

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
October 6, 2015

Present: Chairman Sawyer, Members Belletete, Courmoyer, Dodge, Tieger and Webber

Absent:

Staff: Recording Secretary Lemire

MEETING MINUTES APPROVAL

No action

PUBLIC HEARING

Chairman Sawyer called the public hearing to order at 7:30 p.m. Notice of hearing for case No. ZBA 15-14 as advertised in the *Monadnock Ledger-Transcript*; copies were posted in the Town Office building, the Library and the town web site; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen; and notice of hearing was sent by certified mail to all abutters whose names were provided by the applicants.

Public Hearing - New Items

1. ZBA 15-14 Mullen, Samuel, 10 Cross St., Map 238 / Lot 268; Zone: General Business

Variance – The applicant proposes a shed with less than the required setbacks (Land Use Code, Section VII, 7.2.2)

Presentation: Sam Mullen

Appearance:

By unanimous vote the board determined that the application was not one of regional impact.

Mr. Mullen purchased the home in July of 2015. The shed existed at that time but in a different location; approximately twelve feet into his yard. In an attempt to make his yard more useable and enhance his driveway/parking area the shed was moved to the current location which ended up being one foot onto the abutters (Archambault) property. It is also within the flood plain. Mr. Mullen was unaware of the setback ordinance or the need for a variance. Member Webber asked how far it could be moved before it interferes with the driveway. Mr. Mullen replied that he would like to keep the shed in the same vicinity requesting placement at three feet from the property line. Member Dodge asked what would be the interference if moved. Mr. Mullen replied that it would not be straight off the end of his driveway preventing him from using his driveway as a turn-around.

Pictures of the shed were submitted for the board's review. Building Inspector Deschenes also displayed a portion of a survey showing this parcel. He explained that a tree noted on the plan had been removed, the parking area expanded and the shed was put in the vicinity of where the tree was. A copy of the property card was displayed which gave a street view of where the shed is on the parcel. Mr. Mullens was asked what he stored in the shed and he replied a lawn mower, tools and a 2.5 gallon gas can.

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Member Tieger asked if he was aware of where the property line was when he purchased. Mr. Mullen replied that he placed the shed based on what he believed to be the property line. He stated that there are pink ribbons which he assumes are from a survey.

Building Inspector Deschenes referred to an abutter's survey which indicates that the shed is within the wetland conservation district and the flood zone. Member Dodge commented that it seems there would be more room on the other side of the property to accommodate the shed and it would remove it from the flood zone. Mr. Mullen agreed that it is possible but it would consume some of his yard space. Member Belletete asked for the size of the shed. Mr. Mullen replied eight by ten.

Ms. Laurie Murray spoke on behalf of her mother, abutter Rita Archambault. Her presentation was submitted to the board. In summary her concerns are safety and security from fire due to the proximity of Mr. Mullen's shed and Mrs. Archambault's shed which is less than three feet away; safety and security from flooding since the shed in its location is within the flood zone; an approximate twenty-three by fourteen foot area of top soil was removed from the flood zone which was then replaced with gravel to install a driveway in the flood zone; in its location there is not enough room for Mr. Mullen to maintain his shed without trespassing onto the abutting property and there is no hardship to warrant the shed to be placed at the proposed location. There is 3,000 square feet of flat dry area on the other side of the driveway that is not in the flood zone; based on conversations between Mrs. Murray and Mr. Mullen she believes he was aware of the property line yet excavated and placed a shed on the property of Mrs. Archambault. There was disrespect to the neighboring property owner and complete lack of good faith. The abutter requested that the shed be moved off their property and placed at least twenty feet from the property line.

Inspector Deschenes stated that he did tell the property owner that he needed to move the shed however since it is in the wetland buffer he suggested that he wait for the board's decision and move it once rather than moving it several times. The other issue is the expansion of the driveway which is not allowed in the wetland. NHDES is aware of the potential violation and has been in contact with Mr. Mullen. Once a decision is rendered DES will decide whether or not a visit is necessary.

The board recessed for a site visit with the understanding that they can only consider the shed and not the driveway expansion as it was not a request by the applicant or advertised.

Upon their return the applicant asked to withdraw his application. He will confer with the Building Inspector on alternatives and resubmit a new application hopefully in time for the November meeting. The board asked Ms. Murray if they were okay with the shed remaining where it is on a temporary basis. Ms. Murray replied that it was fine.

There being no further discussion, Chairman Sawyer closed the public hearing for this item.

Continued

2. ZBA 15-11 Hurd, et al, Eva, 349 Woodbound Rd., Map 242 / Lot 42; Zone: Residence A (with town water)

Variance – The applicant proposes a variance to enlarge an existing nonconforming deck with less than the required setbacks. (Land Use Code, Section VII, 7.2.1, Wetland Cons District Section XX, 20.5.2 and Shoreland Overlay District Section XIX, 19.4.2)

Presentation: None

Appearance:

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The original hearing took place on August 4, 2015 and it was continued to September 1, 2015. On August 28, 2015 the applicant requested in writing that the September hearing be continued to October 6, 2015 as there has been no answer from NHDES. The board agreed and the hearing was continued to October 6, 2015.

At this time Mr. Hurd had not been in touch with the board since the August 28th request to continue. An additional request to continue the hearing to November was not received and there was no information/update regarding a decision from NHDES.

On September 23, 2015 Building Inspector Deschenes received an e-mail from Craig Day at NHDES stating that he had checked the data base and as of that date they had not received an application from the Hurd's or from their address. On September 30, 2015 Inspector Deschenes asked Mr. Day to expand on what would be required of Mr. Hurd. His reply was outlined in an e-mail and entered into the file.

There being no further discussion, Chairman Sawyer closed the public hearing for this item.

DECISION

1. ZBA 15-14 Mullen, Samuel, 10 Cross St., Map 238 / Lot 268; Zone: General Business

Variance – The applicant proposes a shed with less than the required setbacks (Land Use Code, Section VII, 7.2.2)

At the request of the applicant the application was withdrawn without prejudice.

Decisions of the Zoning Board of Adjustment are subject to a 30-day appeal period for rehearing.

2. ZBA 15-11 Hurd, et al, Eva, 349 Woodbound Rd., Map 242 / Lot 42; Zone: Residence A (with town water)

Variance – The applicant proposes a variance to enlarge an existing nonconforming deck with less than the required setbacks. (Land Use Code, Section VII, 7.2.1, Wetland Cons District Section XX, 20.5.2 and Shoreland Overlay District Section XIX, 19.4.2)

On a motion by Tieger, seconded by Cournoyer the variance request to enlarge an existing nonconforming deck with less than the required setbacks was denied. (5-0)

Reasons:

- Request to continue the hearing to the November meeting was not received from the applicant.
- Lack of confirmation from NHDES, as requested by the board, as to whether or not their approval was required was not received.

Decisions of the Zoning Board of Adjustment are subject to a 30-day appeal period for rehearing.

OTHER BUSINESS