

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING**

Wednesday, September 6, 2017 at 7:00 p.m.; City Council Chambers

Minutes

Call to Order

☐ **Salute to the Flag**

☐ **Roll Call: Present: David Testerman, Kathlene Fleckenstein, Jeffrey Dickinson, Glen Feener
Absent: Cecile Cormier, Debbie Davis**

☐ **Approval of Minutes of the August 2, 2017 Public Meeting of the Board. Fleckenstein/Dickinson motioned/seconded approval of the minutes as written. By a vote of 4-0-0 the motion was approved.**

Old Business: Continuation of hearing for:

☐ **Z 17-06:** Marc Chauvette requests a variance from Section 305-14, Lot and Yard Requirements to construct a 3-season camp on his property at 41 Riverview Drive, Map/Lot # 115-024-00 in the R1 [Low Density Residential District], Map Sheet K7, that does not meet the 150-foot frontage requirement on a City accepted road. Riverview Drive is a private road.

Mr. Chauvette addressed the Board wishing to clarify some points of information: regarding the statement that ‘there are no records to demonstrate that any requests were made to, or permits issued by, the City for placement of camper, structure or any improvements’. This camper was placed prior to zoning ordinance not to allow camping in the City. Many of the “improvements” weren’t structural in nature, for example the removal of garbage and abandoned trailers on his property. When he had electric brought in the electrician obtained the necessary permits and Mr. Chauvette had no idea why there wasn’t a copy of that in the property folder. The same goes for DES approval for the well and septic. Mr. Chauvette feels he has always sought the right way to do things and he is now willing to merge two of his waterfront properties to obtain the necessary square footage to comply with the current ordinances. He feels that the Board is stuck on three issues: 1) the private road issue with regard to emergency services being able to get safely in and out. He is willing to sign the necessary documents that won’t hold the City accountable. 2) The state of the road. By allowing his three season camp down there, others may follow suit and improve the area and as a result be willing to improve the road. 3) City approved frontage. He will be seeking this approval if the Board approves his application for the 3 season house. In total, Mr. Chauvette feels that this is a win-win situation for him and the City.

Member Testerman asked Director Lewis if there was a requirement for a property owner on a private road to get a permit from the City. Director Lewis answered that per State Statute RSA 674.41, to build a structure on a private roadway requires approval by the City. Although Director Lewis feels that Mr. Chauvette has done a good job of improving his property, he feels that a good case could have been made back in 1990 that City Approval should have been obtained at that time. The Director searched DES Onestop and didn’t find any record of a permit for the septic. Mr. Chauvette stated that he went before the DES on three separate occasions.

Public hearing closed: Fleckenstein asked the Director if merging the two lots can be done administratively. Director Lewis answered yes. Chair Feener confirmed that Mr. Chauvette does still need to go to the City Council. Director Lewis answered that when Mr. Chauvette seeks a building permit, he would need to go before the City Council.

Member Testerman motioned to approve the variance as described in the draft approval with the conditions that the two lots be merged. Member Fleckenstein seconded and by a vote of 4-0-0 the motion passed.

New Business:

- ❑ **Z 17-09:** Joseph & Debra DuBreuil request a variance from Section 305-14, Lot and Yard Requirements to construct a 6' x 30' Farmer's porch on front of the house that will not meet the required front setback [23-feet versus 30-feet required]. The house is located at 1 Independence Avenue, Map/Lot # 115-039-00 in the RS [Single family residential] zoning district, Map Sheet L8.

Joe DuBreuil stated that he wishes to put 6' x 30' farmer's porch on the front of his ranch home, and added that the house was built in the 1950s prior to any setback ordinances.

There were no questions from the Board or from the public. When the discussion was brought back to the Board, Director Lewis mentioned that this piece of property is unique being triangular with a steep front yard.

Member Dickinson motioned approval for the variance as spelled out in the draft with the condition that a building permit is applied for and a CO issued following construction. Member Testerman seconded and by a vote of 4-0-0 the motion passed.

- ❑ **Z 17-10** Anna Costa-Turner requests an Agricultural Waiver from Section 305-26, Agricultural Uses, to build a 30'x40' barn that will not meet the required setback [38-feet versus 200-feet required]. The property is located at 174 Ward Hill Road, Map/Lot # 131-023-00 in the RR [Rural Residential] zoning district, Map Sheet J9.

Ms. Costa-Turner requests permission to build a 30'x40' or something smaller for the use of 2 horses and a donkey which are currently boarded in Chichester.

Chair Feener asked Director Lewis about the issue of setbacks and the Director stated that the property is in the Rural Residential area where agricultural use is allowed. However, the requirement that the agricultural use be 200 feet from any property line would require a lot of at least 4 acres. State Statue RSA674-72 was written to encourage and establish agricultural use. There was no public comment and the discussion was brought back to the Board. **Member Testerman motioned approval of the waiver per the conditions mentioned in the draft decision. The motion was seconded by Chair Feener and by a vote of 4-0-0 the motion passed.**

- ❑ **Z 17-11** EverSource Energy requests a variance from Section 305-15.B, Height Regulations, to replace 22 existing transmission line poles, and install one new pole, all of which will be higher than the 50-foot maximum height. The work will occur within the existing right-of-way from the Webster Substation near Carr Street to the Tilton town line.

Tracy Tarr, senior project manager with GZA Geo Environmental, Inc., informed the Board and the public of the requested replacement and the installation of poles in the 2.84 miles of right of way in the City of Franklin. The project entails maintenance of the existing line, bringing it up to current code standards which require poles greater than 50' in height. The safety code is dictated by the national electric safety codes which New Hampshire has adopted. In most cases the change in height will be no more than 5 feet. Due to aging and woodpecker damage the wooden poles will be replaced by metal poles. There are no wetland areas being disturbed with the project.

Member Fleckenstein asked if the one new structure was required to decrease the wire span between existing poles and she was told that was the case.

Several members of the public inquired about the poles on their property and Ms. Tarr showed them the proposed changes on the drawings and how their property would be affected. In most cases there would be

no changes to the poles on those lots since most were already metal. The only changes would be top pole work. Ms. Donna Tully, 276 North Main, stated her concern about the flow of water directed across her property by the poorly maintained swale along the right of way. Ms. Tarr said there would not be any equipment working in that area or changing it in any way.

Public Session Closed: Member Testerman asked why our ordinance is not in compliance with the state's ordinance regarding the electrical code. Director Lewis answered that the City's height ordinance was on the books for more than 15 years, but he proposed making contact with other communities to see how they are addressing the height issues for electrical lines.

Member Fleckenstein motioned for the approval of the application which was seconded by Member Testerman. With no further discussion the variance was approved by a vote of 4-0-0.

- ❑ **Z 17-12** Gus & Barbara Pappajohn request a variance from Section 305-14, Lot and Yard Requirements to convert a three-season house to a year round residence. Changes include enclosing an existing screen porch, adding a 12' x 11' bump-out for a bedroom, and constructing a 6' x 19' x 14' deck on the rear of the house which will not meet the required setbacks [36-feet versus 50-feet required]. The house is located at 140 Webster Avenue, Map/Lot # 075-037-00 in the LP [Lake Protected] zoning district, Map Sheet K6.

Peggy Arend, speaking on behalf of Gus and Barbara Pappajohn, stated that the existing house at 075-036-00 is a 3-season home. They own another small lot with a garage and carport at 075-015-00 that they use for parking. The plan is to turn the seasonal house into a year round residence with new septic and on-site parking for two cars. The plan calls for the enclosure of both the front entrance and the back porch in addition to the expansion of a room used as a bedroom. Also planned are the removal of the old deck and the construction of a new deck which will be closer to the lake than the current structure. Parking can be achieved by installing a new septic that can support the weight of the automobiles. Chairman Feener said this was an ambitious project and Arend said it will need a lot of upgrades.

There was no public comment. Director Lewis mentioned that the bedroom expansion and the new deck triggered the need for a variance. Additionally there are DES shore land issues and lot coverage issues. The first step is to receive all the necessary DES approvals. With the septic system in, the parking could be approved through the Planning and Zoning office. Member Fleckenstein noted that the bedroom extension appeared to maintain the same setbacks as the existing house, but Mr. Lewis stated that pretty much the entire lot is within the setback due to the 50' zoning requirement.

Member Testerman motioned to approve the variance which was seconded by Member Dickinson. By a vote of 4-0-0 the approval passed.

Planner's Update: Director Lewis mentioned that he is working on the final draft of the Master Plan so that a public hearing can be scheduled in October.

Other Business: None

Public Comment

Adjournment: Fleckenstein / Testerman motioned / seconded adjournment at 8:12 PM.

The next scheduled meeting of the Zoning Board of Adjustments is Wednesday, Oct. 4, 2017, at 7:00 p.m.; the Deadline date for submission of applications for this meeting is Wednesday, September 13 2017.