

GOFFSTOWN ZONING BOARD OF ADJUSTMENT
MINUTES TO MEETING OF NOVEMBER 1, 2016

In attendance were Alan Yeaton—Chairman, Gail Labrecque—Vice Chairman, JoAnn Duffy, Emily Sandblade, Cathy Whooten, and Len Stuart—Alternate. Also in attendance were Jon O'Rourke—Planning & Zoning Administrator, and Darrell Halen—GTV.

Alan Yeaton called the meeting to order at 7 pm. He explained the process the Board would follow for the public hearings and deliberations, as well as the appeal process. He said if anyone is interested in serving on the ZBA, they could contact Jon O'Rourke for more information. For an application to be approved there must be a vote of three in favor. Otherwise, the applicant may request a continuance until the next meeting. He led the Board in the Pledge of Allegiance.

There were about nine people in the audience.

MINUTES

Cathy Whooten made a motion to approve the minutes to the ZBA meeting of October 4, 2016. Len Stuart seconded the motion. VOTE: 4-0-1. JoAnn Duffy abstained. Motion carries.

HEARINGS

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 said the Conservation Commission hasn't presented their comments so he would entertain a request for an extension.

Cathy Whooten said the Conservation Commission did a site walk on Saturday and won't meet until November 16th to finalize their recommendations.

Cathy Whooten made a motion to continue the application to December 6, 2016. Gail Labrecque seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

Jon O'Rourke said the applicant has some updated plans. He will distribute them to the Board later.

Robert Walton, Applicant/Owner, is seeking a Variance to rebuild a front porch on an existing concrete pad, and attached to the front of the house, that will be located 11.9 ft. from the front setback whereas 35 ft. is required. This concerns Section 4.3 (Dimensional Regulations) of the Goffstown Zoning Ordinance. The property is located on 182 Goffstown Back Road, (Map 6 Lot 17), Zoned: Agricultural

Dan Higgins, surveyor, said there used to be a porch on the front of the house. The concrete pad is still there 35 years later. The finished construction of the porch will be 11 feet from the setback line, not encroaching further back than the existing building. They have waiver requests from showing lot lines and distances, all existing structures on the lot, and from showing bodies of water and wetlands on the plan.

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JoAnn Duffy said normally the ZBA doesn't hear or grant waivers. Are those items on a checklist for the ZBA?

Dan Higgins said the Zoning application includes these items so they were included.

Cathy Whooten asked if it is a farmer's porch in the front of the house.

Dan Higgins said yes.

JoAnn Duffy said if standing in the house looking out to the left, it is the living room. That is closer to the road than this porch.

Dan Higgins said yes.

Jon O'Rourke said you can still see the roofline where it was.

Alan Yeaton asked where the parking would be.

Dan Higgins said there is plenty of room in the back of the building for parking. What we are proposing doesn't impact parking areas.

Alan Yeaton said he's seen as many as four cars/trucks parked in that yard, pointing out and in the right-of-way. It's relative to safety.

Dan Higgins said they aren't impeding the flow of traffic and they can be moved.

Cathy Whooten asked if the front porch would be enclosed.

Dan Higgins said it is just the porch. It is 5 feet wide with a foot overhang for drip edge.

Alan Yeaton asked about the retaining walls for the planters that are in the right-of-way.

Dan Higgins said they could be removed if an issue.

Alan Yeaton said they were built this summer in the front of the barn, and they are in the right-of-way.

JoAnn Duffy said that would be something for the Code Enforcement Officer, not this Board.

Robert Walton asked what it has to do with the porch.

JoAnn Duffy said it has nothing to do with the porch.

Cathy Whooten said she is all set with the porch issue.

Dan Higgins addressed the variance criteria. Granting the variance would not be contrary to the public interest because the proposed porch will be in the exact location a porch once was. The architecture of

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the porch will be consistent with other properties in the area and the porch will not extend any further into the building setback than portions of the existing building currently do.

Alan Yeaton asked about what other porches in the area the applicant is saying are in the area.

Dan Higgins said he wasn't talking specifically, but he was going with consistency of farmer's porches in Goffstown. He continued addressing the variance criteria. The spirit of the ordinance is observed because the proposed porch is allowable with the exception of its proximity to the lot line, given that the porch will not extend further into the setback than the existing house does the spirit of the ordinance will be observed. Granting the variance will do substantial justice because substantial justice is done when the benefit to the land owner far outweighs any burden to the public. In this case there will be no burden to the public. Whereas disapproval of the application would cause an immense burden to the home owner. Values of the surrounding properties will not be diminished because property maintenance and improvements add to the value of a property, thereby raising the value of surrounding properties. Regarding hardship, no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision because the existing home was built long before zoning was in place. The proposed use is a reasonable one because there was once a porch in the very location we are proposing, and there is no other place attached to the house that would be reasonable for a front porch. The adoption of the ordinance is what caused the issue.

Gail Labrecque said the ordinance is still there and needs to be adhered to.

Cathy Whooten said she recalls a residence that was like this. It had the same issue. The footprint didn't increase and the foundation was still there.

Len Stuart said when you aren't proposing an increase in the footprint or anything other than something on top of an existing slab, he doesn't see an issue. He thinks the retaining wall is an enforcement issue rather than a zoning issue.

Gail Labrecque said what is being replaced is from 35 years ago.

JoAnn Duffy said she doesn't have problem because the house is further from the road.

Len Stuart said it doesn't increase the footprint or non-conformity.

JoAnn Duffy said her comments on the retaining wall are that this is an old barn and it looks like there was a stone wall in disrepair that had to be fixed.

Robert Walton said they are railroad ties. He stepped back a foot in from the mailbox when he put them in.

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

JoAnn Duffy made a motion to find the application has no regional impact, and to approve the application to rebuild a front porch on an existing concrete pad, attached to the front of the house,

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that will be located 11.0 feet from the front setback whereas 35 feet is requested. The footprint is an existing footprint and therefore would be no encroachment into the setback. The porch is not a traffic hazard because the other part of the building extends further out, and the application meets the variance criteria. Len Stuart seconded the motion.

Len Stuart asked about the requested waivers.

Gail Labrecque said we don't usually address waivers.

Jon O'Rourke said it is in the Development Regulations and we included it to avoid error.

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

Sheryl & Stephen Rambikur, Applicants/Owners, are seeking a Variance and a Special Exception to convert a single-family home to a duplex/two-family home. The Variance is required as the proposed addition will be built 34 ft. from the front property line, whereas a 35 ft. front setback is required per Section 4.3 (Table of Dimensional Requirements) of the Goffstown Zoning Ordinance. Additionally, a Special Exception is required to convert a single-family home to a duplex/two-family home, per Section 3.11 (Table of Principle Uses) of the Goffstown Zoning Ordinance. The property is located on 10 Catamount Road, (Map 6 Lot 66-6), Zoned: Agricultural

JoAnn Duffy said they want to convert a single family to a duplex. The plan itself says in-law apartment. Why does it say a two family?

Jon O'Rourke said it is due to the size. To be an accessory dwelling unit it has to be less than 800 square feet. This is 1100 square feet.

Alan Yeaton said because of the acreage, and if they meet the other requirements, they qualify for a duplex. This sticks one foot into the front setback.

JoAnn Duffy said it is now considered two separate dwellings.

Cathy Whooten said we have a new residential use in our Zoning Ordinance for a conversion to a duplex.

JoAnn Duffy said taxes are higher for a duplex than an accessory dwelling.

Stephen Rambikur said about a year ago they inquired about adding onto their home to make a living dwelling for his wife's parents. At the time Town Hall said it was no problem and they offered it to his in-laws. Then the new regulation was uncovered that a special exception is required to convert from a single-family to a two family. When we had plans drawn up, we wanted it to be aesthetically pleasing and looked like it was intended to be there. Part of that is a 6 x 14 porch on the front. It is 49 feet from the road. The setback line is different than the edge of the road and it turns out they encroach on that by one foot.

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Alan Yeaton said it looks like you had a four-foot addition and changed it to a six foot.

Stephen Rambikur said we reverted to a six foot when we learned we needed a variance. It will look nicer than four feet. It will look like it belongs.

Cathy Whooten asked about parking.

Stephen Rambikur said it will have a garage. Part of the footprint is a garage and the porch. Parking would be in front of the garage and in their driveway. There will be two separate driveways.

Alan Yeaton asked how far the driveways have to be apart.

Jon O'Rourke said they have to be 50 feet from an intersection and 40 feet from another driveway.

Cathy Whooten said the third special exception criterion is that it will not create a nuisance to pedestrians or traffic.

Alan Yeaton opened the hearing to the public. There was no public comment.

Emily Sandblade said this is far enough off the road that you don't see it much. She doesn't think the one foot over the setback will make an aesthetic difference in that neighborhood.

Cathy Whooten said she is looking at the well. Is its location a concern?

Stephen Rambikur said the well is 35 feet from the edge of the house. Meridian Services said that is fine.

Alan Yeaton said the house is down from the road considerably. You won't have problems with the second driveway—with the slope.

Stephen Rambikur said there may be more of a slope than he desired. They will put a drainage grate in front of that. As far as water coming off Catamount Road, they don't experience that.

JoAnn Duffy said she noticed the note about replacing the exiting septic.

Stephen Rambikur said they have an approved plan in case it fails.

Alan Yeaton said they have a new septic approval and don't have to change it until it is in failure.

Cathy Whooten said they have the state approvals for it.

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Cathy Whooten asked if they are within the wetland boundary.

Stephen Rambikur said they are.

Jon O'Rourke said he thought they were further away.

Cathy Whooten said he needs to be 100 feet back.

JoAnn Duffy said the lot was subdivided in 1991 prior to any wetland setback regulations there are no building setbacks to wetlands per 13.3.5.

Jon O'Rourke said surface water is for anything. It doesn't apply to wetlands.

JoAnn Duffy asked if the addition is flush to the existing house.

Stephen Rambikur said it sticks forward.

Alan Yeaton said the face of the house is lower than the road.

Stephen Rambikur said we didn't want it flat all the way across. The existing house is 60 feet, so we set it forward six feet.

Cathy Whooten said we are talking about the additional structure and she thinks it is within the wetland boundaries. She doesn't have a problem except for that issue.

Jon O'Rourke said the Zoning Ordinances says there are no requirements for wetland setbacks prior to that date. It is the creation of the lot, not the creation of the building. Surface water would be a different story.

Alan Yeaton said the creation of the lot is 1991. There is a brook further up on an adjacent lot that comes out the wetland at the end of Catamount. He doesn't think it runs on this property at all.

Jon O'Rourke said when he checked it was outside of that.

Alan Yeaton said he has issues rectifying the one foot into the setback. He doesn't have problems with a special exception for the duplex.

JoAnn Duffy asked the reason for going into the one foot of the setback.

Stephen Rambikur said the porch is six foot and designed to be within the existing house. If we can only go four feet, it would be two feet inside the line of the existing house.

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Alan Yeaton said the back of the porch is set back six feet. His plan is a notch that lines up with the back of the house.

JoAnn Duffy asked if the existing house flush to the addition.

Stephen Rambikur said it would have to be set back 4 feet to be two feet inside the line.

Gail Labrecque said the expanse of the house is quite long and breaking up that expanse makes it look better.

Stephen Rambikur showed the Board a sketch he had made for plans.

Alan Yeaton said it is one story on the street with two stories on the back of the house.

Cathy Whooten said the plan in front of us is a typical section of the proposed sanitary system. It was given to use to look at the proximity of the house and radius. We aren't looking at that and making decisions for that in this plan.

Alan Yeaton closed the public hearing and the Board entered deliberations.

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

Cathy Whooten made a motion to approve the variance as requested, finding it acceptable to be one foot within the setback, as it is in conformity with the outlay of the existing house, and it meets the five criteria of granting the variance. JoAnn Duffy seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

Cathy Whooten made a motion to grant the special exception, finding all criteria has been met as stated in the application, is consistent with the Master Plan, the size or frequency will not significantly alter the character of the neighborhood, the use will not create a nuisance or hazard to pedestrians or vehicles in a manner that cannot be ameliorated, the proposed use is of sufficient size to allow for adequate and appropriate facilities for proper operation of the use, and the proposed location is of sufficient size to allow for appropriate buffers of the use to adjacent properties. Gail Labrecque seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.

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

The meeting adjourned at 8 pm.

Respectfully submitted,

Gail Labrecque

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Recording Secretary

These minutes are subject to approval by the ZBA.