



Town of Plaistow, New Hampshire
145 Main Street, Plaistow NH 03865
Phone: (603) 382-8469

ZBA Minutes 05-30-13

ZONING BOARD OF ADJUSTMENT MINUTES

May 30, 2013

Call to Order: 7:04 P.M.

Item One:

ROLL CALL: Present was *Chairman*; Larry Ordway, James Allen and Tim Fisher. Paul Boniface was absent and Rod Cole and M. Sumner were excused.

L. Ordway explained to the applicant that there are only three members sitting on the Board and all cases heard need three affirmative votes to be granted. He explained that the applicants have the right to ask for a postponement until there are five voting members sitting on the Board. If the applicants choose to continue with the hearing and it is denied they cannot use lack of a full Board as grounds for a rehearing. He added that if continued, the hearing would be continued to the June 27, 2013 meeting and that no further notifications would be sent. He asked the applicants to tell the Board if they would like to postpone the hearing when their case is called before the Board.

Minutes of March 28, 2013

L. Ordway explained that the Board needed to re-vote on these minutes as there were not enough present at the last meeting to officially vote on them.

J. Allen motioned to accept the minutes of the March 28, 2013 meeting, second by L. Ordway.

There was no discussion on the motion and the vote was 3-0-0 U/A.

Minutes of April 25, 2013

L. Ordway noted that the following corrections need to be made:

- J. Allen motioned to approve the minutes; not T. fisher
- T. Fisher should be noted as excused; not absent.

J. Allen motioned to accept the minutes of the April 25, 2013 meeting as amended, second by L. Ordway.

There was no discussion on the motion and the vote was 2-0-1, T. Fisher abstained.

#13-03: (Continued from April 25, 2013) A request from Cory St. Pierre for a Special Exception under Article X for an office for a plumbing and heating business. The property is located at 19 East Pine St, Tax Map 49, Lot 11 in the MDR District. The applicant is the property owner of record.

The applicant was not present; the Board did not hear the case.

#13-04: (Continued from April 25, 2013) A request from Richard Sullivan for a variance from Article V, §220-321

to allow a structure to be built within 5.0 feet of the rear property line where 15 feet is the minimum allowed (10 ft. variance). The property is located at 11 Walton Road, Tax Map 30, Lot 54 and is an existing residential use in the CI District. The applicant is the property owner of record.

Present was Richard Sullivan, 11 Walton Road. He stated that he wishes to proceed with the hearing. The explained/discussed the following with the Board:

- He is proposing a two stall, single story, detached car garage; 24' x 24'
- He is requesting a variance because he only has 5 feet to property line
- The lot is triangular shaped
- It is only .31 acres
- There is no place on the property where they would meet zoning requirements
- To move it closer to driveway would encroach on the well
- They want it detached for insurance purposes
- Garage will only store two cars; no extra storage or commercial use
- The commercial building behind the property was approved for medical offices; no one is there currently

R. Sullivan presented a blue print of the proposed garage for the Board to review.

There was no one present to speak for or against the application and the case was closed.

L. Ordway explained the deliberations process noting that no further input could be given. He added that they will be notified in writing within ten (10) business days. If granted they cannot proceed with plans for thirty (30) days in case someone would like to appeal the decision.

#13-05: A request from Wendy Moley for a variance from Article V, §220-32I to allow an above ground swimming pool to be built within 5.0 feet for the rear property line where 15 feet is the minimum allowed (10 ft. variance). The property is located at 13 Old Road, Tax Map 29, Lot 42 and is an existing residential use in the CI district. Michael and Wendy Moley are the property owners of record.

Present was Wendy Moley, 13 Old Road. She stated that she wished to proceed with the hearing tonight. She presented a plan and pictures to the Board and explained the following:

- She is proposing to install an above ground pool and extend her existing deck to meet the pool
- The size would be a 30' x 15' oval
- The plan and pictures she gave the Board were to show where holding tanks, the septic and sandbox and play areas are on the property
- She cannot meet the zoning requirement anywhere the pool could go other than over the leaching field
- Irving gas is behind the property
- Plenty of distance is between the pool and surrounding businesses

There was no one present to speak for or against the application and the case was closed.

L. Ordway explained the deliberations process noting that no further input could be given. He added that they will be notified in writing within ten (10) business days. If granted they cannot proceed with plans for thirty (30) days in case someone would like to appeal the decision.

DELIBERATIONS:

#13-04: (Continued from April 25, 2013) A request from Richard Sullivan for a variance from Article V, §220-32I to allow a structure to be built within 5.0 feet of the rear property line where 15 feet is the minimum allowed (10 ft. variance). The property is located at 11 Walton Road, Tax Map 30, Lot 54 and is an existing residential use in the CI District. The applicant is the property owner of record.

T. Fisher motioned to accept the request from Richard Sullivan for a variance from Article V, §220-32I to allow a

structure to be built within 5.0 feet of the rear property line where 15 feet is the minimum allowed (10 ft. variance). The property is located at 11 Walton Road, Tax Map 30, Lot 54 and is an existing residential use in the CI District. The applicant is the property owner of record. The motion was second by J. Allen and the case was opened for discussion.

L. Ordway summarized the case noting the following:

- It is a sub-standard lot only .31 acres
- The triangular shape makes it hard to fit the garage
- There is no place on the small lot to put the garage and meet the required setbacks

The Board stepped through the requirements for the granting of a variance noting the following:

The variance is not contrary to the public interest

- The public interest is to have space between the buildings and there is ample space between owner and commercial abutter

Substantial justice is done

- The shape of the lot makes it hard for the applicant to build garage and they would deny him his rights as a property owner to deny

The spirit of the ordinance is observed

- They would deprive the owner of his property rights if they did not grant the variance

The values of surrounding properties are not diminished

- Adding an attractive garage would not diminish the surrounding properties value

Literal enforcement of the ordinance would result in a hardship

- It is clear that the hardship is in the land because it is only .31 acres and is an irregular shape

There was no further discussion on the motion and the vote was 3-0-0 U/A.

#13-05: A request from Wendy Moley for a variance from Article V, §220-32I to allow an above ground swimming pool to be built within 5.0 feet for the rear property line where 15 feet is the minimum allowed (10 ft. variance). The property is located at 13 Old Road, Tax Map 29, Lot 42 and is an existing residential use in the CI district. Michael and Wendy Moley are the property owners of record.

J. Allen motioned to grant the request from Wendy Moley for a variance from Article V, §220-32I to allow an above ground swimming pool to be built within 5.0 feet for the rear property line where 15 feet is the minimum allowed (10 ft. variance). The property is located at 13 Old Road, Tax Map 29, Lot 42 and is an existing residential use in the CI district. Michael and Wendy Moley are the property owners of record. The motion was second by L. Ordway and the case was opened for discussion.

L. Ordway summarized the case noting the following:

- The recommended position for the pool on the right side of the home will make use of the land that is presently not used for anything.
- There is no other spot on the property other than over the leaching field where the applicant would meet the setback requirements
- The distance between the pool and the neighboring commercial buildings would be about 75' in distance

The values of surrounding properties are not diminished

- The pool will not diminish the values of surrounding properties; most are commercial and it will have no effect

The variance is not contrary to the public interest

- There is adequate space between the pool and neighboring buildings

Substantial justice is done

- If the variance is not granted the applicants would not be able to have the pool unless they put it over the leaching field and they cannot do that
- Above ground pool is not a permanent structure

The spirit of the ordinance is observed

- Again, ample space between pool and neighboring buildings

Literal enforcement of the ordinance would result in a hardship

- It would; to deny would mean the applicant would need to move the leaching field causing a hardship

There was no further discussion on the motion and the vote was 3-0-0 U/A.

Other Business/Updates: Misc. Notices, letters, and other Correspondence from Dept. of Building Safety, Planning Department and ZBA

The Board decided to wait until P. Boniface is present to vote on a vice chair for the ZBA.

There was no other business before the Board; the meeting was adjourned at 7:33 P.M.

Respectfully submitted as recorded by Laurie Pagnottaro.

Approved by the Zoning Board of Adjustment on _____

Larry Ordway, Chairman

