



City of Laconia
Zoning Board of Adjustment
Monday, March 15, 2021 - 6:30 PM
City Hall in the Armand A. Bolduc Council Chamber

3/15/2021 - Minutes

1. PUBLIC PARTICIPATION

S. Bogert read aloud the ZOOM meeting information.

2. CALL TO ORDER

There was a brief delay in starting the meeting due to an audio issue.

S. Bogert called the meeting to order at 6:50 PM

3. ROLL CALL

Present: S. Bogert; M. Foote; R. Maheu; G. Ober (Zoom); M. Dellavecchia

Alternates: M. Hayward (Zoom); J. Laroche (Zoom)

4. RECORDING SECRETARY

K. Santoro, Zoning Technician

5. STAFF IN ATTENDANCE

D. Trefethen, Director of Planning & Community Development

6. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

6.I. February 16, 2021 Zoning Board Of Adjustment Minutes (PDF)

S. Bogert made a motion to accept the minutes of February 16, 2021 as presented.

M. Foote seconded the motion.

Vote was taken by roll call. Four in favor; R. Maheu abstained.

7. EXTENSIONS

7.I. 664 Scenic Rd Special Exception Extension Request (PDF)

C. Duprey (via Zoom) of AKWA briefly outlined the three extension requests. Due to market conditions and construction costs they are requesting an extension on the Special Exceptions and Variance.

G. Ober motioned to approve the special exception extension request for 664 Scenic Road until July 31, 2021. M. Foote seconded the motion. Vote was taken by roll call. All in favor (5-0).

7.II. 63-99 Fletcher Lane Special Exception Extension Request (PDF)

G. Ober motioned to approve the special exception extension request for 63-99 Fletcher Lane until July 31, 2021. R. Maheu seconded. Vote was taken by roll call. All in favor (5-0).

7.III. 63-99 Fletcher Lane Variance Extension Request (PDF)

G. Ober motioned to approve the variance extension request for 63-99 Fletcher Lane until July 31, 2021.

M. Foote seconded. Vote was taken by roll call. All in favor (5-0).

7.IV. 10 Sweetbrier Way Variance Extension Request (PDF)

Attorney Phil Brouillard outlined the extension requests for both 10 Sweetbrier Way and 29 Sweetbrier

Way. The lots are adjacent to one another and the applications, at the time of approval, were presented together as they are part of the same village (Rosedown) in the Southdown development. Both lots are in the process of being sold and the new owners would like to construct homes this building season. Currently the variances are set to expire in April, with the timeline of the sales, the unpredictability of weather and with the current building market, the applicants are requesting extensions.

M. Foote motioned to approve the variance extension request for 10 Sweetbrier Way until October 31, 2021. R. Maheu seconded. Vote was taken by roll call. All in favor (5-0).

7.V. 29 Sweetbrier Way Variance Extension Request (PDF)

M. Foote motioned to approve the variance extension request for 29 Sweetbrier Way until October 31, 2021. G. Ober seconded. Vote was taken by roll call. All in favor (5-0).

8. CONTINUED PUBLIC HEARINGS, CONSIDERATION AND POSSIBLE VOTE Note: The Purpose Of This Agenda Section Is For The Board To Continue The Public Hearing For The Applicant And The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.
9. PUBLIC HEARINGS, POSSIBLE CONSIDERATION AND VOTE Note: The Purpose Of This Agenda Section Is For The Board To Have A Presentation From The Applicant And Open A Public Hearing For The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

9.I. ZO2021-0003VAR 7 Foster Ave Variance Application (PDF)

Applicant Lionel Berthiaume (via Zoom) outlined his application to the Board. He noted that he had received a rear setback variance last year, however, it was discovered that due to deficiencies in the existing foundation and house, the cost to repair the structure outweigh replacing it. The new application is for the demolition and replacement of the entire structure. Due to the constrictions of the lot he is requesting a reduction of the rear setback, side setback and required greenspace. In response to questions by the Board he noted that the outbuilding on the property is going to be removed and the proposed house is two stories like the existing one.

At 7:18 PM S. Bogert opened the public hearing.

At 7:19 PM with no one to speak for or against the application, S. Bogert closed the public hearing.

The Board briefly discussed the application.

S. Bogert made a motion to approve Application ZO2021-0003VAR for a variance from Article VI Section 235-35(B) Side and Rear setbacks and Article VI Section 235-36 Green to allow for the demolition and reconstruction of a single-family house with rear setback reduced from 15' to 10'; left side setback reduced from 10' to 7' and to reduce required green space from 60% to 51%

1. Granting the variance would not be contrary to the public interest because:

It would not be changing any views of any abutters. It would be more aesthetically pleasing from all sides and views of all abutters and will have no negative effect on the general public.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The spirit of the ordinance will be observed as this will be an improvement to the neighborhood, and it allows for a structure that meets current code requirements.

3. Granting the variance would do substantial justice because:

Would improve the property aesthetically, increase neighborhood value and would be in harmony with the neighborhood.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

The new structure would improve the property aesthetically and would not diminish the value of the

surrounding properties.

5b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The original structure was built prior to building codes and has flaws and deterioration that are not cost effective to repair. The lot is substantially smaller (4356 sf) than today's minimum lot size in the CR Zone (10,000sf) making it difficult to stay within the required setbacks and lot coverage.

R. Maheu seconded the motion.

Vote was taken by roll call. All in favor (5-0).

9.II. ZO2021-0004VAR 375 Endicott St N Variance Application (PDF)

Applicants C. Duprey and Noel Dulac were present via Zoom. C. Duprey outlined the application to the Board. He explained that Cedar Lodge and AKWA have been working on a land swap that will benefit both parties. With the land swap, the overall size of the Cedar Lodge property will be reduced. They currently have 40 units on the site, this will not change. Due to the smaller land size, the lot density will increase (same number of units on smaller lot = higher density). They are requesting relief from the Board to allow the higher density. The existing non-conforming density is 6.05 units per acre (6 per acre allowed); the new non-conforming density would be 7.85 units per acre. C. Duprey informed the board that even though the lot size will be smaller, the land will be more useful for both parties, it is mutually beneficial.

At 7:54 PM S. Bogert opened the public hearing.

At 7:55 PM with no one to speak for or against the application, S. Bogert closed the public hearing.

G. Ober made a motion to approve Application ZO2021-0004VAR for a variance from Article VI Section 235-33 (Maximum Residential Unit Density) to exceed the permitted six units per acre to allow for a future land transfer between two abutting properties. Approval is conditional upon the transfer of land between the parties. If land swap does not occur the variance is null and void.

1. Granting the variance would not be contrary to the public interest because:

The variance to allow a higher density will permit the two land owners to continue to function in a similar fashion as they currently operate. The public will see no noticeable difference from the day to day existence of the two entities, simply ownership of land. Cedar lodge will continue to function as the nonconforming 40 units that currently exist, merely on a smaller lot unnoticeable by public. The primary purpose of the land swaps was to create normal shaped lots. The lots as they exist have very unique shapes. By granting the variance it will allow the Cedar Lodge property to have a much more normal, rectangular shape, and allow the remote pool and recreational area to be part of the lot that it makes sense from a geometric perspective.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The variance to allow a higher density will allow for the original Town discussions of the land transfer to occur Between Cedar Lodge and AKWA. The zone allows for the current use that is utilized, and that use is not proposed to change. The function of the Cedar Lodge property will not change except that the pool and court will be brought directly adjacent to the building, instead of down a steep grade a far distance from the facility.

3. Granting the variance would do substantial justice because:

By granting the variance for the density calculation, it would allow for the future utilization of the existing facilities upon "Area 4" currently proposed to be shut down for the long term. AKWA will utilize "Area 4" in a more reasonable manner, to allow better use of the property, which may be used as they exist, or may be removed. Future plans for the AWKA land are undetermined.

4. If the variance were granted, the values of the surrounding properties would not be diminished

because:

The values of the surrounding properties would likely be unaffected, since change of land use is not proposed. Aesthetically the variance would allow for a logical square-off of the properties.

5a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

The current land configuration is a "figure 8" with two large areas connected by a narrow sliver. Since the 2020 approval, the occupancy/use utilization is to be located entirely upon the frontage portion of the lot, while the rear portion of the lot is to remain unutilized. The area to unit ratio perceived by the public is precisely the result the variance is being requested for, a reduced lot size for the same number of units that currently exist. There is no substantial relationship between the ordinance and the general public.

ii. The proposed use is a reasonable one because:

The use currently exists, and there is no proposed change in use.

M. Foote seconded the motion.

Vote was taken by roll call. All in favor (5-0).

10. OTHER BUSINESS

11. ADJOURNMENT

At 8:06 PM M. Foote made a motion to adjourn the meeting.

R. Maheu seconded the motion.

Vote was taken by roll call. All in favor. (5-0)