

Zoning Board of Appeals
May 15th, 2017
Casco Community Center

Members Present: Geof Hancock, Steve Linne, Terri Linnell,
Trevor Tidd and Pat Troy
Staff Present: Alex Sirois, CEO & Sandy Fredricks, ZBA Admin.
Asst.
Public Present: Justin Smith, Emily Coye & Mark Kingston

Trevor calls the meeting of the Zoning Board of Appeals to order
at 7:00 P.M.

Trevor reads the required information into the record and for
those present as follows:

1. Please recognize all statements through the Chair.
2. Please introduce yourself before speaking.
3. Applicant will receive a written Decision within 7 days of
this meeting and has 45 days to appeal to Superior Court.
4. Applicant may stay for the Decision but cannot in any way
participate in this part of the meeting.
5. If approved, the applicant will receive a Certificate of
Zoning Variance Approval with the Notice of Decision and
has 90 days to record it the Registry of Deeds. If you do
not record it within the 90-day limit, the Decision is
automatically void and you cannot appeal for one (1) year.
6. A permit secured by vote of the Zoning Board of Appeals
under the provisions of this Ordinance shall expire if the
work or change involved is not commenced within one (1)
year of the date on which the appeal is granted, and if the
work or change is not substantially completed within
eighteen (18) months of the date on which such appeal is
granted.

Trevor states we have Minutes of March 20th, 2017 to be approved.

Pat moves to approve the Minutes as written.

Steve seconds.

Any discussion? None.

All in favor? 3 yes (Trevor, Steve & Pat) – 0 no – 2 abstain
(Terri & Geof)

Trevor states that he would like to move an item which would
come up later under "Other" to this portion of the meeting so it
does not get overlooked.

Trevor moves to change the date of the June 19th, 2017 Zoning
Board of Appeals to June 26th, 2017 at 7:00 p.m.

Geof seconds.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

Trevor states the Board has before it application by Justin Smith and Emily Coye for a General/Dimensional Variance for property known as Map 11, Lot 17-4; 39 Bass Lane a portion of which is located in a shoreland district and a portion of which is located in a residential district.

Trevor opens the Evidentiary portion of the meeting.

EVIDENTIARY

Justin Smith addresses the Board stating that he and Emily just bought this property in June of 2016. He continues that he is a mechanic by trade and it is important to him to have a garage to store his boat and other equipment. He further states that Bass Lane is a private road and receives no services from the Town. Justin states that he took it upon himself to plow the road as he has the equipment and no one was taking care of it. Currently all his equipment is stored outside.

Justin next explains to the Board that he has room enough on his land to build the garage, however, the location that is acceptable to build on would require relocation of his well and would be, in his opinion, intrusive on his neighbors. He further explains that to get to the back portion of the property where the garage would be allowed without any variance would run between his home and that of his neighbor. He goes on to explain that he works second shift and would be coming in later at night. If he were to build the garage in the back of the property it would be a nuisance to the neighbors and would disturb their children as well.

Justin states that if the garage is located in the front of the property, for which the variance is requested, it would be more convenient for him, yes, but it would also be more considerate of his neighbors. He states that not only would he not have to drive back between the houses, but at this time his neighbors have a wooded area and if he built the garage there that would be their view. The property located behind their homes is all Hancock Lumber property. Additionally, there is only one house beyond them and it is approximately $\frac{3}{4}$ of a mile past them. Justin states that he has discussed the garage location as proposed with the variance with his neighbor and he didn't indicate any issue with it.

Trevor asks if the Jacksons have given any written position of how they feel about the structure's location. Justin states he has not received anything in writing from anyone. He also indicated that the Jacksons did not pick up the Certified Mail notice. Justin reiterates that the reason he wants to put the garage in front is to not impact on the Jacksons' enjoyment of their property.

Terri states that the proposal seems to be for quite a large garage and asks if it would be possible to build a smaller garage such as a 24' x 34". Pat states that from the list of things he has, this isn't a two car garage. Terri states that she notes they have a full walk out basement; could they utilize that area and have a smaller garage. Justin states they have plans to finish the walk out basement off and doesn't want to have some of the smells of mechanics or wood finishing in that portion of the house.

Steve asks who had approved the size of the garage. Justin states he had discussions with Alex about the size and locations. Steve asks how high the peak will be on the garage. Justin states it will be around 24' if he has to guess. Steve asks if there is any way to move it more toward the side of the leach field and reduce the setback variance needed. Justin explains that the property drops off very steeply on that side.

Steve asks Alex if the purple area shown on the topographic map is the RP district. Alex confirms that it is and it is a 250' buffer and that is the setback of RP.

Pat asks if the applicants have any plans for a loft storage area in the garage. Justin states he was going to perhaps have an open truss area for storage.

Pat states that the applicants state they bought the property in June of 2016 and inquires if the house was already built or did they build it. Justin states it was already built. Pat states she is always curious how much help the realtor was regarding zoning when it comes to shoreland and resource protection especially. Justin states he did not know it was in shoreland until the day of closing. Pat states that the applicants indicated they are in an association; in that area where the house is built, was it a developer who built the entire development or did people buy lots and build. Justin states that Mark Jackson, who is his immediate neighbor, informed him that he (Jackson) was the first house and that he designed it. He continues that their (Smith/Coye) property was next to be built more or less as a spec house.

Pat states she was looking for some background on the subdivision. She remembers a site walk back there years ago by Zoning Advisory Committee.

Steve states he has one other concern in that zone it may be possible for a commercial mechanical garage is an allowed use and inquires if Justin has any intentions to do that. Justin states absolutely not. Alex states that would not be an allowed use in that zone.

Trevor states that there is a proposed new gravel driveway and inquires if that will be of any concern. Alex states that it is

not concerning although it is additional impervious, there is no issue with it.

Trevor closes the Evidentiary Portion of the meeting and opens Deliberations.

DELIBERATIONS

Terri states she has a problem with the question of not being able to yield a reasonable return. Pat states she agrees with Terri that it doesn't meet the criteria as it does yield a reasonable return without the garage.

Pat states that she also takes issue with the second statement that the need for a variance is unique to the property and feels they have to talk around this statement. Pat states that the proximity to the Heath and the RP as well as Thompson Lake is concerning. She continues that homeowners need to recognize there is value of the property because of the environment it is in. Additionally, Pat states that homeowners may not be able to do much with the property around it and look at it to be valuable property because of the protections around it. She continues that she is concerned about such a large garage.

Trevor states it seems he has a large enough piece of property to build the garage, it is the location that requires the variance. He continues, if we grant the variance, the issue is not the leach field or the well.

Steve states the applicant could build the garage without Zoning Board of Appeals granting the variance, however, it is a matter of the best location for the garage.

Pat states she feels the environment is a concern. Steve states to address question #2, there is nothing unique about the site requiring the variance it is because of the neighborhood and concern for the neighbors. He continues that what we are looking for is a uniqueness to the property.

Pat states that looking at question #3, it will not alter the character of the neighborhood. Trevor states that a structure that size will alter the character. He continues that we need to determine which of the alternatives has less impact to the neighbors.

Geof states it is further from the water if it is up front. Pat states that it is closer to the RP zone though. Steve asks Alex how much fill would have to be brought in in the preferred location in the back. Alex states they would not need much fill back there. Pat asks about the driveway. Alex states that you will need to bring in more materials and will have more impervious surface.

Alex asks if the structure already near the road was permitted. Justin states he does not know as it was there when he bought the property. Alex states that it most likely was not permitted. Trevor asks if that existing structure is closer to the road than what he is proposing for the garage. Justin states that it is; he continues that if that was permitted, he would move it to another spot on the property. Further, he states that if it was not permitted, he will remove it. Alex states that it is a 15' setback from the leach field.

Pat states she was wondering if the applicant wanted to, could he take the building that is there presently and build around that footprint. Trevor states that structure is closer to the road than what the applicant is asking for for the new structure.

Trevor states that the current structure is closer to the road; the size of the proposed garage although it is big and concerning, it will be on the property somewhere and the acceptable area would be worse for the neighbors, the applicants well and septic etc.

Pat asks if all the other houses in the area have garages. Justin states that Jacksons have a 3-bay attached garage and the Bennetts have a large garage across the street.

Geof asks if they have support of the other property owners and asked if he (Justin) could get written support. Geof continues that he feels with it being a private road, if the neighbors are supportive it may be the least problematic.

Terri states she feels it's kind of an excessive variance and it doesn't meet the hardship criteria. Pat states she agrees with Terri and although all the reasons they are asking for the variance are valid, it doesn't meet the criterial

Alex informs the Board that the portion of the property where the applicants are requesting the variance is not located in the shoreland zone but rather in the residential zone.

Trevor states he would like to move on to a vote. Pat asks what the CEO's feelings about it are. She continues speaking to Alex stating that you (Alex) deal with these situations all the time. Alex states the thing that sticks out to him is that no matter what the Board decides, the applicants can have a garage it is a matter of where it will be located. Alex continues and states that each variance request is considered on a case by case basis.

Trevor states that the applicant is seeking a 26' setback reduction from the 50' requirement and if the applicant finds he can't work around the well or septic and the garage is smaller than proposed, it wouldn't change the variance. Alex confirms that is correct.

Steve moves to approve the 26' front setback reduction from 50' to 24'.

Trevor seconds.

Any discussion? None.

All in favor? 4 yes (Trevor, Geof, Steve & Pat) - 1 no (Terri)
0 abstain

Geof moves to adjourn.

Trevor seconds.

Any discussion? None.

All in favor? 5 yes - 0 no - 0 abstain