

**Zoning Board of Adjustment Approved Minutes
December 23, 2014**

Board Members:

Mark Samsel, Chairman – Present
Mike Scholz, Vice-Chairman – Present
Heath Partington, Secretary – Present
Jay Yennaco, Member – Excused

Jim Tierney, Member – Present
Mike Mazalewski, Alternate – Present
Kevin Hughes, Alternate – Present

Staff:

Dick Gregory, Code Enforcement Administrator

The Chair called the meeting to order at 7:30 pm, introduced the Board and Staff, and explained the meeting process. It was noted that no video of this meeting was being taken as a cable television representative was not present.

Public Hearing

Mr. Samsel sat Mr. Hughes for Mr. Yennaco.

Mr. Partington read Case #45-2014 into the record.

Lot 24-F-646, Case # 45-2014

Applicant – Scott Cabana/Karen Carberry
Location –23 Ryan Farm Road; Zone – Rural

Variance from the following section of the Zoning Ordinance is requested to allow the construction of a new in ground pool:

Section 702, Appendix A-1 & 703 to allow the pool to be 19.5 ft. from the rear lot line, where 30 ft. is required.

Mr. Partington read the abutter list.

Mr. Mike Polito of 7 Liberty Lane in Lynnfield, MA represented the applicants for the duration of this meeting. He stated that he is a retired pool company owner with 44 years of experience. This is a simple setback issue for the pool. The abutters are present and have no problem. The owners will comply with all other bylaws. The houses are spread far apart.

Mr. Samsel noted that a letter of authorization from the applicants allowing Mr. Polito to represent them should be submitted.

Mr. Samsel asked about the location of the pool.

Mr. Polito responded that this is the only spot for the pool. The owners have moved the well line in order to excavate the pool. There is tough terrain on this property as this is the highest part of Ryan Farm Hill.

Mr. Tierney asked about location alternatives. Can the left side of the lot be used or can the pool be orientated differently such that less relief is necessary as the rear of the lot is pretty flat. This may be a design issue.

Mr. Polito responded that the propane tank and the well line through the back of the property are limitations. Changing the orientation of the pool will put the pool within 10' of the house.

Mr. Polito and the board discussed the location of the well line and the propane tank. The plan was edited to show the location of the well line and the propane tank and was submitted as Exhibit A.

Mr. Samsel explained that the board is focused on the hardship criteria. Could the plan be changed to require either lesser relief than requested or no relief at all?

Mr. Polito responded that he does not believe the orientation can be changed. This is the least obstructive location for the neighbors. An additional issue is that there is a lot of ledge there.

Mr. Polito read the 5 criteria into the record.

Mr. Hughes inquired about the size of the pool.

Mr. Polito responded that the pool is free form so that it will be less than the 24' by 42' indicated by the application. Part of the reason for the size of the pool is to justify the large cost. A small pool wouldn't justify the cost. Making the pool 10' shorter would not make much difference to the neighbors. One of the goals is to be able to entertain a number of people in the pool.

Mr. Tierney questioned if large parties wouldn't be more of a reason to adhere to the setback requirements.

Mr. Samsel opened the hearing for public input.

Mr. Stephen Voto, 25 Ryan Farm Road, Windham NH, spoke in favor of the request. He is a direct abutter and is the one most impacted. There is a hardship here as this is a tough area to build. He is concerned that changing the orientation of the pool will cause more blasting near to his home.

Mr. Scholz stated that he believes the applicant has other options. This is a choice not a need.

Mr. Polito responded that this is not a choice. The topography will not allow the pool to be closer to the house. Additionally we have already begun drilling and that is a hardship.

Ms. Karen Carberry, 23 Ryan Farm Road, Windham NH indicated that there is a deck on the back of the house that is not shown on the plan. The deck would be in the way of moving the pool closer to the house.

The board discussed some of the items that were not shown on the original plan including the well line, propane tank, deck and 30' setback line. There was concern that other items may be missing. The consensus of the board was to continue the case so that more accurate and detailed plans could be provided by the applicant.

Mr. Polito and Ms. Carberry agreed to the continuance.

Motion by Mr. Scholz to continue Case # 45-2014 Lot 24-F-646 to 1/13/15 in order to receive more accurate and detailed plans from the applicant. 2nd by Mr. Tierney.

Vote: 5-0-0

Motion carries.

Public Hearing

Mr. Samsel sat Mr. Mazalewski for Mr. Yennaco.

Mr. Partington read Case #46-2014 into the record.

Lot 25-C-12B, Case# 46-2014

Applicant: Shawn Wholey/Maureen H. Wholey

Location: 48 Jordon Road; Zone: Residential A

Variances from the following section of Zoning Ordinance are requested to allow the construction of a new 160 sq. ft. deck and a 96 sq. ft. addition.

Section 401 to allow the increase in extent of the non-conforming use & structure where neither is permitted.

Section 405.3 to allow an increase in the non-conformity of the structure.

Section 702, Appendix A-1 to allow the new bath room addition to be 8 ft. from the side lot line, where 30 ft. is required and to allow the new deck to be 25.5 ft. from the water, where 50 ft. is required.

Mr. Partington read the abutters list.

The applicant Shawn Wholey, 56 Ranges Drive, Hudson, NH addressed the board. This is a recently purchased property. The plan is to increase the size of the bathroom so that it will be usable for older guests that are visiting. Additionally a currently unusable deck facing the lake would be replaced with a larger deck.

Mr. Samsel questioned the 8' of relief requested where the plan indicated 8.34'.

Mr. Wholey responded that this was the existing setback. The new setback at the deck would be 8'.

Mr Tierney asked about the length of the deck and why it did not line up with the existing edge of the house.

Mr. Wholey responded that the jogs would be more aesthetically pleasing.

Mr. Tierney asked whether the applicant had submitted a new septic plan and whether an application had been filed with DES.

Mr. Wholey responded that the applications to the State of NH and Shoreland Protection were all set.

Mr. Mazalewski asked about stairs to the new deck.

Mr. Wholey responded that there would be stairs but that they would not be towards the lake.

Mr. Wholey read the 5 criteria into the record.

Mr. Samsel opened the hearing to public input.

Mr. Neil Feugill, 44 Jordan Road, Windham, NH spoke in favor of the request. He is a direct abutter. This is a dead end road. The property has been vacant for 25 years with no improvement. This will be a great improvement for the neighborhood.

Motion by Mr. Tierney to go into Deliberative Session. 2nd by Mr. Scholz.

Vote: 5-0-0

Motion carries.

Mr. Tierney discussed the betterment of the project with very little negative aspects.

Mr. Scholz agreed with Mr. Tierney and added that there is a hardship due to the current conditions on the property.

Mr. Mazalewski stated that he believes the bathroom expansion is reasonable. He has a tougher time with the expansion of the deck towards the lake.

Mr. Partington and Mr. Samsel agreed that this project meets the 5 criteria.

Motion by Mr. Scholz to grant a variance for Case # 46-2014 Lot 25-C-12B, from Sections 401, Section 405.3 , and Section 702 and Appendix A-1 as presented. 2nd by Mr. Tierney.

Vote: 5-0-0

Motion carries.

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

Review and Approval of Draft Minutes

- November 25, 2014 – The board suggested several changes and would like to see these minutes again before approval.
- December 9, 2014 – The board suggested several changes and would like to see these minutes again before approval.

Motion by Mr. Scholz to adjourn the December 23, 2014 Zoning Board Meeting. 2nd by Mr. Tierney.

Vote: 5-0-0

Motion carries.

Meeting Adjourned at 9:20pm.

Submitted by Heath Partington, Board Secretary.