

Hopkinton Zoning Board of Adjustment
Minutes
July 14, 2005

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment public hearing of Thursday, July 14, 2005, at 7:00 PM in the Town Hall. Members present: Charles Koontz, Carolyn Hackwell, George Langwasser, and Toni Gray.

Chairman Krzyzaniak gave a brief outline of the Rules of Procedure that govern the hearing.

I. Application.

TH05-5V-7-1 W. John Nesbit—W. John and Evelyn Nesbit of 25 Allen Road, Bow, New Hampshire, addressed the Board to request a Variance to construct a 24' x 26' addition of a garage to an existing non-conforming residential structure. The addition of the garage will exceed fifty (50%) percent in square footage from the square footage existing at the date of nonconformity. Additionally, Mr. and Mrs. Nesbit requests permission to allow the construction of the garage with less than the front setback requirement for the district. The setback requirement is 40-feet from the front property line. The setback to the proposed garage will be 32-feet; however, Mr. Nesbit explained how there is an additional 57-feet of vacant land from his front property line to the edge of the road. The vacant property, along with the private road, is owned by Wayne and Sally Patenaude. The property in question is owned by W. John & Evelyn Nesbit, located at 255 Rolfe Pond Drive in the R-2 (medium density residential) district, shown on Tax Map 209 as Lot 17. The application was submitted in accordance with Section 4.2 Table of Dimensional Requirements and Section 5.1.1 of the Hopkinton Zoning Ordinance.

Mr. Nesbit reviewed the requirements for Variance in accordance with Section 15.8.3 of the Hopkinton Zoning Ordinance.

1. The proposed use would not diminish surrounding property values because:

“No, the construction and appearance of the proposed garage should increase the value of our property and the properties within the neighborhood. The proposed garage will be no closer to the front property line as some of the existing garages and homes along the road. Matter of fact the proposed garage should be less non-conforming than other homes along the road.”

2. Granting the variance would not be contrary to the public interest because:

“Again, the construction of the garage would be in good taste. The property is located in the R-2 residential district which allows residential accessory structures. The addition will be no closer than some of the other homes along the street.”

3. By granting the variance substantial justice would be done because:

“Substantial justice would be done by allowing the construction of a garage for

the storage of our cars during the winter months. Additionally, granting the variance would allow us to utilize a similar, but less non-conforming, setback to the other property owners along the road.”

4. The spirit and intent of the Ordinance will not be broken by granting the Variance because:

“We propose a garage attached to our residence which is allowed in the R-2 residential district. We believe that the intent of the Zoning Ordinance is to allow everyone to be treated similar or to be given the same opportunity when possible. The spirit and intent of the Ordinance would not be broken by allowing us to construct a garage which is non-living space 32-feet from the front property line while there are other structures along the street that are closer.”

5. The denial of the Variance would result in an unnecessary hardship to the owner seeking it because:

- (a) An area variance is needed to enable the applicant’s proposed use of the property given the special conditions of the property.

“Most of the residences or cottages along Rolfe Pond were constructed in the 1950’s or 1960’s, prior to zoning. The residences were all constructed very close to the property lines, not in conformance with the current setback requirements, due to the small size of the lots. Again, the variance is needed to allow us to store our vehicles in the garage during the winter months. The special conditions of the neighborhood include the small size of the lots, the year of construction of most of the homes, in particular our home was constructed in 1954, and the fact that others along the road have homes and garages that are currently non-conforming in setbacks. Actually, some of the homes are closer than the 32-feet that we propose.”

- (b) The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

“We believe that there is no other method by which we can achieve the front setback of 40-feet. We have considered constructing a smaller garage, but believe that it would be unreasonable as the smaller size would make it difficult for us to maneuver the vehicles in and out of the garage. We also considered constructing a detached garage, but again with the setback requirement of 40-feet from the front property line and 10-feet from the residence the detached garage would also be non-conforming. Additionally, we would prefer during the winter months to be able to walk from our home into the garage, rather than having to go outside.”

Mr. Nesbit further explained how the size of the garage is necessary due to the need to have an area for the furnace, water heater, and water storage tank. The

water table in the area prevents them from placing the equipment in a basement.

Mrs. Gray asked for clarification as to the total distance from the proposed garage to the edge of the road. Mr. Nesbit indicated the distance of 88-feet.

There was no one present wishing to provide public testimony.

Motion made by Mrs. Gray, seconded by Mr. Langwasser, to approve Application TH05-5V-7-1 as presented. Motion carried unanimously (Koontz, Hackwell, Krzyzaniak, Langwasser, and Gray). The Applicant adequately addressed the criteria to be granted a variance in accordance with paragraph 15.8.3 of the Zoning Ordinance. The Board agreed that there were special conditions given the small size of the lots in the area, the year of construction of the homes in the area, in particular the Applicant's was constructed in 1954, and the fact that there are other homes and garage along the road that are non-conforming in setback. Additionally, it was noted that while the distance from the proposed garage to the front property line will be 32-feet, the distance from the proposed garage to the road is estimated at 88-feet.

TH05-6V-7-2 Gary Evans—Gary Evans of 1747 River Road, Weare, New Hampshire, addressed the Board to request a Variance to construct a front porch with less than the front setback requirement for the district. The property is located at 2492 Hopkinton Road in the R-3 (low density residential) district, shown on Tax Map 240, Lot 10. The application was submitted in accordance with Section 4.2 Table of Dimensional Requirements of the Hopkinton Zoning Ordinance.

Mr. Nesbit reviewed the requirements for Variance in accordance with Section 15.8.3 of the Hopkinton Zoning Ordinance.

1. The proposed use would not diminish surrounding property values because:

“It would be a traditional farmer’s porch attached to the front of the house. This is an attractive and useful addition which adds to the surrounding property values.”

2. Granting the variance would not be contrary to the public interest because:

“The house sets up about 12 to 15 feet in height from the road. It would set back about 52 feet; therefore, it is not too close to the road in height or distance. It would not impede road or line maintenance.”

3. By granting the variance substantial justice would be done because:

“There was a porch which existed on this house (in the same location) for about 70 years. When the house was lifted to replace rotten sills about 18 years ago the porch had to be removed. Renovations were stopped and put on hold for several years while the owner decided what to do with the property. There is no other location on the sides or back of the house which could accommodate a porch. I have a large center door about 3-1/2 feet off the

ground with no stairs. The house looks out to a tremendous view and is only a few feet short of the required setback. Justice would be done because I had no choice as to the location of the house on the lot or the layout of the front door with no means of exit. The original owner intended to put a porch back on but being an older woman unsure of her future in the house she stopped progress on it. Also, other houses in this view area have porches facing south.”

4. The spirit and intent of the Ordinance will not be broken by granting the Variance because:

“I assume the spirit and intent were to prevent buildings from being very close to the road, to be set back and have an attractive front yard enhancing the character of the road and the property values. Also, the law prevents buildings from being so close as to impede road and line maintenance. This porch is going to be setback more than 50 feet and above the road site line. It will be attractive, in keeping with the colonial character of the surrounding property and will not impede any road or line maintenance.”

5. The denial of the Variance would result in an unnecessary hardship to the owner seeking it because:

- (a) An area variance is needed to enable the applicant’s proposed use of the property given the special conditions of the property.
- (b) The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

“In evaluating the four sides of the house there is a steep bank in the back and it is facing north. The west side has a driveway and garage, the east side has the chimney and bulkhead and too short a setback. The front is set up on a hillside with a tremendous view to the south. It has an attractive front door and it is the traditional location of porches. The only logical place to locate a porch for socializing and enjoying the view is on the front of the house.”

Mr. Langwasser asked to view the pictures referenced by Mr. Evans during his presentation. In response, Mr. Evans indicated that he did not have the pictures with him.

Mr. Evans discussed his interest in constructing a 8-foot wide porch; however, he indicated that it would be possible to construct a porch that is 6-feet wide. The estimated length of the home is 32-feet.

Mr. Langwasser noted that while he has lived in Hopkinton for the past 57-years he could not recall a porch being located on the front of the home. In response, Mr. Evans stated that he had spoken with the previous owner who had advised of the porch. He also indicated that he had a photograph of the porch existing approximately 10-years ago. Mr. Langwasser suggested that Mr. Evans should have brought the photograph with him to the meeting.

Mrs. Gray believed that once having a porch on the home would be irrelevant as it would no longer be grandfathered. Mr. Langwasser concurred.

Chairman Krzyzaniak asked for clarification as to the distance of encroachment into the setback with the construction of a porch. Mr. Evans responded 8-feet.

The Board briefly discussed the location of the stairs off of the proposed porch, requesting that any stairs be constructed off the side of the porch, rather than in the front. Mr. Evans estimated an additional 4-foot encroachment into the setback should the steps be constructed off the front of the porch.

Motion made by Mr. Langwasser, seconded by Mr. Koontz, to approve Application TH05-6V-7-2 with the condition that the steps are to be located on the left side (driveway side) of the porch and that the construction of the porch be no wider than 8-feet. Motion carried unanimously (Koontz, Hackwell, Krzyzaniak, Langwasser, and Gray).

Mr. Evans readdressed the Board requesting permission to construct steps on both sides of the porch. Following brief discussion concerning the fact that the steps would meet the side setback requirements for the district, Mr. Langwasser moved to amend his previous motion, seconded by Mr. Koontz, to permit the construction of stairs on both sides of the porch. Motion carried unanimously (Koontz, Hackwell, Krzyzaniak, Langwasser, and Gray).

II. Review of the Minutes and Notice of Decision of May 3, 2005.

Motion made by Mrs. Gray, seconded by Mr. Koontz, to accept the Minutes of May 3, 2005. Motion carried unanimously (Koontz, Hackwell, Krzyzaniak, Langwasser, and Gray).

Motion made by Mrs. Gray, seconded by Mr. Koontz, to accept the Minutes of June 7, 2005. Motion carried unanimously (Koontz, Hackwell, Krzyzaniak, Langwasser, and Gray).

III. Adjournment.

Chairman Krzyzaniak declared the meeting adjourned at 8:45 PM. The next scheduled meeting of the Board is Tuesday, August 2, 2005, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning Director

Pursuant to New Hampshire RSA 674:2, any party to the action or proceedings, or any person directly affected thereby, may apply for a rehearing. Application, in writing, must be submitted to the Zoning Board of Adjustment within thirty (30) calendar days beginning the date upon which the Board voted to approve or disapprove the application. Such a request must set forth the grounds on which it is claimed the decision is unlawful or unreasonable. The Board must decide to grant or deny the rehearing within thirty (30) days.

