



COMMUNITY DEVELOPMENT
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ZONING BOARD OF ADJUSTMENT

Draft Minutes

March 22, 2022 - 7:00 pm @ Community Development Department

Physical Location: 3 North Lowell Road (Community Development Department) Live
Broadcast: WCTV Channel 20 – Local Cable TV
Live Stream: <http://www.wctv21.com/>

Attendance:

- Nick Shea- present**
- Pam Skinner- present**
- Michelle Stith, regular member- present**
- Neelima Gogumalla, regular member- present**
- Betty Dunn—present**

Staff:

- Alex Mello- Community Development Director**
- Julie Suech- Planning Technician**
- Anitra Lincicum-minute taker (via Zoom)**

Mr. Mello called the meeting to order.

A motion was made by Ms. Gogumalla to nominate Ms. Betty Dunn as the Chair, Mr. Nick Shea as the Vice Chair and Ms. Pam Skinner as the Secretary. Seconded by Ms. Stith.

Mr. Shea stated that he would like to nominate Ms. Gogumalla as Chair yet she declined.

Mr. Mello asked if there was any more discussion.

Vote 5-0.

Motion passes.

35 The Board discussed that Mr. Scholz, the former Chairman, would be willing to be an alternate Zoning
36 Board member. Chairman Dunn stated that she went to the town clerk to get the paperwork to install an
37 alternate ZBA member. Mr. Scholz may attend later in the meeting and they will have the discussion
38 when he arrives.

39

40 Vice Chair Shea would like to congratulate Ms. Gogumalla and Chairman Dunn for being elected to the
41 Zoning Board of Adjustment. Vice Chair Shea wished to thank Mr. Scholz for his service to the town. He
42 also wished to thank Mr. Sullivan for his service to the town as the town administrator.

43

44 Chairman Dunn asked each Board member to introduce him or herself to the audience. Each Board
45 member made his or her introduction.

46

47 Chairman Dunn explained the need for alternates board members in the event that the regular Board
48 members cannot not serve.

49

50 Case #07-2022 Parcel 11-C-3100

51 Applicant – Salvatore Erna

52 Owner – Same

53 Location – 3 Lancelot Street

54 Zoning District – Residential District A

55

56 The applicant has requested to reschedule this hearing, to **April 12, 2022** which the Board shall consider.

57

58 Variance Relief is requested from **Section(s) 702, and Appendix A-1** to construct a detached 40x60
59 accessory building 17'-10" from the side lot line, where 30' is required.

60

61 The Chair explained that there was a request to reschedule.

62

63 **A motion was made by Vice Chair Shea to continue Case #07-2022 to April 12, 2022. Seconded by**
64 **Ms. Skinner. Vote 5-0. Motion passes.**

65

66 **Public Hearing**

67 Case #04-2022: Parcel 17-I-112B

68 Applicant – Edward N. Herbert Assoc., Inc

69 Owner – Barry & Donna Johnson

70 Location – 32 Walkey Rd

71 Zoning District – Residential A & WPOD

72

73 Variance Relief is requested from **Section(s) 401, 406, 702, and Appendix A-1** to construct an addition
74 with a footprint of approximately 804 SF to an existing non-conforming structure on a pre-existing non-
75 conforming lot. To allow a 36' front yard setback where 50' is required. To allow 17' side yard setback,

76 where 30' is required. To allow a 45' shoreland setback, where 50' is required. To allow a 97' frontage
77 where a minimum of 175' of frontage is required.

78
79 Ms. Skinner read the case into the record. The file also had the list of abutters along with the letter of
80 authorization.

81
82 Mr. Shayne Gendron of Edward N. Herbert Associates addressed the Board. Mr. Gendron is representing
83 the applicant. Mr. Gendron stated that the Johnson's purchased the property last year but the family has
84 owned it since 1985. The property has a state approved septic system and an artesian well on the
85 property. Mr. Gendron stated that the property does meet all the requirements of a full-time property. Mr.
86 Gendron submitted evidence which was labeled as Exhibit A. The pictures of the property that were
87 submitted by Mr. Gendron were eventually labelled Exhibit B. The property is about ½ acre and the
88 Johnson's would like to reuse the foundation of the existing structure. Mr. Gendron stated that the
89 applicant has been working with a few builders and the hope is that they can reuse the existing
90 foundation but Mr. Gendron wanted to be clear that that might not be possible.

91
92 Mr. Gendron stated that the lot is mostly wooded with a lot of mature trees. Mr. Gendron stated that the
93 applicant is very happy with the placement of the home and they flagged the trees that would be coming
94 down. Mr. Gendron indicated that the trees that would be coming down. Mr. Gendron stated that these
95 are the same plans submitted previously but there were few additional notes left on the plan but there is
96 no proposal for porous pavement. The impervious surface is 18.3% currently and it would be going to
97 22.8% which is within the Cobbetts Pond ordinance of 30%. The existing septic system would not
98 survive the current proposed construction so they will be replacing the current septic system.

99
100 Mr. Gendron stated that the structure is currently a 3-bedroom cottage and they would be going to 2
101 bedrooms post construction. Mr. Gendron stated that they took pictures of surrounding properties to get
102 an idea of the value of surrounding properties and what the neighborhood currently looks like. Mr.
103 Gendron stated that the applicant has shown the plan to the neighbors and they have written a letter of
104 support. Mr. Gendron stated that the height of the structure will change, from one story to two stories.
105 Vice Chair Shea state that there were contingencies. Mr. Gendron stated that this contingencies was
106 around the protection of Cobbetts Pond.

107
108 The following letters were labelled Exhibit C by the Chair. There was a letter from 31 Walkey Road,
109 Brandon and Cheryl Tsetsilas are in support of the applicant's request; they would like to see the
110 alignment and agreement of the final stamp plan and that the right of way is clear along a property line.
111 There was a letter from Joseph and Marianne Levis, 30 Walkey Road, there are in support of the
112 application. There was a letter from the resident of 34 Walkey Road, Michael Early, who is in supports
113 the request. Mr. Vincent Bonnanno and Linda Gormely-Bonnanno were another household in support of the
114 project. Chairman Dunn asked if the GIS map could be pulled up to show the property and the location of
115 the well on the property. Mr. Gendron reviewed the requested variances as listed.

116
117 Chairman Dunn asked if they were not asking to build the structure in conformance to the building code.
118 Mr. Gendron stated that they are not looking for any relief for the building code; they are looking for
119 relief from the setbacks. Mr. Gendron reviewed the 5 criteria contained in the public packet. Mr. Gendron
120 stated that when you go over 20% of coverage it is considered a major site plan application on Cobbetts
121 Pond. The structure will be about 30 feet tall and the current structure is about 23 feet tall. Vice Chair

122 Shea asked if there was any plan to plant a lawn. Mr. Gendron showed the Board where the lawn would
123 be. Mr. Gendron stated that the lot more than meets the point system for a shoreland application.
124 Chairman Dunn asked how many trees will be taken down. There will be about 12 trees taken down
125 according to Mr. Gendron and they will not be in the 50-foot buffer. Mr. Gendron stated that the applicant
126 is willing to comply with the fertilizer and input regulation in the Cobbetts Pond Watershed. Ms. Skinner
127 read the comments from the Conservation Commission. The Conservation Commission has no issues
128 with the new plan and the previous comments no longer apply as they were resolved.

129
130 Chairman Dunn invited public comment.

131
132 Brendan Tsetsilas, 31 Walkey Road addressed the Board. Mr. Tsetsilas is in support of the plan. Mr.
133 Tsetsilas stated that he would like the right of way clarified. Mr. Tsetsilas stated that the right of way is
134 21 feet. There is a retaining wall. Mr. Tsetsilas stated that he is one of the only year-round resident in the
135 area. Mr. Tsetsilas stated that snow removal has already been a challenge. Mr. Tsetsilas stated that the
136 important thing for him is to make sure that the right of way is accessible and he is trying to get
137 clarification around this. Chairman Dunn asked if Mr. Tsetsilas' highlighted section on the property that
138 is a right of way. Mr. Tsetsilas stated that there is an old retaining wall (cement) that goes into the right of
139 way. Mr. Tsetsilas would like to be sure that the right of way remains accessible.

140
141 Mr. Mike Early, 34 Walkey Road addressed the Board. Mr. Early stated that his seasonal property been in
142 the family since 1927. Mr. Earley stated that the retaining wall discussed was constructed at the time the
143 house was built. His family has been there since 1927 and the wall has never been an issue. This is a
144 family property. Mr. Earley stated he is a direct abutter and he has no issue with the wall as it appears
145 currently.

146
147 Mr. Gendron addressed the Board once again. Mr. Gendron stated that the retaining wall is not on the
148 Johnson's property. Their family has been there since 1972 and they can certainly work with the abutters.
149 Mr. Gendron stated that the neighbor that is most effected is in favor of the plan as presented. Mr.
150 Gendron stated he is willing to work together with the abutters regarding the wall. Chairman Dunn stated
151 that they are not being asked for a variance on the wall and she hopes that everybody can work it out. Mr.
152 Mello stated that this case will be going before the Planning Board as well and the wall can also be
153 discussed at that time.

154
155 **A motion was made by Ms. Skinner to enter deliberative session. Seconded by Vice Chair Shea.**
156 **Vote 5-0. Motion passes.**

157
158 The Board is in agreement that the proposal is reasonable one; the Board discussed the artesian well on
159 the property. There are also substantial trees that will remain on the property. The Board sees that this is a
160 unique lot in that it is ½ acre. Chairman Dunn wanted to note that there is an artesian well that will
161 remain and the septic will be replaced; also, the new slightly taller structure will not affect anyone's
162 views.

163
164 **A motion was made by Vice Chair Shea for Case #04-2022 to grant variance relief as requested**
165 **from Section(s) 702, and Appendix A-1 to construct a detached 40x60 accessory building 17'-10"**
166 **from the side lot line, where 30' is required as requested per plan submitted (Exhibit D) and signed**
167 **and dated (March 22, 2022) by the Chair. Seconded by Ms. Stith.**

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Vote 5-0.
Motion passes.

Case #05-2022: Parcel 25-R-6263
Applicant – Denis Tremblay
Owner – Denis Tremblay
Location – 12 Acadia Drive
Zoning District – Rural District

Variance Relief is requested from **Section(s) 611.6.4.3.1** to permit placement of a single-family residence in an Open Space Residential Development. The proposed front yard setback from the edge of a right of way is 80’ where 50’ is the maximum required.

Ms. Skinner read the case into the record. The application had a letter of authorization for the applicant to be represented by Edward N. Hebert and Associates.

Mr. Shayne Gendron of Edward N. Hebert and Associates is representing the applicant. Mr. Gendron stated that Gove Environmental did look at the lot. Mr. Tremblay would like to install the house about 80 feet back from the street instead of 50 feet to give the lot a little but more breathing room away from the poorly drained soil in this part of the lot. Mr. Gendron explained that there are several sedimentation areas near the property as well. There is a naturally occurring pocket on the property. Chairman Dunn asked where the house would be located if the poorly drained soil was not on the current property. Mr. Gendron explained that the house would likely not be as set as far back but this appears to the correct location for the structure. Mr. Gendron thinks that making a larger buffer is the appropriate response.

Mr. Denis Tremblay, the applicant, addressed the Board. Mr. Tremblay stated that the berm has not yet been installed and a lot of the water will be directed into the forebay. Ms. Stith stated she understands that but wildlife has established that as part of their environment. Vice Chair Shea stated that the wetland seemed pretty substantial to him.

Mr. Gendron stated that they have checked the property recently. Mr. Gendron stated that this is an approved lot and something could be built on this right away. Mr. Gendron stated they are trying to work with the Board. Mr. Gendron also stated that there may be an issue with a lot line on a nearby property as well which might make it appear closer (the wetland). Chairman Dunn asked, like the Conservation Commission, could the wetland be marked, and more to the point, could it be stipulated that it not be filled. Mr. Gendron stated they can agree to it because it cannot be filled. Chairman Dunn stated that this does not appear to be outside the spirit and intent of the ordinance.

Mr. Gendron read the 5 criteria contained in the public packet.

Chairman Dunn asked if there was any more public comment. There was none.

Mr. Gendron stated that the applicant would like to avoid the additional expense of a surveyor and the hire Mr. Gendron to attend the site walk. Additionally, the applicant is looking to add a little bit of extra space on the lot.

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A motion was made by Ms. Stith to enter deliberative session. Seconded by Ms. Skinner. Vote 5-0. Motion passes.

Ms. Stith stated she does see this as a unique lot and that the house should be set back further. Also, she would like a site walk and she had a hard time seeing where the lot line was. Vice Chair Shea is sympathetic to the additional cost, yet, if he were to move it back, the builder would likely get that money back as the value would be hire. Ms. Skinner does think a site walk would be helpful. Chairman Dunn stated that she thinks they can make a decision without a site walk.

A motion was made by Ms. Stith for Case #05-2022 to reopen the public hearing at the site walk at 6:00pm on March 29th and to continue the case to the next regular meeting on April 12th, 2022. Seconded by Vice Chair Shea.

Vote 5-0. Motion passes.

Ms. Dunn recused herself for Case #08-2022.

Mr. Mike Scholz addressed the Board and stated he would like to be an alternate to help out the Board as needed.

The Board was in favor of Mike Scholz serving as an alternate to a 3-year term ending May 31, 2024.

Mike Scholz was sworn in by Ms. Dunn. Vice Chair Shea stated that Ms. Dunn was a justice of the peace and is able to swear individuals into their office.

Mr. Scholz was seated for Ms. Dunn for Case #08-2022. Vice Chair Shea served as the Chair for this case.

Case #08-2022 Parcel 17-M-32
Applicant – Benchmark LLC
Owner – David and Erin Rogers
Location – 19 Armstrong Rd
Zoning District – Residential District A

Variance Relief is requested from **Section(s) 406.2, 702, and Appendix A-1** to allow expansion of the existing structure from 1,260 SF to approximately 1,500 SF on a pre-existing non-conforming lot. To allow 11' and 17' side yard setbacks for the expansion of the rear deck where 30' is required. To allow a farmer's porch on the front of the home to be constructed 19.5' to the side yard setback, where 30' is required.

Ms. Skinner read the case into the record. There was a list of abutters and a letter of authorization contained in the public packet.

259 Mr. Joseph Maynard of Benchmark LLC addressed the Board and is representing the applicant. Mr.
260 Maynard stated that this lot was recently sold to the applicant. The applicant would like to increase the
261 volume of the structure. The applicant would also like to construct a farmer's porch on the street side of
262 the structure to make improvements to the structure. Finally, the applicant would like to expand the deck
263 area; this will help with the grade change on the lot as well.
264

265 Mr. Maynard stated that he discussed the proposed improvements with the direct abutter but he was not
266 able to get an agreement in writing. There is proposed geogrid with lawn underneath it. There is a
267 decrease in the impervious coverage.
268

269 Mr. Maynard reviewed the 5 variance criteria contained in the public packet. This falls under a major site
270 plan application according to Mr. Maynard.
271

272 Vice Chair Shea asked about the dormers and if it would block anyone's view of the pond. Mr. Maynard
273 stated that it would not.
274

275 Vice Chair Shea asked if there was any input for the public. Ms. Skinner read the comments from the
276 Conservation Commission.
277

278 **A motion was made by Mr. Scholz to enter deliberative session. Seconded by Ms. Stith. Vote 5-0.**
279 **Motion passes.**
280

281 Mr. Scholz does think it meets the 5 criteria. The values of the surrounding properties would not be
282 diminished and he does see the hardship criteria as well. Hence, it meets 5B according to Mr. Scholz. Ms.
283 Stith does agree with Mr. Scholz.
284

285 **A motion was made by Mr. Scholz for Case #08-2022 to grant relief as requested from Section(s)**
286 **406.2, 702, and Appendix A-1 to allow expansion of the existing structure from 1,260 SF to**
287 **approximately 1,500 SF on a pre-existing non-conforming lot. To allow 11' and 17' side yard**
288 **setbacks for the expansion of the rear deck where 30' is required. To allow a farmer's porch on the**
289 **front of the home to be constructed 19.5' to the side yard setback, where 30' is required with a plan**
290 **date of September 11, 2021 and signed and dated by Vice Chair Shea. Seconded by Ms. Skinner.**
291

292 **Vote 5-0.**
293 **Motion passes.**
294

295 **Chairman Dunn was seated once again as Chair.**
296

297 **Case #09-2022 Parcel 16-Q-179**
298 **Applicant – Benchmark LLC**
299 **Owner – Henry C Forde Heirs**
300 **Location – 20 First Street**
301 **Zoning District – Residential District A**
302

303 Variance Relief is requested from **Section(s) 702, and Appendix A-1** to allow construction of a new

304 approximately 1,868 SF two-bedroom year-round home on a pre-existing non-conforming lot. To allow
305 9' and 10' side yard setbacks, where 30' is required. To allow a 17' front yard setback where 50' is
306 required. To allow a 16' shoreland setback, where 50' is required. To allow a 60' frontage where a
307 minimum of 175' of frontage is required.

308
309 Ms. Skinner read the case into the record. There was a letter of authorization. Mr. Joseph Maynard
310 addressed the Board and is representing the applicant. Mr. Maynard stated that there is one issue with the
311 title for an unreleased mortgage from the 1950s. Mr. Maynard is representing Mr. Craig Harvey who
312 would like to purchase the property. Mr. Maynard reviewed the history of this area. There was a structure
313 on this property in 2012. The structure needed to be razed. There are boulder piles and a retaining wall.
314 There is a septic system that did exist. The applicant is looking to put a structure on the property. The
315 proposed building coverage is 19.8% and there is impervious coverage of 28%. There will be porous
316 pavers on the property. Mr. Maynard reviewed the 3 grids on the property and explained that they would
317 be taking down the new emergent growth on the property. The bulk of the bigger trees will remain in
318 order to maintain the vegetation on the grid. Mr. Maynard explained they are trying to keep both the
319 buffer on one side and as much vegetation as possible. Mr. Maynard explained the setbacks on the lot.
320 The purpose of the bump out on the structure is so that the stairs can fit in that amount of space. Mr.
321 Maynard is trying to create as small a footprint as possible for structure and having a bump out for the
322 stairs will help that.

323
324 Mr. Scholz asked a clarifying question about the grid system.

325
326 The structure will be 2 stories and the footprint is 880 square feet. The building coverage is 19.3%. Mr.
327 Maynard discussed the drop off on the lot. Mr. Maynard explained that there is a one car garage on the
328 plan. Chairman Dunn stated that the concern of the Board is that a walk out basement is defined as
329 building area. Chairman Dunn asked about the height of the house; Mr. Maynard stated that the height is
330 22 feet. Mr. Maynard stated that the lower trees are at basement level. Chairman Dunn stated that the
331 Board is concerned the basement space can be used as living area even if HUD does not interpret it that
332 way. Chairman Dunn asked about the height of the house in relation to the height of the surrounding
333 trees. Mr. Maynard presented a picture of the current conditions of the lot. The houses on the street
334 behind look over the top of the proposed structure and existing trees according to Mr. Maynard.

335
336 Mr. Maynard stated they will be drilling a well on the property and there will be a clean solutions septic
337 system. Mr. Maynard discussed the proximity of the septic and well to each other as well as the system
338 that will pump the water uphill. Ms. Stith asked about the porous pavers. Mr. Maynard explained the
339 proposed porous pavers that do not have a need for pea stone.

340
341 Chairman Dunn asked about the property during construction and that travel on the road is difficult
342 without construction. The material is going to have to be hauled off the site and then be brought back in
343 according to Mr. Maynard. Mr. Maynard stated that they have to do a lot more trips in order to get all
344 material on and off the site in situations like this. Chairman Dunn stated that this is a very challenging lot
345 in a very difficult area. Mr. Maynard stated that there are currently 2 structures under construction. Ms.
346 Stith asked if there were any other properties in the area that have a leech field on an adjoining property

347 and/or uphill. Mr. Maynard cited one example. Ms. Stith asked about the disruption to the road for the
348 construction on the road. Mr. Maynard stated that they would probably be able to do it in a day.
349

350 Mr. Maynard reviewed the 5 criteria contained in the public packet. Ms. Skinner read the comments from
351 the Conservation Commission. The Conservation Commission has no issues with the plan as presented.
352

353 Mr. Bob Nelson, 16 Third St. addressed the Board. Mr. Nelson stated that he heard Mr. Maynard say it
354 will take a day to run the pipe but it is all ledge in the area so he is not sure if it will take longer. Mr.
355 Nelson stated that some residents on one side of the street actually park on the street and he is not sure if
356 this might happen again for this lot; it is a very congested area. Mr. Nelson is not in favor of the
357 construction in the summer which may restrict beach access Mr. Nelson showed the Board where beach
358 access is for residents.
359

360 Ms. Jackie Saba, 33 Third Street is opposed to the plan as presented. Ms. Saba showed where her well
361 was on her property. Her well as well as her view of the pond is also a concern. The parking in the area is
362 also a concern for her. There would not be room for parking off the street on the property according to
363 Ms. Saba.
364

365 Mr. John Baumann 5 Third Street. John has concerns about the construction on the property and its close
366 proximity to the beach and if the beach would be as accessible both during and after construction.
367

368 Mr. Nelson addressed the Board once again. Mr. Nelson discussed the beach that is adjacent to the
369 application. Mr. Nelson stated that his only question was if the Board had visited the site.
370

371 Mr. Maynard addressed the Board once again for rebuttal. Mr. Maynard stated that they were able to go
372 about 42 inches down with a shovel into the ground so he was not as concerned about ledge as the
373 abutter. Mr. Maynard stated that a good portion of the street is actually fill. Mr. Maynard stated that there
374 are substantial sized trees in the area and they do not typically grown beyond 10 feet in width without
375 area that is not ledge. Mr. Maynard stated that that is something they can take care of but he does not
376 think they are going to hit ledge. Mr. Maynard stated that he understands the concerns around parking but
377 he thinks this will alleviate some of the parking in the area. Mr. Maynard stated that the road will be
378 improved slightly and it will drop down to a graded shoulder. Mr. Maynard stated that the septic tanks
379 are sealed units.
380

381 Mr. Maynard explained where he was planning the proposed structure to get the structure off the current
382 lot line as much as possible and to comply with the setbacks. Mr. Maynard explained the hours of
383 construction and how the owner was motivated to construct the home to help his brother who lives
384 nearby.
385

386 Mr. Baumann addressed the Board once again. Mr. Baumann that his concern is the beach. Mr. Baumann
387 would like to know what they will be doing to decrease the noise as well as the construction debris in the
388 area. Mr. Baumann stated that he thinks the structure is too large for the property and it takes away from
389 the beach community.

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Mr. Maynard stated that Mr. Brian Harvey has been building homes for about 30 years in the area and has a system of construction in the area. The proposed home is 24 by 32 feet, roughly.

Chairman Dunn suggested going to the property to have a site walk.

A motion was made Ms. Stith for Case #09-2022 to reopen the public hearing at 6pm on April 5th for a site walk and continue the case to April 12th, 2022. Seconded by Vice Chair Shea. Vote 5-0. Motion passes.

The Board and Mr. Mello discussed a potentially more efficient way to edit the minutes that will likely be used moving forward.

A motion was made by Ms. Skinner to adjourn at 10:06pm. Seconded by Vice Chair Shea. Vote 5-0. Motion passes.

Respectfully submitted by Anitra Lincicum

Draft