



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

## **ZBA Minutes 03-28-13**

### **ZONING BOARD OF ADJUSTMENT MINUTES**

**March 28, 2013**

**Call to Order:** 7:00 P.M.

#### **Item One:**

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

L. Ordway explained to the applicant that there are only four members sitting on the Board and all cases heard need three affirmative votes to be granted. He explained that the applicant has the right to ask for a postponement until there are five voting members sitting on the Board. If the applicant chooses 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 April 25, 2013 meeting and that no further notifications would be sent. He asked the applicant to tell the Board if they would like to postpone the hearing when the case is called before the Board.

The applicant (Jason Roy) stated that he would like to continue with the hearing tonight.

L. Ordway announced that Board Member Joyce Ingerson has resigned from the Board. She has become a member of the Board of Selectmen. He thanked her for her years of service spent on the ZBA.

#### **Minutes of February 28, 2013**

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

There was no discussion on the motion and the vote was 4-0-0 U/A.

**#13-02: A request from Jason and Tracie Roy for a variance from Article IV, §220-21 to allow a structure to be built within 65.50 feet of the wetlands buffer where 75 feet is the minimum allowed (9.5 ft variance). The property is located at 120 Forrest St, Tax Map 67, Lot 16 in the LDR District. The applicants are the property owners of record.**

Present for the hearing was Jason Roy, 120 Forrest Street. He stated that he wanted to continue with the hearing tonight and that he understood that he cannot request a rehearing under the grounds of not a full Board. He noted the following to the Board:

- He proposed to add onto his existing garage footprint and connect garage to the house
- The area in between garage and house encroaches on a wetland setback buffer
- Part of the existing garage and house currently encroach the wetland setbacks
- The garage will be 22'X25', two stories tall with two stalls

- The existing garage is 14.9'X22'
- The house is 30' wide
- 13.5' currently encroach the setback of the existing house and garage
- The proposed construction will not encroach as much as the existing garage does
- The wetland is a pond; water is there year round
- Second floor will be a living room area
- The applicant proposed to demo existing garage and use the foot print
- There will be no oil changes or commercial use in the garage

At the hearing to speak in favor of the application were Stan and Gail Swiderski, neighbors. They have no problem with the addition.

A letter of support from the Conservation Commission, dated March 27, 2013 was read for the record. The letter stated that the Conservation Commission has reviewed the expansion and has determined it will not cause harm to the wetlands. They ask that the applicant remove all excavated materials away from the wetland setback buffer.

There was no one to speak 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) days. If granted they cannot proceed with plans for thirty (30) days in case someone would like to appeal the decision.

#### **DELIBERATION:**

**#13-02: A request from Jason and Tracie Roy for a variance from Article IV, §220-21 to allow a structure to be built within 65.50 feet of the wetlands buffer where 75 feet is the minimum allowed (9.5 ft variance). The property is located at 120 Forrest St, Tax Map 67, Lot 16 in the LDR District. The applicants are the property owners of record.**

T. Fisher motioned to grant the request from Jason and Tracie Roy for a variance from Article IV, §220-21 to allow a structure to be built within 65.50 feet of the wetlands buffer where 75 feet is the minimum allowed (9.5 ft variance). The property is located at 120 Forrest St, Tax Map 67, Lot 16 in the LDR District. The applicants are the property owners of record. The motion was second by J. Allen and the case was opened for discussion.

L. Ordway summarized the case noting the following:

- The applicants have lived at this location for several years
- They wish to improve the property by demoing the existing garage, using the same footprint to rebuild a garage and connect it to the house
- The existing house and garage have encroached on the wetland since they were built
- They have a letter of support from the Conservation Commission

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

#### **The values of surrounding properties are not diminished**

- The proposed use would not diminish but would increase the property's value. It would also generate more tax revenue for the Town.

### **The variance is not contrary to the public interest**

- It will improve the appearance of the property which the public likes

### **Literal enforcement of the ordinance would result in unnecessary hardship**

- The applicants main concern is to connect the garage to the house; there is no other way to accomplish this with the layout of the property

### **Substantial justice is done**

- The new garage will give the homeowners better use of their property

### **The spirit of the ordinance is observed**

- The ordinance is meant to protect the wetlands. The wetland is already encroached; the applicants are asking to continue that encroachment by only 10' leaving 65' to protect the wetlands. The Spirit is observed.

There was no further discussion on the motion and the vote was 4-0-0 U/A.

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

L. Ordway stated that the Spring Planning and Zoning Conference will be held on May 11 at the Radisson Hotel in Manchester. Anyone interested in going should contact Dee Voss.

There was no other business before the Board; the meeting was adjourned at 7:25 P.M.

Respectfully submitted as recorded by Laurie Pagnottaro.

Approved by the Zoning Board of Adjustment on \_\_\_\_\_

\_\_\_\_\_  
Larry Ordway, Chairman

