

ZONING BOARD OF ADJUSTMENT

MINUTES

December 5, 2023

APPROVED: **Approved Feb 8, 2024**

AGENDA: **CASES:**

CONTINUANCE: 23SPX12 – RYBECKY – #105-011 – Pike’s Point Road

ATTENDING: Melody Mansur (Chair), Larry Denton, Lorraine Bohmiller and Steve Carten (Alternate)

ABSENT: Andrew Litz

OTHER: **Staff:** Christina Goodwin (Town Administrator), Joanne Bailey (Land Use Manager) and Donna Sullivan (Land Use Administrative Assistant)

Applicants, Abutters & Public: Laurie and Paul Rybecky, Jeff Lewis (Northpoint Engineering), Ryan McShera (Red Barn Architecture)

Attending via ZOOM: Tracy Nelson-Wescott, Todd Wescott, David Mermelstein

With a quorum present, Chair Mansur opened the meeting at 6:05 pm. She announced that Alternate Carten would be seated as a full voting member for this meeting. She went on to caution the applicants and the public that there was not a full Board present which could impact the decision on the application as majority vote in favor or for denial requires 3 votes.

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Chair Mansur opened the public session by stating that this has been a difficult case based on abutter communications and other information reviewed. As a result, a determination as to whether variances may also be required needed to be addressed before consideration of the Special Exception. Based on this being communicated to the applicant prior to this meeting, she asked the applicant to address the issues that may require variances first.

Mr. Jeff Lewis of Northpoint Engineering presented the plans and information as agent of the applicants. A plan outlining the proposed building, its dimensions, and the setbacks was reviewed. It was determined that the new building was less non-conforming within the setbacks with these new dimensions.

There was discussion of impervious and pervious areas and calculations provided. Mr. Rybecky brought a sample of the existing hard pack of the driveway for the Board to see that it is impervious. The existing area calculations would be decreasing but would still be non-conforming.

Improvements are planned for the waterfront, driveway, and septic system with application submittals for state permitting approvals. Mr. Carten brought up a correction needed for a photo in the Shoreland Permit Application. There was some discussion of these plans for runoff and filtration controls and other information for this permit. Mr. Carten asked about the circle indicated on the plans within the driveway area and the public right of way. It was determined that this is in public right of way and not for consideration for variance discussion or Zoning purview.

With no other questions from the Board, Chair Mansur opened the floor for public comment and questions related to the Variance determination discussion. She cautioned that any question or comments about the right of way would be a civil matter and not part of this process.

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Ms. Tracy Nelson-Wescott had questions about the setback determinations and asked for clarification of whether this was just to include the footprint or the square footage of the two-story structure. Mr. Denton responded that it would only be the footprint. She also asked for clarification about eligibility for encroachment based on the Zoning Ordinance. Ms. Goodwin responded that this is what the variance discussion was to determine. In addition, Ms. Nelson-Wescott commented on the calculations for impervious and pervious areas, she comes out with higher numbers and has concern for total coverage in and out of the boundary of the lot. Ms. Goodwin clarified that the Zoning Board has no oversight to anything happening outside the lot boundaries.

Chair Mansur asked if there was any other public comment or questions. There were no other comments.

The Board then considered discussion and determinations for variances.

Mr. Denton motioned that no variance was needed for lot line encroachment because calculations show the structure and project to be slightly less non-conforming. Ms. Bohmiller seconded. The motion carried 4-0-0.

Mr. Denton made a motion that no variance was needed for the impervious area coverage based on the calculations presented showing a slight decrease. Ms. Bohmiller seconded. The motion carried 4-0-0.

Following the motions, Chair Mansur asked Ms. Sullivan to read application #23SPX12 into the record for Special Exception to replace an existing guest house and increase the height of the structure at Pike’s Point Road. She noted the public notices postings and read the names of abutters contacted. She stated that phone calls and written communications were received from abutter, Susan Nelson. She stated that there were no comments from department heads and comments from the Land Use Office were noted.

Mr. Jeff Lewis of Northpoint Engineering presented the project as agent for the applicants. He stated that Mr. and Mrs. Rybecky wished to take down an existing guest house structure and reconstruct a two-story garage/guest quarters in its place. Runoff, snow loads, and the roof height were discussed with the design. Mr. Denton asked how the issue of runoff would be addressed specifically, especially in reference to the neighboring property and the lake.

Ms. Rybecky addressed the access area for the neighbor, the existing sideline area, and her intent to keep as much runoff as possible from getting into the lake. She spoke of a rain garden and other possibilities.

Mr. Lewis spoke again to address the height issue. Using the plans, he noted several points to show the heights of existing guest house roof and the future height points for the new structure and stated that the new structure would be under the maximum allowed height of 35 feet. He demonstrated that the views from other properties would only be slightly impacted.

Chair Mansur asked Mr. Lewis to read the Application Criteria questions and the applicant responses into the record.

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The Board asked questions about the responses asking for more information regarding height impacts to neighbors, change of use clarifications about the structure now accommodating a garage and guest quarters, and whether this is a change in use or character.

Mr. and Mrs. Rybecky stated that this was done with the future in mind. As they age indoor parking would be helpful. She mentioned that some of the site changes planned were to accommodate their son’s walking disability. It was determined that the use as guest quarters is not a change, and this could be two-story guest quarters.

With no other questions from the Board, Chair Mansur asked if anyone from the public would like to speak to the application or ask questions.

Ms. Nelson-Wescott asked about the grass areas and trees indicated on the plans and if they intended to remove any trees. Mr. Rybecky stated there were no plans to remove any trees with the project except maybe some saplings. Ms. Nelson-Wescott stated that any increase in height would have an impact on them as their property sits lower on their lot and looking back to the road a taller building would look even taller and be like a wall to them. She wanted to state that the new structure is not on the exact spot of the existing structure and there is a position change and she wanted this to be on record.

Chair Mansur asked if any others would like to speak. There were no further comments or questions from the public or the Board. Chair Mansur closed the public portion of the meeting and the Board moved to deliberation on the application.

Chair Mansur read each of the Criteria and applicant responses for the Board to act on.

Criteria 2: Mr. Denton motioned that criterion #2 was **met** because the applicant made an effort to reduce the impact on the setbacks; Mr. Carten seconded. Motion carried 4-0-0.

Criteria 3: Ms. Bohmiller motioned that criterion #3 was **met** because the use is still as guest house with added garage area below. Mr. Denton seconded. Motion carried 4-0-0

Criteria 4: Mr. Denton motioned that criterion #4 was **met** because the project plans are well thought out and include changes to accommodate more green space and to better accommodate first responders. Ms. Bohmiller seconded. The motion carried 4-0-0

Criteria 5: Mr. Denton motioned that criterion #5 was **met** because the driveway changes allow for more green space and allow for better road access by first responders. Ms. Bohmiller seconded. The motion carried 4-0-0.

Criteria 6: Mr. Denton motioned that criterion #6 was **met** because the increase of height is minimal, and efforts were made to not block any views for neighbors; Mr. Carten seconded. The motion carried 4-0-0.

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Based on the applicant meeting the criteria discussed and presenting good plans for replacement of an old guest house, Mr. Denton motioned to grant the Special Exception for case #23SPX12. Ms. Bohmiller seconded. The motion carried 4-0-0.

MINUTES:

The minutes for meetings on November 7, 2023, and November 29, 2023, were reviewed.

Mr. Denton motioned to approve the November 7, 2023, meeting minutes as amended with the change of date to December 5, 2023, on page 4. Chair Mansur seconded. The motion carried 2-0-2

Chair Mansur motioned to approve the November 29, 2023, meeting minutes as presented. Ms. Bohmiller seconded. The motion carried 4-0-0

OTHER BUSINESS: None

LAND USE:

Ms. Bailey stated she recently reviewed the Zoning Board of Adjustment Bylaws and called attention to the time of meetings and new schedules and deadlines that need to be updated. She stated that the office will update the document and bring it back to the Board for review and approval.

COMMUNICATIONS: None

NEXT MEETING: January 2, 2023

ADJOURNMENT:

With no other business before the Board, Mr. Denton motioned to adjourn at 7:24 pm. Chair Mansur seconded. The motion carried 4-0-0.

Respectfully submitted,

Janet F. Cote
Land Use Associate