

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

**TOWN OFFICES
Site Visit – Church Lane
NEW HAMPTON, NH 03256**

June 6, 2018

- MEMBERS PRESENT** Regular members: Mr. Tierney, Ms. Karnis, Mr. Orvis, and Mrs. Erler
Alternate members: Mr. Hofling and Mr. Livernois
- OTHERS PRESENT** Administrative Assistant Mrs. Vose and town attorney Laura Spector-Morgan.
- CALL TO ORDER** Mr. Tierney called the meeting to order at 6:45 PM.
- Mr. Tierney appointed Mr. Hofling to vote in place of the vacant regular member position.
- REQUEST FOR REHEARING**
Joseph Cioffi, Mountain Pond Road, Tax Map R-3, Lot 2, for a Special Exception -Article VI, Section A: 3 & 5, of the New Hampton Zoning Ordinance.
- The board reviewed a copy of a letter dated 5/15/18 from Attorney Paul Fitzgerald, representing the Griffins, abutters to the Cioffi property. He advised the request was based on the following:
- The Griffins did not feel the ZBA, at the hearing, addressed their concerns stated in a letter dated 4/18/18. This letter addressed the use of a commercial campground disagreeing the site was appropriate, there was adequate area for safe and sanitary sewage disposal and there would be no adverse impact.
 - There was no need for a request for a Special Exception for the property owner to camp on their own land.
 - The applicant did not establish appropriate grounds for granting of the Special Exception.
- The board reviewed a copy of a letter from Mr. Cioffi, received 5/23/18, asking the board not to grant a rehearing, providing several reasons why.
- Mr. Livernois stated his opinion was not to grant a rehearing as the applicant met the criteria and the abutters who want the rehearing stated they didn't think the Special Exception was even necessary. He said the conditions put on the property should ensure there would be no negative affects to abutters. Mrs. Erler agreed and said Atty Fitzgerald refers to it as a possible commercial use but the ZBA has put conditions on the approval to prevent that from happening. Mr. Hofling and Mr. Orvis agreed. Mr. Orvis added that there was an additional limitation on the property relative to the purity of drinking water from Mountain Pond as the supply runs through Mr. Cioffi's property. Ms. Karnis stated that conditions put into place address the concerns brought by Atty. Fitzgerald, that the site is appropriate. She said the increased noise and traffic should not be an issue as the class VI roadway is already accessible to the public.

Mr. Tierney said he agreed with the board's statements and disagreed with the argument that there would be less of an effect if this were a developed house lot than for it to be used occasionally for camping.

Ms. Karnis made a motion, seconded by Mrs. Erler, to deny the request for rehearing. Vote was unanimous.

PUBLIC HEARING (cont.)
New Hampton Community Church, Church Lane, Tax Map U-4, Lot 4, for a Variance -Article IV, Section F:4, of the New Hampton Zoning Ordinance.

Pastor Scott Mitchell and Dan Rivanis were present.

Mr. Tierney advised this was a continuation of a hearing. At 7:00 pm. Mrs. Erler made a motion, seconded by Ms. Karnis, to recess the hearing for everyone to travel to Church Lane for a site visit. Vote was unanimous.

SITE VISIT
Church Lane

Mr. Tierney reconvened the meeting to 7:04 pm in the parking lot of the New Hampton Community Church on Church Lane. The board viewed the pin marking the NW corner of Map U4, Lot 4 where the storage shed was currently located which appeared to be in a lilac bush on property belonging to the abutter. The board reviewed the submitted survey which shows the shed being 36.7 feet from the rear property line (where 50' is required) and 13.9' from the front ROW (where 30' is required). Side setback distances were met. It was noted this was a separate piece of property, not connected to the other 2 church lots. Ms. Karnis asked if the parked vehicles were in the ROW and Mr. Tierney advised that the survey shows they are not. The board viewed the topography which showed that the land dropped off behind the shed and parking lot, noting that fill was added for the shed to be placed on, further back from the ROW. The board determined that the northerly side of the ROW was at the church building and located the southerly side of the ROW.

Ms. Karnis made a motion, seconded by Mr. Orvis, to recess the meeting and for everyone to travel back to the Town Office. Vote was unanimous.

PUBLIC HEARING (cont.)

Mr. Tierney reconvened the hearing at 7:20 pm.

Same ZBA members were present, as were Pastor Mitchell and Mr. Rivanis. Mr. Tierney appointed Mr. Livernois to vote in place of the vacant regular member position.

The board reviewed each criteria:

The variance will not be contrary to the public interest – The applicant wrote *“current 21 foot road of Church Lane is accessible to plow, repair, etc. as road is not interfered with. Shed is 52' off left side of Church Lane and 3 feet off pavement parking area”*.

The spirit of the ordinance is observed – The applicant wrote *“the size, shape, position of structure matches surroundings. Structure does not impede any road use or ROW”*. Mr. Rivanis said if they put it on the lot where the grange used to be it couldn't meet setback distances.

Substantial justice is done – The applicant wrote “*variance will allow church proper storage without any sort of town beauty interference*”. Asked what was stored in the shed Mr. Rivanis said items like folding chairs, ladder, and lawn mower, previously in the grange building.

The values of surrounding properties are not diminished – The applicant wrote “*10x12 outside shed is currently tucked off our rear parking lot pavement and matches church structure*”.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because special conditions of the property distinguish it from other properties in the area; no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific application of that provision to the property – The applicant wrote “*the current church property is split between lots 3, 4 & Lot 5 thus hard to use*”. Mr. Orvis said it the setback distances can’t be met on any of the 3 church lots he’d rather see it where is has been placed. Mr. Tierney confirmed with Mr. Rivanis that if he put the shed on any of their lots it would not comply.

The proposed use is a reasonable one because – the applicant wrote “*the shed position does not interfere with roadway nor any beauty in the surrounding*” (neighborhood).

The board reviewed the 3 separate property deeds.

Mr. Tierney closed the hearing portion to go into deliberations.

Mr. Livernois said there are topographic issues with the drop off in the back of the shed. Ms. Karnis felt that the topo and shape distinguishes the property from others which allows little use, pointing out the need for fill to create a site for the shed. Mrs. Erler agreed and said the use of Church Lane by motorists is limited, and the shed would not add to congestion in town. Ms. Karnis said it would not affect the aesthetics in the area and based on where it is and the foliage around it, it isn’t very noticeable. She said the shed is further back from the ROW than the properly parked cars. Mr. Livernois stated that the side setbacks are met which would have the most effect on the abutter. The board recommended some vegetation be planted on the western side of the shed. The board members stated that considering the size and shape of the lot and other lots owned by the church where setbacks couldn’t be met if the shed was placed on them, this location allows for the church to have much needed storage, without it being a detriment to the surrounding properties. Mr. Rivanis confirmed for the board that it was the church’s plan to put some shrubbery along the western side of the shed to improve its appearance.

Ms. Karnis made a motion, seconded by Mrs. Erler, that owing to the unique physical characteristics of the property, the fact that substantial justice would be done and that it’s not contrary to the public interest for all

previously mentioned reasons, and there is not diminished property values to abutters, this meets the criteria for granting the variance. The board agreed that as Mr. Rivanis said they will plant shrubbery along the shed's side they would not add it as a condition. Vote was unanimous.

Mrs. Erler made a motion, seconded by Ms. Karnis, to amend the approval to include the wording "to approve the Variance as shown on the survey" as the actual location does not match the original application and notice. Vote was unanimous.

PUBLIC HEARING

*Daniel & Marikje Shreeve,
104 West Shore road, Tax
Map U-14, Lot 9, for a
Variance -Article IV, Section
A:4.ii & A.4.iii, of the New
Hampton Zoning Ordinance.*

Daniel & Marikje Shreeve and contractor Joshua Perkins were present.

The applicants, Daniel & Marikje Shreeve, have requested a Public Hearing in accordance with RSA 676:7, for Variances under Article IV, Section A.4.ii and A.4.iii. of the New Hampton Zoning Ordinance. The applicant's proposal is to place a 24' by 28' garage 6 feet from the side boundary and 17 feet from the front right-of-way. The ordinance requires a side setback of 20 feet and a front setback of 35 feet. The property belonging to the Daniel & Marikje Shreeve is located at 104 West Shore Road, Tax Map U-14, Lot #9, in the General Residential, Agricultural and Rural District. Mrs. Vose advised that all abutters were notified and heard from none.

Mr. Tierney advised that the drawing provided was insufficient for showing the location of the property lines and proposed garage. If a site visit is scheduled, Mr. Tierney requested that the affected property line and exact proposed location of the garage be staked.

Mr. Tierney advised that a previous variance was granted for the property in 2006, to allow the existing shed to be placed with the side setback. One of the conditions of that approval was that the shed was to be the only outbuilding on the lot. Mr. Tierney advised that the applicant has a choice whether to have the shed or a garage.

Mr. Tierney pointed out that when the home was expanded, a 2012 Shoreline Permit survey was performed and the area of impervious surfaces was calculated. It was shown that this area was 19.8% of the total square footage of the lot, after the improvements. He said the ordinance has a 20% limitation on lot coverage and with the addition of a garage, even with removal of the shed, it would likely go over that limitation, especially given the fact that in 2016 there was another addition to the home. He advised that a licensed surveyor must calculate the lot size and the impermeable surfaces with this garage and any driveway, minus the shed. Attorney Spector-Morgan advised that if it was found to exceed the 20% rule another Variance request would be necessary.

Mr. Shreeve said he would be willing to remove the shed if that was necessary to have the garage. The attorney advised the application could be amended to include a Variance request for the lot coverage, requiring re-notification of abutters.

Mr. Orvis made a motion, seconded by Ms. Karnis, to continue the hearing to July 11, 2018 at 7:00 pm. allowing time for the applicant to have the calculations done. At that time a site visit will also be scheduled. Vote was unanimous.

MINUTES

Mrs. Erler made a motion, seconded by Mr. Orvis, to approve the minutes of 4/24/18 with the following amendments:

1. Pg.3, under Public Hearing for Schuster: address needs to be corrected to "1426 Winona Road".

Vote passed.

Mr. Hofling made a motion, seconded by Mr. Orvis, to approve the minutes of 4/18/18 with the following amendments:

1. Pg. 4 relative to safety of Class VI roads: should be stated that Mrs. Erler and Mr. Orvis did not see this as a safety concern as a person on a Class VI roadway accepts a certain level of risk relative to emergency response.

Vote passed.

CORRESPONDENCE

There was none.

OTHER BUSINESS

Mr. Tierney advised that the application section pertaining to a Special Exception has a criteria for lot coverage relative to the lot size. It currently does not reflect the appropriate percentage for each zoning district. Mrs. Vose stated that this has now been corrected to refer to the lot coverage restriction in the applicable zoning district.

ADJOURNMENT

Mr. Livernois made a motion, seconded by Ms. Karnis, to adjourn at 8:21 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose, Administrative Assistant