

Zoning Board of Appeals  
August 20th, 2018  
Casco Community Center

Members Present: Geof Hancock, Steve Linne, Terri Linnell,  
Trevor Tidd and Pat Troy  
Members Absent: None  
Staff Present: Alex Sirois, CEO & Sandy Fredricks, ZBA  
Administrative Assistant  
Public Present: See Attached.

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 in 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.

Pat states she believes it is important to advise the public  
that these meetings are in two parts. The first is Evidentiary,  
where the applicant presents their case to the Board and the  
public may comment. The second is Deliberations where the Board  
discusses the application and case presented prior to making  
their decision. This is the part where the applicant cannot  
further participate unless asked a direct question by the Board  
or granted permission by the Chair.

Trevor states we have Minutes of April 23rd, 2018 to be  
approved.

Steve moves to approve the Minutes as written.  
Geof seconds.  
Any discussion? None.  
All in favor? 5 yes - 0 no - 0 abstain.

Pat states she wishes to say that she found the April meeting to be difficult for her in regard to the second application and a week later something hit her and she wants to share that with the Board. The appeal we were addressing was to split a legal lot into two lots. We would have created two illegal lots. She continues that going back in the ordinance she found that the Board had no authority to create illegal lots; to satisfy the applicant, it needed to go to a public hearing. Pat states on page 101 of the Zoning Ordinance states "Except where specifically limited or prohibited, variances may be authorized only for maximum heights, minimum setbacks, maximum building coverage or impervious surface, minimum frontage, 15% expansion of nonconforming uses, and reconstruction of destroyed nonconforming buildings. Only the minimum variance which will alleviate the hardship shall be granted".

Trevor states the Board has before it application by Edward St. Pierre for a Dimensional Variance to permit a 6.5' reduction from the required 25' rear setback to allow an 18.5' rear setback and a 9.5' reduction from the required 25' side setback to allow a 15.5' side setback. The applicant is requesting these reduced setbacks to allow construction of a 16' x 24' garden shed. The property is known as Map 3A, Lot 22 and is commonly known as 6 Thomas Pond Shore Road and is located in a Residential District.

Trevor opens the Evidentiary portion of the meeting.

#### EVIDENTIARY

Edward (Joe) St. Pierre states he is here to ask for the variance. He continues that he filled out the paperwork and is here to answer any further questions. He goes on stating his neighbors have come in support of the variance.

Geof asks if Mr. Yurga is here. Joe states that Mr. Yurga works out of town and could not be here. He states that he has spoken with Mr. Yurga and he does not have a problem with it; there is an 80' tree buffer between the properties. Geof asks if Mr. Abrams is here. Mr. Abrams states he has no problem with it.

Tom Naylon states that anything Joe's put up is an addition to the neighborhood. He continues that he is right next to him. Joe states there is a 135' tree buffer between Tom's house and the structure.

Cory Abrams states this is not a hindrance to his property in any way.

Trevor asks how tall the proposed shed will be. Joe states it is a single story with 7-1/2' ceiling. Pat asks how tall a single story is. Joe states total height will not exceed 16'.

Joe states he wasn't aware of the change of setback. He prepared the ground and foundation at 15' not knowing the setback was 25'. He continues that it would be a hardship as he can't move that ground.

Pat states she would like to go back to total height; with a 7-1/2' ceiling and a total height of 16' is too tall. She states that the height of exterior accessory structure cannot be over 12'. Alex explains that is for a 100 s.f. structure that he can allow with a reduced setback. Alex goes on to explain that the maximum building height is 35'. Pat states so it can be a 35' tall storage shed. Alex states that is correct.

Pat asks if a garden can be located within a setback. Alex states that it can. He continues to explain the only time it isn't allowed is if they are in a district that does not permit it.

Steve asks if a permit was required for that groundwork. Alex states that it probably was and he can address that when he comes in for building permit for the shed. Alex asks Joe if the gravel he brought in was less than 40 cubic yards. Joe states it was.

Joe asks how a person is supposed to know ordinance changes. Alex explains that this year, in April, you should have received a post card because we did a Zoning Map Amendment. He continues that it is published in the Bridgton News, it is posted in the Town Office, we hold public hearings and go through Town Meeting vote. Alex continues that he believes people are supposed to be notified by mail if it affects their property.

Steve states it all has to go through Town Meeting vote, so you should attend the meeting.

Pat states that if you are going to do anything on your property, you should make an appointment with the Code Enforcement Officer to ask what the requirements are.

Pat goes on stating we have a diagram of the lot and house; do you have a garage. Joe states he does, it is two-car garage attached to the house.

Pat states the garden shed is to be 24' x 16' in total, correct. Joe states yes, but the front will be 6' porch as he wants to watch his garden grow. Pat states that is going to be a magnificent shed. She next asks what he will be putting in there. Joe states he has spent 3 years cutting pine trees to build this from.

Pat states she has a smaller shed and it holds all her tools and garden supplies. Joe states the storage area will be 10' x 24'. Pat asks if he is putting in electric or water. Joe states, no; there is no need for it. Pat asks if there will be wide doors

on one end of the structure to get tractor in and out. Joe states yes, there will.

Terri states she understands he wants to watch the garden grow, but isn't there some other place for this shed? Joe states no, the other side of the garden is out of the question. Terri states it looks like there is 44' there. Joe states he has a deck on the back. Terri asks what size deck is. Joe states it is 12' x 16'.

Pat states you have the garden shed overhanging into the setback. She continues why don't you move it closer to the house. Joe states it doesn't work over that way; as he stated he has already done the groundwork.

Pat asks when he last attended Town Meeting. Joe states he attended last year when they had a meeting about private roads. Joe asks when does it get to a point where a man's land is not his land anymore. Pat states she understands, but this doesn't just apply to your property; we have to follow the ordinance and make good judgement as to how needs fit into the ordinance.

Joe states from his point of view it is really up to his property abutters and they don't disagree. He continues that there is a tree buffer between the "unsightly" garden shed and neighbors.

Roger Young states he has been in the neighborhood since '99 and assure you that because of the way Joe maintains his property, he enhances the neighborhood; he maintains a pristine property and it will benefit everyone's property values.

Alex asks if there are pins or has he had a survey done. Joe states there are pins but he hasn't had a survey done. Alex asks how far the pins from the edge of the road are. Joe states they are 15' from the edge of the road.

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

#### **DELIBERATIONS**

Steve states first thing we need to address is this issue of undue hardship; for us to grant a variance there are four criteria you must meet: §215-6.3, (2)(a)[1][a]-[d]

- [a] That the land in question cannot yield a reasonable return unless a variance is granted;
- [b] That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

- [c] That the granting of a variance will not alter the essential character of the locality; and
- [d] That the hardship is not the result of action taken by the applicant or a prior owner.

Steve continues by stating he agrees that it is not changing the character of the neighborhood. He goes on to state he has a problem with the hardship. Pat states she agrees. Pat continues that as she understands it, it has to meet all four criteria. Pat states [b] and [c] are fine but [a] and [d] don't get met.

Trevor states with gardening you need sunlight so a garden shed could be a unique circumstance so as not to block sunlight. Geof states there is a well on the other side so he cannot locate it over that. Terri states that he can build a smaller shed. Geof states it takes a lot to maintain a garden and he doesn't feel the size of the shed is unreasonable.

Trevor states he can do a 12' x 12' shed and not need variance. Alex states he can authorize a 10' x 10' shed 10' from the property line. Trevor states he feels the variance he is asking for isn't too much.

Pat states that on page 99 of the Zoning Ordinance "[a] The nature of the hardship to the property under appeal and the physical circumstances that allegedly would occasion such unusual difficulty or special hardship. A financial hardship does not necessarily constitute grounds for granting a variance"; how do you get around this; it will yield a reasonable return, you could go without a storage shed or build a smaller shed and still get a reasonable return. [b] That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; Pat states she agrees; [c] That the granting of a variance will not alter the essential character of the locality; she agrees but [d] That the hardship is not the result of action taken by the applicant or a prior owner; she asks how you get around that one.

Trevor states it is unfortunate that he put in the gravel and believed it was 15' setback.

Pat reiterates [a] - no, [b] & [c] - yes, [d] - no.

Alex states to look at the application, §215-6.3 (b)[1] [a] through [f]:

Pat reviews (b) For property located elsewhere in the Town and for reconstruction of destroyed nonconforming buildings:  
[1] The Board may grant a variance from the dimensional standards of this chapter when strict application of this chapter to the petitioner and the petitioner's property would

cause a practical difficulty and when the following conditions exist:

[a] The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

[b] The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

[c] The practical difficulty is not the result of action taken by the petitioner or a prior owner;

[d] No other feasible alternative is available to the petitioner;

[e] The granting of an easement will not unreasonably adversely affect the natural environment; and

[f] The property is not located in whole or in part within the shoreland zone.

Pat states he still has to meet hardship.

Alex states, let's go through this again. §215-6.3, go down to 2 (a) "For increases in nonconforming nonresidential uses over 25%, the Appeals Board shall hear and decide appeals requesting such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in undue hardship. A variance may be granted only by majority vote of those members present and voting and may include such conditions and safeguards as are appropriate under this chapter". (b) For property located elsewhere in the Town and for reconstruction of destroyed Nonconforming buildings:

[1] The Board may grant a variance from the dimensional standards of this chapter when strict application of this chapter to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

[a] The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

[b] The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

[c] The practical difficulty is not the result of action taken by the petitioner or a prior owner;

[d] No other feasible alternative is available to the petitioner;

[e] The granting of an easement will not unreasonably adversely affect the natural environment;

Geof states the applicant has addressed those in his application.

Trevor states there is an adequate buffer on the back and sides and he has support of his neighbors.

Steve asks Joe what stops him from moving the garden. Joe states because the material was brought in, it wasn't farmland when he bought it; he brought in loam, compost and manure and it has been there for years. He reiterates that it didn't have a foot of loam everywhere, he built it up.

Trevor asks if there is any other discussion from the Board.

Pat states she is not convinced either way. Terri states she is not comfortable with it; he could move it or make it smaller. Geof states no matter where he slides it, he isn't going to get the 25'. Terri and Geof discuss relocation and orientation of shed.

Pat asks Joe, looking at the diagram, we've talked about moving it, we've talked about the size, what side of the shed will the doors be to allow tractor to enter. Joe states on the left or house side. Pat asks where the porch to be located is. Joe states on the road side, front side. Pat continues and states she presumes there will be a small walk-through door. Joe states yes, it will be in the center of the porch with a window on each side.

Pat continues stating to Joe you feel it is impossible to move location because of the prep work you did for the garden and soil. Joe states this location, in his opinion and the opinion of his neighbors, is the best location for it; it is at the end of the garden not in the middle of the lot. Joe continues that he intends to have rocking chairs and a hammock.

Steve states the applicant meets the requirements except for [c] and [d]. Trevor states the applicant has no control over the sunlight which could be a factor. Steve states the garden shed is to be on the side of the garden, correct. Joe states yes.

Trevor asks if the Board is ready to vote. Pat states she is not happy with this at all. She continues she understand all of the applicant's arguments and she can empathize, but she hates to set the Board up for trouble down the pike. Steve states from the standpoint of consistency, you have to go back to the one in April. Geof states that applicant had other places to move that one. Terri states we shouldn't set a precedent. Pat states we have criteria to follow; if we don't like it, we have to try to have it changed.

Geof moves to approve the Dimensional Variance Appeal of Edward St. Pierre as submitted to the Board of Appeals.

Steve seconds.

Any discussion? None.

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

Geof moves to adjourn.  
Terri seconds.  
Any discussion? None.  
All in favor? 5 yes - 0 no - 0 abstain