

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
TOWN OFFICES
NEW HAMPTON, NH 03256**

February 13, 2013

MEMBERS PRESENT Mrs. Erler, Mr. Hofling, Mr. Frazier, Mr. Tierney, and Mr. Smith

OTHERS PRESENT Mrs. Vose

CALL TO ORDER Mrs. Erler called the meeting to order at 7:00 PM.

Mrs. Erler appointed Mr. Smith to vote in place of Mr. Orvis and Mr. Tierney to vote in place of Mr. Sawyer.

PUBLIC HEARING Wesley Hays, Northstar Contractors, was present to represent the application for the property owner.

*Northstar Contractors,
LLC, 84 Seminole Ave.,
Tax Map U-10, Lot 6 for a
Variance, Article IV,
Section A.4.ii, and for a
Variance, Article V,
Section D, of the New
Hampton Zoning
Ordinance*

Mrs. Erler advised that the applicant, Northstar Contractors, LLC, has requested a Public Hearing in accordance with RSA 676:7, for a Variance under Article IV, Section A.4.ii., of the New Hampton Zoning Ordinance for property belonging to Sean Sweeney. The applicant's proposal is to construct a 24' X 24' garage, 25.48 feet from the front right-of-way, which is within the 35-foot setback. The applicant is also requesting a Variance under Article V, Section D, to construct a septic system, 3.06 feet from a property line, which is within the 20-foot setback. The property is located at 84 Seminole Avenue, Tax Map U-10, Lot #6, in the General Residential, Agricultural and Rural District and Waukegan Watershed Overlay District.

Mrs. Vose advised that all abutters were notified and that abutter Mr. Ruescher had contacted the town to say he was aware of Mr. Sweeney's project and had no objection to it.

Mr. Hays advised that the septic system setback is from the front right of way. He showed the board where the property was on the map explaining how Mr. Sweeney's lot was previously laid out. He advised that he had obtained a building permit to put a foundation under the house, which they did, and discovered the septic system needed replacing, so a design had been done placing a new system in the same location where the old system was located. Mr. Hays was concerned with the proposed location so he had another

engineer look at the site, who advised that a new septic system would not survive in the area previously designed, due to how wet it was. The most recent designer, who previously worked for DES advised a new system would be best located near Seminole Ave. as it would further away from the lake and higher up on the slope, which is very steep going down to Mr. Sweeney's home.

Relative to request for a variance to construct a garage, Mr. Hays explained that previously Mr. Sweeney's driveway traversed the property 2 times to get down to the house, as it was so steep. The new septic system will now be located the middle of his driveway. The new system is on a high spot that's level with the road. The proposal is for the garage to be situated near the road and a parking area created. This area is very high above the house. They have removed the old septic tank, creating a location for the new tank, which was difficult due to many very large boulders. Mr. Sweeney plans on accessing his house from the garage and parking area, through some type of stairway. Mr. Hays said that the garage should be able to meet the 20 foot setbacks from the side property lines as its being placed in the middle of a 90 foot wide lot.

Mr. Hofling asked if there would be 2 floors to the garage, and Mr. Hays explained that due to the roof line of garage there would be some space for a small of storage. Due to the steepness of the property the foundation for the garage would allow for some storage underneath.

Mrs. Vose pointed out that a variance will be requested from NH DES as the proposed septic design does not meet their 10 setback. Mr. Hays advised that he wanted to obtain this variance prior to submitting the plan to the state. He said the septic designer was confident the state would approve the plan, due to the site's conditions. Mr. Hays advised they will also be amending the wetlands permit.

Mrs. Erler asked if this was a year-round house and Mr. Hays advised that it has been for many years, even prior to Mr. Sweeney purchasing the property, as it has a heating system, it is insulated, and had somewhat of a foundation, as opposed to being constructed on piers.

The Variance will not be contrary to the public interest because:
Mr. Hays wrote: *the structure fits the neighborhood architecture and the septic will benefit the quality of the lake.*

Mr. Tierney advised he has no problems with the proposal as he is familiar with the area. The remainder of the members agreed that all

those lots are small and have limitations, and the new septic system will improve the quality of the lake.

The spirit of the ordinance is observed because: Mr. Hays wrote: *Due to the non-conforming lot.*

The board agreed the lot limits what can be done.

Substantial justice is done because: Mr. Hays wrote: *without the variance Mr. Sweeney is unable to replace his septic and with the new septic he needs a new driveway and garage for storage.*

The board agreed the request for a garage was reasonable.

The values of surrounding properties are not diminished because: Mr. Hays wrote: *The new septic system will benefit the lake quality.*

The board agreed this is an improvement to the lake.

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: (A)ii. **No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific application of that provision to the property because:** Mr. Hays wrote: *existing non-conforming building lot.*

Mr. Tierney expressed his agreement. Mrs. Erler asked if other properties in the area had garages. Mr. Hays advised that there were other homes that had garages, some being attached and some detached, depending on what their lot allowed. Mrs. Erler noted that the lot across the road, between Seminole Avenue and the railroad tracks, was too narrow for construction of a building across from Mr. Sweeney's lot. Mr. Smith asked about the water supply and Mr. Hays said it is drawn from the lake, similar to other properties in the area. Mr. Hays pointed out well radii distances that DES is requiring from the abutter's well and a proposed site for a future well on Mr. Sweeney's lot.

The proposed use is a reasonable one because: Mr. Hays wrote: *It fits all the neighboring properties.*

The board agreed it was reasonable.

If the paragraphs in 5(A) are not established what are the special conditions of the property that distinguishes it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary reasonable a reasonable use of it. Mr. Hays

wrote: *because we are unable to meet the necessary setbacks required.*

The board agreed that the paragraphs in 5(A) had been met. Mrs. Erler asked if there were any undeveloped lots left and Mr. Hays advised the last lot was recently developed.

Mr. Tierney made a motion, seconded by Mr. Hofling, to approve the variance for the garage as presented. Vote was unanimous.

Mr. Frazier made a motion, seconded by Mr. Tierney, to approve the variance for the septic system as presented. Mr. Hofling advised he would to add the condition that the current septic system be removed. Mr. Hays said it has been removed but Mr. Hofling said he wanted it noted in the decision. Vote was unanimous.

Mr. Hays advised that the installation of the septic system and construction of the garage will happen over a year or so. The board pointed out that the variances granted were good for 2 years.

MINUTES

A motion was made by Mr. Hofling, seconded by Mr. Frazier, to accept the minutes of February 6, 2013, as written. Vote passed.

OTHER BUSINESS

There was none.

ADJOURNMENT

Mr. Tierney made a motion, seconded by Mr. Frazier, to adjourn at 7:37 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose
Secretary