

**Zoning Board of Adjustment Approved Minutes
December 9, 2014**

Board Members:

Mark Samsel, Chairman – Present

Mike Scholz, Vice-Chairman – Excused

Heath Partington, Secretary – Present

Jay Yennaco, Member – Present

Jim Tierney, Member – Excused

Mike Mazalewski, Alternate – Present

Kevin Hughes, Alternate – Excused

Staff:

Dick Gregory, Code Enforcement Administrator

Kerry Lee Noel, ZBA Minute Taker

The Chair called the meeting to order at 7:30 pm, introduced the Board and Staff, and explained the meeting process. The Chair explained to the applicant that there were only 4 members present and he had the option of going forward or continuing to the next meeting.

Public Hearing

Mr. Partington read Case #44-2014 into the record.

Case # 44-2014, Lot 22-L-51

Applicant – Mr. Joseph Maynard, Benchmark Engineering, Inc.

Owner – Jay Johnson, 30 West Shore Road, Windham, NH

Location – 55 West Shore Road

Zone – Residence A, Cobbetts Pond and Canobie Lake Watershed Protection District

Variance from the following sections of the Zoning Ordinance are requested to allow the construction of a new home.

Section 702, Appendix A-1 to allow the structure to be constructed on a lot with 61 ft. of frontage where 175 ft. is required, on a lot with 9,309 sq.ft. where 50,000 sq. ft. is required. A front setback of 20 ft. where 50 ft. is required, a side setback of 10 ft. & 12 ft. where 30 ft. is required, lake/front setback of 40 ft. where 50 ft. is required.

Mr. Partington reviews the abutter list and letter of authorization.

Mr. Maynard states that he is representing the owner Jay Johnson and describes the location of the lot as a vacant lot on record. This piece of property is located at 55 West Shore Road. The lot itself only has 61 feet of frontage on West Shore Road. Mr. Johnson would like to construct a new single family dwelling on this lot. A side set back to the north of 10 feet, 20 feet off the street, 12 feet at the closest corner of the southerly lot line. One small encroachment, with a 40 foot setback for the proposed deck on the front of the house. The lot itself would be supported by a new state approved septic system that is in process and it will have a drilled well. The house itself would be centered on the property. The abutter to the south has approximately 20 feet to their home off of the lot line. Mr. Johnson owns the property across the street.

Mr. Samsel verifies the 19% dwelling coverage of the lot.

Mr. Maynard states that is correct. He continues reviewing the 5 criteria.

Mr. Samsel inquires if there is a proposed home design.

Mr. Maynard distributes a house plan to be entered as Exhibit A.

Mr. Samsel inquires if the garage is attached.

Mr. Maynard confirms that it is attached.

Mr. Partington inquires how large is the proposed house.

Mr. Maynard states the second floor is 1200 square feet; the first floor without the garage is 992 square feet.

Mr. Mazalewski inquires if the state has additional requirements for this lot.

Mr. Maynard states that this is a pre-existing nonconforming lot of record. If it is a lot that allows for no buildable area, the State allows for reasonable relief for these lots of record with a variance or waiver to allow, a small encroachment for this deck. The state also has a regulation that when calculating the frontage of the property, you are allowed an assessed restructure of 1 ½ square feet for every one linear foot of lake frontage. This deck would be permit. The majority of the construction falls outside the 50 feet of setback, except for that small encroachment. It is a reasonable size house and similar in architecture to nearby residents, the set back is the cause of seeking relief.

Mr. Samsel requests a motion to go into deliberative session.

Motion by Mr. Partington

2nd by Mr. Yennaco

Vote 4-0-0

Motion carries

Questions/Comments from the Board

Mr. Samsel states he can see no issues with the proposed request.

Mr. Partington reviews the five criteria:

Whether substantial justice is done. The benefit to the owner, consider the ordinance does benefit to the owner. There is no negative impact to the public. Property values will not be diminished, view won't be impacted.

It is an undersized lot and it would not have been able to meet the criteria, it is a reasonable size house for the lot size.

Mr. Samsel states that it is 19% coverage and is under the 20%, the garage is attached.

Motion by Mr. Partington for Case # 44-2014 Lot 22-L-51, Motion to grant a variance from section 702 appendix A1 which includes 61 feet of frontage where 175 feet is required on a lot with 9,309 square feet where 50,000 square feet is required, front set back of 20 feet where 50 feet is required, side setback of 10 feet and 12 feet where 30 feet is required, lake/front setback of 40 feet where 50 feet is required per plan submitted.

2nd Mr. Mazalewski

Vote: 4-0-0

Motion carries

Mr. Samsel states that this decision can be appealed within 30 days.

Review and Approval of Draft Minutes – November 25, 2014

Minutes can be kept in draft and resubmit with the changes.

Mr. Samsel discusses that Habitat for Humanity is seeking a donation. The next meeting scheduled for December 23rd.

Motion by Mr. Yennaco to adjourn the December 9, 2014 Zoning Board Meeting

2nd by Mr. Partington

Vote: 4-0-0

Motion carries.

Meeting Adjourned 8:06 pm.

Respectfully submitted,

Kerry Lee Noel – Revised by Dick Gregory 12-24-14

ZBA Minute taker