

**Hopkinton Zoning Board of Adjustment**  
**Minutes**  
**October 3, 2006**

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment public hearing of Tuesday, October 3, 2006, at 7:00 PM in the Town Hall. Members present: Toni Gray, John Boatwright, and Harold Perkins.

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With only four members present there was a possibility of a tie vote which would mean that the request would be denied. Chairman Krzyzaniak gave the applicant an opportunity to either move forward or post-pone review. In response, Scott VanDyne agreed to move forward.

**I. Applications.**

**TH06-5V-10-1 Scott VanDyne**—Scott VanDyne representing Thord Backe addressed the Zoning Board of Adjustment requesting a Variance to construct an attached garage and mudroom/entry with less than the required side line setback. The property is located at 115 Bassett Mill Road in the R-4 (residential/agricultural) district, shown on Tax Map 235 as Lot 23. The application was submitted in accordance with paragraph 4.3 and 4.4.2 of the Hopkinton Zoning Ordinance.

The overall size of the addition proposed is 32' x 32' with a 24' x 24' area consisting of the garage and the remaining 8' x 8' area dedicated as the mudroom/entryway. The mudroom/entryway is to include a stairway to the second floor of the garage that may be used in the future as a playroom or office.

The Zoning Board of Adjustment reviewed the site plan showing the location of the existing residence, well, septic system and proposed addition. The addition encroaches into the sideline setback by 6-feet. The Applicant had considered constructing the garage as a detached structure; however, he believed the only feasible location would be to construct the garage in the turn-around in the driveway. The location would still involve an encroachment into the setback area.

Mr. VanDyne 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:

Mr. VanDyne stated that the proposed addition will not be visible to the neighbors. The driveway to the house is an "S" configuration, so that the addition will not be visible from the street. Mr. and Mrs. Fluery, the closest neighbor, is in favor of the proposal.

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

Mr. VanDyne believed that the encroachment is a minimal violation as the addition will only be 6-feet closer to the side line than allowed for the district.

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

Mr. VanDyne stated that there have been similar variances granted for similar projects.

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

The septic system is located behind the home and the expense of constructing the garage on the front lawn may be a deciding factor as to whether they move forward with the project.

5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.
  - (a) An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.

Mr. VanDyne believed that a detached garage would detract from the value of a home. They had also considered angling the garage; however, Mr. VanDyne stated that they were unable to develop a good design that would meet the sideline setback.

- (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.

Mr. VanDyne did not believe that there was another area on the property that they could construct the garage, noting that the well is in the front of yard and that the septic system is in the rear yard.

Mr. Backe addressed the Board explaining that he and Mr. VanDyne considered a number of options and believe that the proposed addition would have minimal impact.

Mr. Boatwright inquired as to the location and configuration of the driveway and whether the doors of the garage will be towards Bassett Mill Road. At this time, Mr. VanDyne sketched the location of the driveway on the site plan and confirmed that the garage doors will be located towards Bassett Mill Road.

Chairman Krzyzaniak questioned whether the location of the proposed garage would be closer than 24-feet to the side lot line. Mr. VanDyne replied no.

Mr. Boatwright stated that 39 square feet of the proposed garage would encroach into the setback line.

Mrs. Gray informed Mr. VanDyne that a financial hardship does not qualify as a reason to grant a Variance. Mr. VanDyne stated that he understood, and explained that a detached garage tends to affect the resale value of the home.

Mrs. Gray then asked Mr. VanDyne about his comment concerning variances being granted to others for similar projects. In response, Mr. VanDyne stated that he was not aware that variances had actually been granted, but assumed that they had been because of the variance provision being an option in the Zoning Ordinance. Mr. Perkins questioned whether Mr. VanDyne had made a generic statement that he believed that the Board may have granted other Variances in the past. Mr. VanDyne replied yes.

Chairman Krzyzaniak asked about moving the garage forward in an attempt to meet the side line setback. Mr. VanDyne stated that while sliding the garage forward would make it less non-conforming there are two windows in the home that would have to be removed because of their location.

Mrs. Gray inquired as to the height of the garage. Mrs. VanDyne replied 18-feet to the peak.

Mr. Boatwright, seconded by Mrs. Gray, moved to approve the application as presented. With four members voting, all four voted in favor. The application was approved as presented. The Applicant adequately addressed the criteria to be granted a Variance in accordance with Section 15.8.3 of the Zoning Ordinance. Consideration was given to the location of the proposed garage as being the most appropriate location with minimal encroachment. There was no consideration as to the financial impact to the property owner.

## **II. Other Business to legally come before the meeting.**

- Zoning Board of Adjustment was in receipt of a letter, dated September 21, 2006, from Ruthie White concerning the Board's approval of Application TH06-4S-8-1 of Moser Engineering (St. Methodios Faith and Heritage Center).

## **III. Review of the Minutes and Notice of Decision of September 5 and September 21, 2006.**

Motion made by Mrs. Gray, seconded by Mr. Boatwright, to accept the Minutes and Notices of Decision of September 5 and September 21, 2006, as presented. With four members voting, three members voted in favor (Gray, Boatwright, and Krzyzaniak) and one abstained (Perkins). It was noted that Mr. Perkins recused himself as he was not present at the meetings, and had previously recused himself from all matters concerning Stuart Nelson.

## **III. Adjournment.**

Chairman Krzyzaniak declared the meeting adjourned at 8:00 PM. The next scheduled meeting of the Board is Wednesday, November 8, 2006, at 7:00 PM in the Town Hall.

Karen L. Robertson  
Planning Director

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Pursuant to New Hampshire RSA 677:2, 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.