penney - Select Board Representative, Mary Clarke - Member, Joanie Foss – Alternate/Recording Secretary

Absent: Jared Hanselman - Member

CONTINUATION CASE No. 0123-283: James Griffin owner Lot 21 Suncook Valley Road, Map 2 Lot 21, requests a variance **4-2.07 Shoreline Lots:** There must be fifty (50) feet between the nearest edge of any building and the high water line. There must be at least two hundred (200) feet of shoreline frontage for each dwelling unit. Shoreline frontage shall be measured from side boundary to side boundary along a straight line or a series of fifty (50) foot lines where the lot meets a body of water at the high water line. To allow as a matter of right an open deck up to 10 feet wide from all waterfront lots. (Amended 3/14/20) **14-4.02 Set Back Requirements.** All buildings shall be set back at least 110 feet from the property line abutting Route 28. Buildings shall be constructed at least (50) feet from the rear or side building line. If a variance is granted, the applicant proposes to **build a self-storage commercial business** and the application states he is looking for **“relief from section 14-4.02...front setback for commercial property from 110’ to 35’.** Also, relief from section 4-2.07... wetland setback from 50’ to 30’.” Chair Brown explained the procedures to be followed in review of the proposal. First the applicant will make a presentation on the proposed project, and then there would be the opportunity for questions from the Board. Chair Brown requested the alternate stand in as member to reach a quorum. This continuation is in follow-up to a site walk conducted on April 15, 2023. Chair Brown asked for questions from the Board. There was some question about the shoreline frontage on a part of the property. Chair Brown explained that the shoreline protection requirements are determined by the state, wetland requirements are determined by the town.

PUBLIC HEARING: Chair Brown opened the public hearing on the application at 7:10 P.M. He called for testimony from abutters and interested parties. The following interested party spoke: T. Taylor asked why regulations 14-4.02 and 4-2.07 were put in place. Chair Brown stated that 4-2.07 wetland setback is to protect the quality of the water and the 14-4.02 front setback from the highways is mostly esthetic/visual impact. T. Taylor stated that if these regulations were put in place for a good reason why would variances be allowed. She stated the variances in this particular case are quite significant. T. Taylor questioned why Mr. Griffin purchased the land if the land did not accommodate the ideas and the size of what Mr. Griffin’s plans proposed. T. Taylor feels that rules and regulations for the most part need to be followed unless there is a really significant reason as to why not. T. Taylor also asked about the lighting, Mr. Griffin stated that there would be LED lighting that would not be very bright and would have minimal impact. T. Taylor asked how many storage units Mr. Griffin plans to put in if he gets the variances, Mr.

Griffin stated 160. T. Taylor asked how many storage units could Mr. Griffin put in if he does not get the variances, Mr. Griffin stated around 60 units. Chair Brown closed the public hearing at 7:20.

Chair Brown stated he was having a hard time seeing the hardship. Mr. Griffin stated that the ZBA's regulations are the hardship. Mr. Griffin stated that the property should have been grandfathered in because this was purchased with the old setback of 50' and then about two years ago the setback requirement was changed to 110'. Chair Brown stated that under unnecessary hardship Mr. Griffin stated the proposed use is a reasonable one because it does not give the landowner reasonable usage of the property for the proposed project or others. Mr. Griffin stated that the ZBA regulations take away too much of the land so you really can't do anything with the land and that is a hardship. P. Penney stated that the regulations were in place before Mr. Griffin purchased the property. Mr. Griffin stated again that he was unaware of the current 110' setback regulation and that he was used to it being a 50' setback. Chair Brown stated the current ordinance does allow any reasonable usage on the property. D. Diemdowicz asked Mr. Griffin how many storage units he would need to be profitable. Mr. Griffin responded 80 to 100 storage units. D. Diemdowicz suggested taking out some of the buildings or arranging the buildings to make it more compliant. Mr. Griffin said he would be willing to eliminating buildings and arrange them differently but he would need some additional wetland relief. After further discussion no compromise was met.

Chair Brown requested a motion to approve the current design. P. Penney made a motion to approve the proposed design. D. Diemdowicz seconded the motion. Chair Brown called the vote and the Board voted unanimously to deny the proposed design. Chair Brown stated that Mr. Griffin could appeal the decision.

CASE No. 0223-285: Dorothea Vocino Trust owner of **24 West Shore Road, Map 31 Lot 51**, requests a variance **SECTION 4-2: OTHER LOT REQUIREMENTS 4-2.03 Frontage:** Every building lot shall have a minimum lot frontage of two hundred (200) contiguous feet on a road. (Amended 3/13/07 added contiguous) **4-2.04 Front Yard:** Buildings must set back fifty (50) feet from a right-of-way. **4-2.05 Side Line:** Building must set back a minimum of thirty (30) feet from the sideline. **4.2.6 Rear Set Back:** Building must be a minimum of thirty (30) feet from the rear lot line. (Amended 3/11/08) **4-2.07 Shoreline Lots:** There must be fifty (50) feet between the nearest edge of any building and the high-water line. There must be at least two hundred (200) feet of shoreline frontage for each dwelling unit. Shoreline frontage shall be measured from side boundary to side boundary along a straight line or a series of fifty (50) foot lines where the lot meets a body of water at the high-water line. To allow as a matter of right an open deck up to 10 feet wide from all waterfront lots. (Amended 3/14/20) **(Added 3/13/18)** If a variance is granted, the applicant proposes to **rebuild the existing home "due to tree falling"** and the application states **"...because of damage to the structure & safety of use in current condition, it has been determined it is best to construct a new home."** **The Front setback would be 37.5'. The Side Line set back would be 15'. The Rear Set Back would be 20'.** If this application is deemed complete and accurate, a Public Hearing will be held. First the applicant will make a presentation on the proposed project, and then there would be the opportunity for questions from the Board. Chair Brown requested the alternate stand in as member to reach a quorum. Leona Vocino and David Roks presented for Dorothea Vocino. Mr. Roks stated that the current home was damaged due to a tree falling on it. Because of the damage to the structure it has been determined it is best to construct a new home. Mr. Roks stated that they will be building the new home further away from the shoreline and closer to the road. The proposed home will be upgraded to a

four season home and: 1) will not diminish property value because the new building will be modern and up to current codes; 2) will not harm public interest because they will be beautifying the area; 3) will create no harm to others as they are staying within the property lines, and will not impede on other existing properties; 4) the new structure will be current to code making it safer, fixing sloped land to limit and correct the run off caused by changes in the land above the property. Chair Brown asked for questions from the Board. P. Penney asked if West Shore Road is a town road and the applicants stated it is an association road. M. Clarke asked if the house being built closer to the road would impede emergency vehicles, the applicants stated no. D. Diemdowicz asked the dimensions of the old house, the applicants stated the old house is 20' x 40' and the new house will be 44' x 42'. P. Penney asked if the property has well and septic, the applicants stated that they currently have septic for two bedrooms. There is currently no well but the applicants are waiting to hear from their contractor to see if the property has well capability, they are currently using the well association.

PUBLIC HEARING: Chair Brown opened the public hearing on the application at 7:50 p.m. He called for testimony from abutters and interested parties. Abutter Maggie Roberts spoke in support of the variance. Chair Brown closed the public hearing at 7:54.

Following further discussion by the Board a motion was made by P. Penney, to approve a 25' front setback and (when looking at the front of the building from the road) a 4' setback on the left side, and a 3' setback on the right side. Seconded by J. Foss. Chair Brown called the vote and the Board voted unanimously to accept the application. The Chair noted that there is a 30 day appeal period on the decision.

CASE No. 0223-286: Thomas C. Lehman owner of 98 Upper Suncook Lane, Map 33 Lot 8, requests a variance **SECTION 4-2: OTHER LOT 4-2.02** Lot Accommodations: Any lot conforming to the requirements of Section 4-1.01 may accommodate either one primary single-family dwelling structure or one single-family primary dwelling structure and one accessory dwelling unit, and any lot conforming to the requirements of Section 4-1.02 may accommodate either one primary single-family dwelling structure or one single-family primary dwelling structure and one accessory dwelling unit or one duplex dwelling unit with two single-family dwelling units under one roof. All lots shall conform to Section 4-1.03. All dwelling units will conform to applicable building and life safety codes. Any lot may accommodate farm outbuildings, garages, sheds or other accessory buildings. These accessory buildings must conform to Regulations set down by this Zoning Ordinance. (Amended 3/14/17) **4-2.05 Side Line:** Building must set back a minimum of thirty (30) feet from the sideline. **4-2.07 Shoreline Lots:** There must be fifty (50) feet between the nearest edge of any building and the high-water line. There must be at least two hundred (200) feet of shoreline frontage for each dwelling unit. Shoreline frontage shall be measured from side boundary to side boundary along a straight line or a series of fifty (50) foot lines where the lot meets a body of water at the high-water line. To allow as a matter of right an open deck up to 10 feet wide from all waterfront lots. (Amended 3/14/20) If a variance is granted, the applicant proposes to **build a 10'x10' deck** and the application states **"build a deck over the existing 10'x10' patio. The proposed deck will be within 16 feet of the high-water line of Upper Suncook Lake."** If this application is deemed complete and accurate, a Public Hearing will be held. First the applicant will make a presentation on the proposed project, and then there would be the opportunity for questions from the Board. Chair Brown requested the alternate stand in as member to reach a quorum. Mr. Lehman presented, he stated that he is looking to build a 10' x 10' foot deck over an existing patio.

After some discussion the Board deemed that a variance was not necessary as a matter of right. D. Diemdowicz made a motion that a variance is not necessary in this case. Seconded by M. Clarke. Chair Brown called the vote and the Board voted unanimously to accept the decision. Chair Brown referred the applicant for a building permit.

OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDENCE: None

MINUTES: M. Clarke made a motion to approve the minutes of February 6, 2023 and March 20, 2023 (as corrected). P. Penney seconded the motion. The motion was passed unanimously.

ADJOURNMENT: D. Diemdowicz made a motion to adjourn the meeting. P. Penny seconded the motion. The motion passed unanimously. Chair Brown adjourned the meeting at 8:10 P.M.

Respectfully submitted,

Joanie Foss
Recording Secretary