

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

Wednesday, February 5, 2020 at 6:30 p.m., City Council Chambers

Minutes

Call to Order: 6:30pm

☐ Salute to the Flag

☐ Roll Call: Present – Chairman Glen Feener, Debbie Davis, Kathlene Fleckenstein, Cecile Cormier, Robert Hubble [arrived at 6:40pm] & Planner Richard Lewis

Absent – Jeffrey Dickinson & David Testerman

Seat Alternates – The Chairman seated Member Cormier for Member Testerman and Member Hubble for Member Dickinson.

☐ Approval of Minutes of the December 4, 2019 Public Meeting of the Board. Motion to approve as written made by Member Cormier with a second by Member Fleckenstein. No discussion or changes were noted. **The motion carried by a vote of 4-0-0.**

Old Business: None

New Business: Items Z19-20, -22 & -24 brought forward from cancelled Jan. 8, 2020 meeting.

Z19-20: James M. Berry, owner/applicant is seeking a variance from 305:14 Lot/Yard to add a 24 ft. x 24 ft. attached garage with a bedroom above that will not meet the required side setback of 50 ft. The plan submitted shows a 6-foot setback; a scalable plan in the file shows a 2-foot setback. The property is located at 20 Lake Shore Drive [Map/Lot 034-020-00, Map Sheet J4] in the Lake Protection zoning district.

Mr. Berry presented his application. Currently his house has a small one-car garage. He would like to build a 24 foot by 24 foot two-car garage with a bedroom above. The abutting property to the right is a double lot with the house positioned in the middle of that lot. The abutter has no objection to the garage being built.

Member Cormier asked if the abutters lot had the potential to be subdivided. Mr. Berry said that wasn't a possibility. He went on to describe the positioning of the stakes on the photos he included with his application. The nearer stakes represent the outer wall of the proposed garage. The farther stakes represent the property line. Mr. Berry said that he found a granite block marking the left front corner of his lot and pulled a tape from that bound across the 100 feet of frontage. That measurement came up 6 inches short of the pin he found on the right front corner of his lot. He used his measurements to determine that the garage would be no closer than 6 feet from the side property line. Mr. Berry showed Member Cormier a survey from 1968, but Member Cormier noted

that the plan didn't appear to have been done by a licensed land surveyor. When Member Cormier said she had a problem accepting the plan's measurements since a licensed land surveyor didn't do it, Mr. Berry stated he would get a new survey performed if he was granted the variance for the six-foot setback. He also added that this isn't a vacation home, it is their permanent residence. DES has already approved a three-bedroom septic plan. Member Cormier asked Planner Lewis if DES approval was also needed for the construction of the garage and Mr. Lewis stated that Mr. Berry may need to get a Permit by Notification from DES because of the work that will be done within the 250 feet of the lake.

Chairman Feener asked about the discrepancy with Mr. Berry's plans and with the Planner's measurements. Mr. Berry said if the survey showed the distance to be only two feet, he would abandon the plan to build the garage.

The meeting was open to the public. No one chose to speak and the meeting was brought back to the board. Planner Lewis said he wished to highlight a couple concerns, the first being the possibility that there only exists a one- to two-foot setback. The draft decision to approve conditioned that a formal survey be done. If the setback is less than the six feet, the variance approval would be null and void. Mr. Berry would have to come back for a new variance based on the survey plan. Planner Lewis again mentioned the need for approval from DES for the excavation and construction work. Member Cormier requested that the conditions include the wording "by a licensed surveyor." Member Fleckenstein asked for confirmation that the abutting property being spoken about was owned by Mr. O'Leary who wrote the letter of approval. Mr. Berry answered yes.

Member Cormier made a motion to approve the variance with the stated conditions. The motion was seconded by Member Fleckenstein. **By a vote of 5-0-0 the motion carried.**

Z19-22: Application Withdrawn 02-03-2020 - Bradley & Deb Parker, owners, are seeking a variance from 305:14 Lot/Yard to construct a new single-family home that will not meet the side setbacks [41 feet proposed vs. 50 feet required]. The property is located at 220 Lake Shore Drive [Map/Lot 032-007-00, Map Sheet H7] in the Lake Protection zoning district.

Z19-24: Walter & Tammy Brumbaugh, owners, are seeking a variance from 305:14 Lot/Yard to subdivide their property to create a stand-alone auto-repair garage located at 43 Nelson Street [Map/Lot 097-078-00, Map Sheet N7] in the R-2 [High density residential] zoning district. Further, the proposed lot would not meet the required frontage [49 feet vs. 100 feet].

Mr. and Mrs. Brumbaugh presented the application. Mrs. Brumbaugh stated that they wanted to subdivide off the commercial garage from the house property so that in the future it could be sold. The issue was that there wasn't the required street frontage for the garage property. When Member Cormier asked what that lot's frontage would be, Planner Lewis stated that it was about 45-49 feet or the width of the dead-end road. Member Davis asked the reason to ultimately separate the garage from their home

property. Mr. & Mrs. Brumbaugh, said they are getting older and garage work is difficult. If Mr. Brumbaugh wished to retire, then someone could buy the garage. They were looking at selling the garage but staying in the home. Member Cormier asked how the garage was allowed back in 1992 when it wasn't a permitted use for the R-2 zoning district. Planner Lewis stated that the previous owner received a variance. Member Cormier also noted that the abutters didn't seem too keen on the subdivision plan.

Chairman Feener stated that if they sold the garage there wouldn't be a connection to the homeowner any longer, which would create a totally non-conforming use in a residential neighborhood. In addition, there is the problem that the garage lot wouldn't have the required frontage. Member Cormier said that per her understanding of the application, the criteria for a variance has not been met. She fears that if the subdivision were approved, there would be the potential for the garage operation to grow. The parking area is already tight. She added that she doesn't feel that this would be in the best interest of the neighbors and the neighborhood.

When opened to the public, Deborah Smith, abutter at 42 Nelson Street, addressed the Board. She stated that Mr. Brumbaugh and his assistant perform test drives down the street at a high rate of speed. She feels it would be more appropriate for them to do their tests on more public thoroughfares. She also remarked that there has been spray painting going on in the garage, and with the doors open, the odor engulfs her yard. She would like to use her yard in the summertime and not have to deal with the fumes. She doesn't like the idea of the garage becoming a strictly commercial property. There are little children playing in the road on their dirt bikes. The road is narrow and curved at the beginning and many people drive in the center of the road.

Mr. Brumbaugh said that when he received his variance, it was his understanding that he could do minor body work and he is putting rock guard on the bottom panels. He also stated that it is a public road and he doesn't go over 25 miles per hour. The Brumbaughs went on to complain about the children on the dirt bikes, but Member Fleckenstein said that those issues had nothing to do with the variance.

Member Cormier asked if there weren't specifications to the operation of a paint booth. Planner Lewis agreed that is so, but he will research it further. Member Cormier said that it sounds that Mr. Brumbaugh has expanded the use of his garage. Chairman Feener said that the remarks should stick with the variance application and those issues would be investigated at a later time.

Member Fleckenstein moved to deny, which was seconded by Member Cormier. There was no further discussion. **By a vote of 4-1-0 the motion was denied.**

Z20-01: Eversource Energy, owner and GZA GeoEnvironmental, Inc., applicant are requesting a variance from 305-15.B. Height Regulations to conduct structure replacements on the Eversource M127 transmission line. The heights above ground of the new H-frame structures will range from 56.5 ft. to 74.5 ft. versus the 50 ft. restriction. In total, 5 poles will be replaced and one pole will be removed. Work will occur in the Right-of-Way beginning at the Andover/Franklin town line, north of Flaghole Road and extending 1.3 miles in an East/Northeasterly direction to the Webster Substation.

Lindsey White [GeoEnvironmental] and Jeremy Fennell and Lydia Morton [Eversource], were present to speak about the application. Ms. White said they were there for a pole height variance for pole replacement work on the M127 transmission line. That line begins at the North Road Substation in Sunapee and continues for about 17 miles to the Webster Substation in Franklin. Eversource is proposing the replacement of 5 utility poles and removal of one pole in Franklin. Two of the existing poles are currently above 50 feet in height and all the replacements will be greater than 50 feet in height. The replacement is necessary since the old poles are wooden and to meet current National Electric Safety Code, the new poles will need to be greater than 50 feet. The second reason for the height increase is to provide proper clearance between conductors and shield wires for lightning protection. Additionally, the new poles are offset from the existing poles by 10-15 feet and sometimes that results in a change of elevation. There will be no expansion of the width of the right of way or any additional lines.

Chairman Feener remarked that this application is similar to the previous one on a different line. The objective is still the same. Member Cormier asked if wetland permits had been approved. Ms. White said they were being submitted. When asked by the Board about the timeline for work, Mr. Fennel answered that it should start in April, however that is dependent on what other lines are being worked on. There was no public comment. When the discussion was brought back to the Board, Member Fleckenstein motioned to approve the variance application. This was seconded by Member Davis. **By a vote of 5-0-0 the motion carried.**

Planner's Update: None

Other Business: None

Public Comment: None

Adjournment: Members Cormier/Fleckenstein motioned for adjournment at 7:25pm. The next scheduled meeting of the Zoning Board of Adjustments is Wednesday, March 4, 2020, at 6:30 p.m. The deadline date for submission of applications for this meeting is Wednesday, February 12, 2020.

Minutes recorded by Cheryl Y. Fisher, Administrative Assistant, Planning and Zoning