

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

Wednesday, April 5, 2017 at 7:00 p.m.; City Council Chambers

MINUTES

Call to Order

- ☐ **Salute to the Flag**
- ☐ **Roll Call**
Present: Kathlene Fleckenstein, Glen Feener & Cecile Cormier **Absent:** Jeffrey Dickinson, Debbie Davis & David Testerman *Cecile Cormier was seated for David Testerman for voting purposes.
- ☐ **Approval of Minutes of the February 1, 2017 Public Meeting of the Board.** Member Cormier / Member Feener moved / seconded approval of minutes. All were in favor.

Old Business: None

New Business:

Z17-02: Cliff Dumont, Owner & Applicant, requests an Equitable Waiver of Dimensional Requirements (RSA 674:33-a) for his residence at 10 Woodbine Drive, Tax Map/Lot 131-013-00 [Map Sheet J9] in the RR [Rural Residential] zoning district. At the nearest point the house extends 6 feet, 10 inches into the required 40 feet front setback for that zone.

Chairman Fleckenstein informed the applicant that due to the number of Board Members present tonight, a unanimous vote would be needed for approval of the application. She told him he could either continue tonight or have the hearing postponed until next month when there would be more board members present.

Mr. Cliff Dumont chose to proceed this evening and presented the board with photographs of his house and a hip-pocket septic plan highlighting the placement of the existing leach field and the well. He stated that he only became aware of the fact that the house was within the front easement when he applied for a building permit to put a farmer's porch on the front of the house. Consequently, the porch was built on the back of the house, very close to the well. When asked by Member Cormier how the mistake in the placement of the house came about, Mr. Dumont explained that it was a misunderstanding between the Code Inspector and himself as to where the setback was measured. Mr. Dumont understood that the setback was measured from the edge of the road which wasn't the case. He added that due to the pre-existing well and septic, the current location was the best choice. Additionally, he opted for a shorter driveway which he achieved by facing the house toward Woodbine Drive instead of Hampshire Drive.

Member Feener asked if the city had seen and approved the building plans and had subsequently issued both the building permit and the Certificate of Occupancy. Mr. Dumont indicated that this was the case.

Mr. Joe Wentworth, abutter at 31 Hampshire Drive, stated that the property lines were clearly marked and there was no excuse for the placement of the house within the setbacks. He said the original house was to be placed in the center of the property like the rest of the houses in the neighborhood, then added that he had a long driveway.

Mr. Ron Taylor, neighbor at 11 Woodbine Drive, said the whole point is that the house is built and it isn't like you can pick it up and move it. He too said that the Code Inspector was consulted prior to the house being built and that it was unlikely that the average person would know about the ordinance regarding setbacks. He felt that no negligence was involved and mentioned that there are several other houses in the neighborhood that are also placed close to the road.

Mrs. Kathy Pevine stated that she and her husband live directly across the street. She told the board that when the Dumonts purchased the property the driveway was off Hampshire Drive and that was where the house was to face. She said that the Dumonts changed their mind, cut down the privacy trees on Woodbine and placed the house as close as possible to the road. She stated that the abutters weren't notified of the placement of the house and the cutting of the trees. Director Lewis informed her that since the lot had frontage on two different roads, the choice of which way to face the house was up to the owner and that abutters don't receive notification of that choice.

Mr. Chris Dumont, father of the home owner, said that in his capacity as both a builder and a realtor, he understood the reason for having the house face Woodbine. The property drops in elevation from Woodbine to Hampshire and the pre-existing gravity-fed septic system would have required a pump had the house been built near Hampshire Drive. He added that the well had a good capacity. The final placement of the house was the result of those pre-existing features. He stated that the house is very nice and it only adds to the property values in the neighborhood.

With no further comments from the public, Chair Fleckenstein closed the public hearing and brought the discussion back to the board. Member Cormier said it appears there was an error due to some wrong advice. Member Feener added that it would be unreasonable to make them relocate the house. Member Feener made a motion that the Zoning Board of Adjustment approve the application request by Cliff Dumont, Owner & Applicant, for an Equitable Waiver of Dimensional Requirements (RSA 674:33-a) for his residence at 10 Woodbine Drive, tax map and lot 131-013-00 [Map Sheet J9] in the RR [Rural Residential Zoning District]. At the nearest point the house extends 6 feet, 10 inches into the required 40 feet front setback for that zone. The Board finds that the application request meets the tests and criteria necessary for the granting of the Waiver as outlined in the memo. This Waiver approval is subject to the following condition: No further encroachment into the front yard setback is permitted without the submission of a Variance application and the approval of that application.

Member Cormier seconded the motion, and then suggested an amendment to #5 of the criteria, which mentions the location of the well, to also include the location of the pre-existing septic system. Director Lewis stated that he would note that on the decision. Chair Fleckenstein asked if all were in favor of the amended motion. By a vote of 3-0-0 the motion passed.

Planner's Update: Planner Lewis informed the board that the Zoning Ordinance changes regarding Accessory Dwelling Units [ADU] was approved by the Planning Board at the March 22nd meeting and was approved by the City Council at the April 3rd, 2017 meeting.

Other Business & Public Comment: None

Adjournment : Members Feener / Cormier moved/seconded for adjournment. The meeting adjourned at 7:35 p.m. The next scheduled meeting of the Zoning Board of Adjustments is Wednesday, May 3, 2017, at 7:00 p.m.; the Deadline date for submission of applications for this meeting is Wednesday, April 12, 2017.