

Hopkinton Zoning Board of Adjustment
Minutes
July 3, 2007

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment hearing of Tuesday, July 3, 2007, at 7:00 PM in the Town Hall. Members present: Toni Gray, Charles Koontz, Carolyn Hackwell and John Boatwright.

I. Applications.

Motion for Rehearing submitted by Paul Mertz, dated June 9, 2007, and received on June 11, 2007. Motion for Rehearing pertained to the Zoning Board of Adjustment decision of May 10, 2007, in which the Board denied Mr. Mertz's application (TH07-4S-5-2) for a Special Exception to operate a plumbing business as a Home Business. The property is owned by Paul and Linda Mertz, located at 47 Hawthorne Hill Road, shown on Tax Map 251 as Lot 10.2. The application was submitted in accordance with Table of Uses 3.6.A.8 of the Hopkinton Zoning Ordinance. No public testimony was accepted.

Motion made by Mrs. Gray, seconded by Mr. Boatwright, to deny the Motion for Rehearing due to the fact that it was not received within the required 30-days. Mr. Koontz suggested the Board discuss the timetable record. Mrs. Gray and Mr. Boatwright concurred and withdrew their motion.

Mr. Boatwright suggested that if Saturday, June 9, 2007, was the 30th day then the Motion for Rehearing should have been received in-hand no later than Friday, June 8, 2007. Mrs. Robertson noted that the Zoning Board of Adjustment's Rules of Procedure refer thirty calendar days. The Rules of Procedure do not exclude weekends or holidays.

Motion made by Mrs. Gray, seconded by Mr. Boatwright, to deny the Motion for Rehearing as it was not submitted within a timely fashion (receive in-hand within 30 calendar days). All members were in favor of voting. With five members voting, all five voted in favor (Gray, Hackwell, Koontz, Boatwright, and Krzyzaniak) of denying the Motion.

TH07-3V-7-1 Roger D. Smith—Mr. Smith of 341 Stark Highway, Dunbarton, addressed the Board requesting a Variance to construct a single-family residence with less than the rear setback requirement for the R-4 (residential/agricultural) district. The property is located off Briar Hill Road, shown on Tax Map 241 as Lot 52. The application was submitted in accordance with section 4.3 of the Hopkinton Zoning Ordinance.

Mr. Smith advised that his lot consists of approximately 2.1 acres with in excess of 600-feet of road frontage. However, the depth of the lot is limited to approximately 144-feet. The pre-existing non-conforming lot was created in 1960, prior to Hopkinton adopting its first Zoning Ordinance in 1964. Mr. Smith had considered a number of home designs in trying to configure the residence on the lot meeting the setback requirements of 60-feet from the front and rear property lines and 30-feet from the side lot lines. He proposes to construct a traditional cape or colonial style

residence that is 28' x 36' meeting the front and side line setback requirements. The rear setback, from the residence to the rear property line, would be approximately 45-feet.

Mr. Smith reviewed the standards 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:

"Granting the Variance would allow a home to be built comparable with the other homes in the neighborhood."

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

"A residential home in a residential neighborhood is in keeping with the existing neighborhood."

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

"The existing lot meets the acreage requirements, but is long and narrow and was created in 1960, prior to zoning in 1964."

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

"The Variance would keep values in the neighborhood balanced."

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.

"The building envelope is unusually small allowing only a very narrow home to be constructed with a Variance."

- (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.

"Without a Variance the home could not exceed 18-feet in width."

Mr. Smith referred to the sketch map showing the location of the proposed residence, along with the setbacks proposed. The rear portion of the property slopes downward. The residence is proposed on the east side of the property where the slope is less severe.

Mrs. Gray questioned whether the deck proposed on the rear of the residence is necessary; noting that without the deck the rear setback would be approximately

55-feet. She questioned whether it would be possible to construct the deck off the side of the residence, rather than the rear. Mr. Smith replied yes.

Phyllis Randall of 1399 Briar Hill Road addressed the Board as an abutter. While Mrs. Randall had no objections to the proposal she did express concern with a discrepancy in the location of the property lines, suggesting that the prior owner had moved the property monuments. The Board discussed the property survey submitted of the Smith property and suggested that Mrs. Randall contact the surveyor to discuss her concerns.

Public testimony was closed.

Motion made by Mrs. Gray, seconded by Mr. Boatwright, to approve Application TH07-3V-7-1 as presented. All members were in favor of voting. With five members voting, all five voted in favor (Gray, Hackwell, Koontz, Boatwright, and Krzyzaniak) of approving the application as presented.

In determining whether the Applicant had met the requirements to be granted an Area Variance, the Zoning Board of Adjustment reviewed the criteria in accordance with Section 15.8.1 of the Hopkinton Zoning Ordinance and considered the peculiar configuration of the lot and the parameters available to build. Following review, the Board unanimously agreed that the Applicant had successfully addressed all criteria to be granted an Area Variance.

II. Review of the Minutes and Notices of Decision for May 10 and June 5, 2007.

Motion made by Mr. Koontz, seconded by Mrs. Hackwell to approve the Minutes and Notice of Decision of May 10, 2007 as presented. Motion carried unanimously.

Motion made by Mr. Koontz, seconded by Mrs. Hackwell to approve the Minutes and Notice of Decision of June 5, 2007 with a revision to the Minutes that will refer to Richard Hesse as Mr. Hesse, rather than Attorney Hesse. Motion carried unanimously.

III. Any other Business to legally come before the meeting.

Motion made by Mrs. Gray, seconded by Mr. Koontz to appoint Janet Krzyzaniak as Chairman of the Zoning Board of Adjustment. Motion carried unanimously.

IV. Adjournment.

Motion made by Mrs. Gray, seconded by Mr. Koontz to adjourn at 7:50 PM. The next regular scheduled meeting of the Board is Tuesday, August 7, 2007, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning/Zoning Director

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.