

GOFFSTOWN ZONING BOARD OF ADJUSTMENT
MINUTES TO MEETING OF OCTOBER 4, 2016

In attendance were Chairman Alan Yeaton, Vice Chairman Gail Labrecque, Cathy Whooten, Emily Sandblade, Jeff Coventry—alternate, Len Stuart—alternate, Jon O'Rourke—Planning & Zoning Administrator, and Darrell Halen—GTV.

Allen Yeaton called the meeting to order at 7 pm. He led the Board in the Pledge of Allegiance. He explained the procedures the Board would follow for the hearing and deliberations, as well as the appeal process. He said if anyone is interested in serving on the ZBA they can contact the Planning Office.

There were about seven people in the audience.

MINUTES—meeting of September 13, 2016

Cathy Whooten made a motion to approve the minutes to the ZBA meeting of September 13, 2016. Emily Sandblade seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

PUBLIC HEARINGS

Alice Belanger, Applicant/Owner, is seeking a Variance to replace an existing portion of the garage that will be built 3 ft. from the side property line, whereas a 15 ft. setback is required. This concerns Section 4.3 (Table of Dimensional Regulations), of the Goffstown Zoning Ordinance. The property is located on 8 Fairview Street, (Map 17 Lot 87), zoned: Residential-2.

Alan Yeaton designated Len Stuart as voting alternate on this application.

Gail Labrecque made a motion to find the application has no regional impact. Cathy Whooten seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

Alice Belanger said this addition has been there 35-40 years and she would like to update it with new sides and windows, as well as a concrete floor. It will be the same size as it is now. It doesn't meet the required setback on one side. It would make the property safer especially for snow loads. It will enhance the appearance of the building and add to property values. It will not affect, change or alter surroundings. It will be in the same foot print and size. It is used for cold storage of lawn equipment to maintain the property.

Cathy Whooten said under the record of ownership it shows it's been owned by the Belanager's. Is that your family?

Alice Belanger said it is. She bought it from her mother. This is the deed from when it was first owned by them.

Alan Yeaton said the picture is wrong on the tax card. It has your next door neighbor's house in the picture.

Len Stuart clarified they are only talking about tearing down the added portion and rebuilding in the same footprint.

Jeff Coventry the application states it will enhance the values in the neighborhood. How do we know?

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Alan Yeaton said being a newer structure it would enhance the values.

Jeff Coventry asked about the flat roof.

Alice Belanger said the addition portion is going to be sloped.

Jeff Coventry said, where the structure is now and has three feet to the fence, if he's rebuilding the structure, why wouldn't the new structure become the 15 feet setback.

Alan Yeaton said it appears they want to access it from the garage itself.

Cathy Whooten said it might bring in extra costs for the land excavation. She almost sees it as being grandfathered. It's not grandfathered but it has been inherent. For safety purposes, the access to the garage could be a good thing.

Jeff Coventry said, where it's being taken down, could it be made to meet the setback requirements.

Alan Yeaton said the off-set straddles the old property line. There is actually an L-shape in the back property line. There's not much left there.

Len Stuart said we shouldn't be trying to design the project for them. It seems to be a reasonable request to rebuild a structure that isn't going to increase the footprint. He doesn't see a problem with it as proposed.

Jeff Coventry asked at what point we address the setbacks.

Alan Yeaton said it's what before us tonight that we consider.

Len Stuart said if it were new construction he would be more concerned with the setbacks.

Alan Yeaton opened the hearing to the public. There was no public comment and the public hearing was closed. The Board entered deliberations.

Emily Sandblade said we had a case last year where someone replaced a house on the exact same footprint. The only difference between that and this one is that the other house almost fell down. Why does this one need a variance when they didn't?

Jon O'Rourke said since it is the applicant's choice to rebuild and replace in kind, it doesn't fall under the grandfather clause. It didn't fall down from weather related things.

Alan Yeaton said it appears this addition has been there a while. It has a utility pole supporting it.

Cathy Whooten said it looks like the last piece of the homestead you want to bring in conformity with the rest of the home.

Len Stuart made a motion to approve the variance as requested. Cathy Whooten seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

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Edward Ruck, Applicant & Theresa & Howard Leonard, Owners, are seeking Variances to allow a deck to remain that was built within the side setback, rear setback and within the inner 50' of the 100-foot Wetland and Surface Water Conservation (WSWC) District Buffer along Mountain Base Pond. This concerns Section 4.3 (Table of Dimensional Regulations), 13.3 (WSWC District) and 13.3.3.5 of the Goffstown Zoning Ordinance. Another Variance is required as the nonconforming structure will be increased in size and is located on a Class VI Road that is not Town maintained. This concerns Section 14.9, 14.9.2.1 (non-conforming Structures) of the Goffstown Zoning Ordinance. The property is located on 23 McFarland Road, (Map 42 Lot 58), zoned: Agricultural.

Alan Yeaton designated Jeff Coventry as voting alternate.

Theresa Leonard said Ed Ruck couldn't be here tonight. He needed a temporary place to stay so he stayed at this property. While there he did the yard work, and he built the porch as a surprise. There was a porch there because it's the 2nd exit to get out of the house. The old porch had to come down because they had to repair front boards and cement. He didn't get a permit. The structure is there except for stairs. It was an error. He meant well. She doesn't want to take it down. There are no abutters on either side that would complain.

Cathy Whooten said when we had the floods, how far up on the property did the lake get.

Theresa Leonard said we are lucky if it is 25 feet. It's getting lower this year.

Cathy Whooten said you must be 60-75 feet from the edge of the deck to the water line.

Theresa Leonard said that's correct.

Len Stuart asked about the previous porch. Was this new one expanded or is it the same size?

Theresa Leonard said she's not been there. The porch we had had stairs going toward the water. It was 6 feet x 6 feet. This looks to be 6 feet x 8 feet. It's the length of the house.

Alan Yeaton said it's 27 feet to the shoreline. The house is 24 feet so the deck is 24 feet.

Howard Leonard said we've never had anything less than about 25 feet to the front of the building from the water's edge. We own to the water's edge.

Emily Sandblade said the Conservation Commission reviewed the application and suggested approval if the deck was built off the side of the deck and no closer to the water.

Alan Yeaton said the hot tub is on the deck and in front of the door.

Jon Rourke said this is a class VI road and they will have to go to the Board of Selectmen for approval.

Theresa Leonard reviewed her responses to the variance criteria. She said the variance would not be contrary to the public interest because the porch was there for 10 years before it was removed to fix the house wall. The spirit of the ordinance is removed because it gives an exit to the home in case of fire, etc. Substantial justice will be done because it gives an exit in case of fire. It will increase values of nearby properties. For hardship, they are returning it to its original look and addressing safety issues.

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The use is a reasonable because it is being put back was it was before the rotting boards needed to be replaced.

Alan Yeaton said it was originally a landing at the door with steps to the ground.

Len Stuart said he is concerned about the current condition of the property. There is no secondary egress other than jumping off of the deck. He doesn't have a problem if the Conservation Commission doesn't have issues with it. It seems to be a safety issue without a secondary egress.

Jon O'Rourke said Marc Tessier was made aware of this and work was stopped. They will have to complete a building application to go forward. A shoreland permit has to be achieved.

Jeff Coventry said the deck wasn't built to the same size it had.

Alan Yeaton said the pictures show the stairs on the back.

Gail Labrecque asked if the porch had to come down to access the concrete they needed to repair. Was that to the foundation?

Theresa Leonard said yes. The porch was in the way to get that done.

Alan Yeaton opened the hearing to the public. There was no public comment and the public hearing was closed. The Board entered deliberations.

Gail Labrecque made a motion to find the application has no regional impact. Cathy Whooten seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

Emily Sandblade said she sees no issue if the Conservation Commission has no concerns.

Len Stuart said we should be sure there is a condition on the stairs.

Cathy Whooten said she agrees. She'd like to condition it that there are stairs coming off the side of the deck, no closer to the water than the deck currently is.

Alan Yeaton said he found there are buildings and structures up there closer than on this property. He'd leave it to the building inspector to do what he needs to do.

Gail Labrecque made a motion to approve the variances as requested with the condition that the stairs come off the side of the deck, and no closer to the water than the deck currently is. Cathy Whooten seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

The Board took a break at 8 pm. The meeting resumed at 8:10 pm.

Mario & Gloria Pelletier, Applicants/Owners are seeking a Variance to allow a 28' X 34' garage, 16' X 20' breezeway and a 14' X 16' deck to be built within the inner 50' of the 100 ft. Wetland and Surface Water Conservation (WSWC) District Buffer. This concerns Section 13.3.3.3 & 13.3.3.5 of the

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Goffstown Zoning Ordinance. The property is located on 46 Danis Park Road, (Map 23 Lot 17), zoned: Residential-2.

Alan Yeaton designated Len Stuart as voting alternate on this application.

Cathy Whooten made a motion to find the application has no regional impact. Emily Sandblade seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

Mario Pelletier said the reason for the variance is because of the buffer from the water. We want to build a 16 x 20 breezeway with a garage. There is a wetland in the back of the house. The Conservation Commission had no issues.

Alan Yeaton said they voted to recommend the variance because there are no ecological impacts and there is no significant impact to the spirit of the Wetlands Surface Water Conservation District buffer.

Mario Pelletier reviewed the variance criteria and his response to them. It wouldn't be contrary to the public interest because it would improve the property and curb appeal. The existing structures have existed before the zoning changed. The spirit of the ordinance is observed because we have our house, pool, and shed out back, which have been there for over 25 years—before the zoning changed. It would do substantial justice because it would be an improvement to the property. The values of the property would not be diminished and would improve the value of surrounding properties. Regarding hardship, they are looking to improve and upgrade their property. The house was built prior to the new setback. It is a reasonable use because it will improve the value of surrounding properties.

Alan Yeaton asked if the brook had a name.

Mario Pelletier said not that he knows of. It is just a little thing.

Cathy Whooten asked how far the floods came up their property.

Gloria Pelletier said it didn't get to their property.

Alan Yeaton said that area is drained under Mast Road and along Danis Road and down to the river. It doesn't get very big.

Mario Pelletier said it usually has about 6 inches of water in it.

Cathy Whooten asked why it isn't grandfathered.

Jon O'Rourke said there is no grandfathering for this.

Len Stuart asked if the breezeway going to replace the stairs and decking that is on the end of the house.

Mario Pelletier said it will. It is going to be an open breezeway.

Len Stuart said then there will be a deck off the house to the pool. It doesn't appear you are getting closer to the wetlands.

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Mario Pelletier said the shed is closer.

Alan Yeaton asked if the measurements are to the edge of pavement.

Mario Pelletier said it is.

Alan Yeaton the road isn't in the center of the right-of-way. But he did find one of the pins. It seems to be accurate.

Alan Yeaton opened the hearing to the public. There was no public comment and the public hearing was closed. The Board entered deliberations.

The Board had no issues with the application.

Len Stuart said the way it is proposed to be no closer to the wetlands is the way to do it.

Emily Sandblade said she thinks the garage is going closer to the wetlands.

Gail Labrecque said she agrees that the additions are not closer to the water than what is there now. She has no concerns.

Cathy Whooten made a motion to grant the variance as presented. Len Stuart seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

Luke Nelson, Applicant/Owner, is seeking Variances to remove existing trailer and rebuild a single family home on a lot that only has a half an acre whereas one (1) acre is required. Another variance is required to building the home within the inner 50' of the 100 ft. Wetland and Surface Water Conservation (WSWC) District Buffer. This concerns Section 4.3 (Table of Dimensional Regulations), and 13.3 (WSWC District) and 13.3.3.5 of the Goffstown Zoning Ordinance. The property is located on 93 Mountain Road, (Map 4 Lot 95), zoned: Residential-1.

Alan Yeaton designated Jeff Coventry as voting alternate.

Gail Labrecque asked if the Board should continue hearing this application given the applicant didn't attend the Conservation Commission so they had no opportunity to have questions answered. Do we move forward or wait for them to go to the Conservation Commission and get their comment?

Len Stuart said he concurs. There are special conditions of the property with the ice pond and water issues. He'd like to hear from the Conservation Commission before going forward.

Cathy Whooten said she agrees. It would be beneficial for the applicant. She lives in the area and thinks it would be in the best interest of the applicant. We could reschedule the application to next month's meeting.

Gail Labrecque said if we heard the application now, the public hearing would be left open so he would be able to add additional comments. It's a time saving factor and he can address the Conservation

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Commission's comments in the midst of everything else and it would save from back tracking around things.

Emily Sandblade said she doesn't see a problem with hearing the basis of the application and get some familiarity with the property. It's clear we will have to visit the application next month anyway.

Cathy Whooten said she doesn't have a problem with him giving the presentation. She doesn't want to get into a Board discussion until we get the Conservation Commission comments.

Jon O'Rourke said in speaking with Patty Gale and the applicant, they made them aware of the Conservation Commission review. They are an advisory board but their impact is significant. You can continue, or make a determination if you'd prefer.

Len Stuart said he thinks it would be all right to take the applicant's testimony but not deliberate on anything until after we get comment from the Conservation Commission.

Jeff Coventry said he agrees.

Cathy Whooten said we'll listen to what he has to say and not open it up to questions.

Emily Sandblade said if something is pressing or obvious we should be able to ask questions.

Alan Yeaton said questions could allow the applicant to come back to us with the answers. He would like to hear his presentation. Then it would be continued and he would keep the public hearing open.

Luke Nelson said there is a reason he doesn't have to go to the Conservation Commission. There is a house across from him that is 30 feet from the water. His home will be further away than that, and it will be uphill. There shouldn't be an issue with the Conservation Commission. He would be pushed back another month if the Board waits and it would be a financial hardship.

Len Stuart asked if the southern property line is town property.

Cathy Whooten said it is owned by the log home next to it.

Len Stuart said the concern is that there is a beaver dam and water impoundment building up. There is concern there as well as the undersized lot. You can see it from the bridge on Merrill Road.

Cathy Whooten said the one part on the property is that the area closest to the pond, is an elevated area.

Luke Nelson said there was an old foundation where there used to be an ice house.

Alan Yeaton asked about sewer and water.

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Luke Nelson said it would be town water. There would be a septic system. It would stay where it is now except it would be turned around.

Cathy Whooten said her concern about this, based on how many bedrooms...

Luke Nelson said it would be in the same area but be new system.

Cathy Whooten said the issue is that you are within 50 feet of wetland setback. You don't think the water isn't an issue. That is what you have to say to the Conservation Commission.

Luke Nelson said if the house that is 30 feet away isn't an issue, why would his be.

Alan Yeaton said because the ordinance says so. Why wouldn't you turn the house?

Luke Nelson said he can move the house.

Jon O'Rourke said for either direction, it needs to go to the ZBA or the Planning Board. In both cases, it would require Conservation Commission comment.

Alan Yeaton said in the inner 50 feet it's tough. If he could meet the front and side setbacks and turn the house 90 degrees, and get outside the 50-foot line, he would do that.

Luke Nelson said he could do the 50 feet.

Alan Yeaton said he'd still have to be here for the size of the lot.

Jon O'Rourke said either process you go, you need Conservation Commission input. If you decide to go within the inner 50 feet, it only goes to the ZBA for relief from the buffer and the variance. If it is in the outer 50 feet, it goes to the Planning Board for relief and the ZBA for a variance for the lot size.

Luke Nelson asked if the ZBA could vote on it with a condition of Conservation Commission approval so he doesn't have to wait another month.

Gail Labrecque said their opinion is advisory. The issue isn't just the effect of the water on your property, but the effect of having a house in that location.

Alan Yeaton asked how big the house will be.

Luke Nelson said he made it bigger than he needs.

Alan Yeaton said he shouldn't make it bigger than he needs. He has to demonstrate he can meet all the other requirements because there are a lot of site modifications going on. We should have a house plan on this one.

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Cathy Whooten said it's unfortunate you misunderstood the importance of the comments from the Conservation Commission. It's almost a standard operating procedure. She can understand why he might have thought as he does—that he wouldn't have to go there.

Len Stuart said he wants to hear what Conservation has to say.

Gail Labrecque agreed.

Emily Sandblade made a motion to continue the application to the November 1 meeting, keeping the public hearing open, and pending Conservation Commission comment. Gail Labrecque seconded the motion.

Cathy Whooten asked if there have been times in the past where there are hardships and time is of the essence, can Conservation have someone review the property on behalf of the commission. Then they work out how they share the information and come to a consensus timely.

Gail Labrecque explained the Conservation Commission had questions and couldn't get answers unless the applicant attends the meeting. The applicant wasn't there and the Conservation Commission couldn't presume the answers.

Alan Yeaton asked if he was notified of the Conservation Commission.

Luke Nelson said he wasn't.

Jon O'Rourke said Patty Gale may have talked with his wife.

Luke Nelsons said he wasn't aware of the Conservation Committee meeting. He said, answering a question of Jeff Coventry in a previous application, that a property goes up \$10,000 to \$20,000 in value if there isn't a trailer next to you. Trailers are an eyesore.

Cathy Whooten said you can't replace a trailer with another trailer.

Jon O'Rourke said they aren't allowed on their own lot.

VOTE: 5-0-0. All in favor. Motion carries.

CORRESPONDENCE

Town & Country Magazine

Email from Patty Gale with Recommendations from Conservation Commission

Len Stuart made a motion to adjourn. Cathy Whooten seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

The meeting adjourned at 8:57 pm.

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Respectfully submitted,

Gail Labrecque
Recording Secretary

These minutes are subject to approval by the Zoning Board of Adjustment.