



# Town of Hopkinton

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## HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES JUNE 3, 2014

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment meeting of Tuesday, **June 3, 2014, at 5:30 PM in the Hopkinton Town Hall.** Members present: Toni Gray, Daniel Rinden Charles Koontz and Gregory McLeod.

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*Note: The Zoning Board of Adjustment's Rules of Procedure was available during the application process and additional copies were available at the meeting for the general public.*

### I. Application(s).

#2014-4 Peter L. Lincoln **Variance** to construct a 3'-4" x 9'-6" addition on the south side of a seasonal cottage located at 46 Salmon Lane in the R-2 district, shown on Tax Map 208 as Lot 5. The application was submitted in accordance with Zoning Ordinance 4.2 Table of Dimensional Requirements.

Mr. Lincoln began by explaining that the size of the existing cottage is 720 SF. The addition is to the south side of the cottage, which faces the cottage at 52 Salmon Lane that is also owned by Lincolns. Currently, the closest point of the cottage at 46 Salmon Lane is 7'-6" to the property line; while, the Ordinance currently requires 20 FT. The cottage is slightly skewed from the property line and therefore, the new addition will reduce the side line setback by 2'-6".

The cottage at 46 Salmon Lane was constructed for Mr. Lincoln's parents in 1963 on a 75' x 100' lot. The seasonal cottage at 52 Salmon Lane was constructed in 1960 and is also on a 75' x 100' lot. The cottage at 52 Salmon Lane was later purchased by Mr. Lincoln from the original owners. Furthermore, in the 1950's there was a "cabin" constructed at 38 Salmon Lane, abutter to the north of 46 Salmon Lane, which was one of the first structures on Rolfe Pond. The property is now owned by Curtis and Tracy Martin, who utilize the property for their year-round residence. The three properties referenced were constructed before Hopkinton's Zoning Ordinance was adopted in 1988. The structures at 46 and 52 Salmon Lane were constructed close to their southerly property lines making them within the 20 FT setback currently required. Mr. Lincoln noted that when the cottage at 46 Salmon Lane was constructed it too was positioned close to the property line in order to maximize the distances between cottages.

The purpose of the addition is to enlarge the existing master bedroom so that the existing double bed can be replaced with a queen size bed and the space at the sides of the bed can be increased from 15" to 24". The additional space on each side of the bed will provide greater accessibility for anyone needing the use of a walker in the future. Another benefit will be that a closet can be constructed in the master bedroom as part of a second addition, which does not have any zoning issues. With both additions completed it will enable the existing 24 SF bathroom to be expanded so that a shower can be installed. Currently, the bathroom has no shower or bathtub.

Due to the fact that there were no members of the audience present, the Zoning Board of Adjustment waived the reading of the Applicant's written response to the criterion for a Variance.

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*Subject to review and approval.*

For the record, the written response for a Variance as outlined in Section XV of the Zoning Ordinance was as follows:

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

“The proposed addition will be architecturally consistent with the existing cottage and will have minimal visual impact on any of the abutting properties. The proposed 32 SF addition, which does not represent a change in use, will not result in an increase in exterior activity that might otherwise have a negative impact on abutters, particularly 52 Salmon Lane property which shares the property line in question with the 46 Salmon Lane property. Although the addition will reduce the existing sideline setback from approximately 8'-6" feet to 5'-2" feet, the distance between the cottages at 46 and 52 Salmon Lane is still significant and will only be reduced by approximately 2 feet, from 43 feet to 41 feet.”

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

“The proposed addition will not result in any increase in traffic or noise. The cottage at 46 Salmon Lane is located at the end of a dead end, private road that is not maintained by the Town, and the proposed addition will basically be unseen by the public.”

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

“There will be no benefit to the general public if the variance is not granted. This undersized 7,500 SF lot, that was created prior to the adoption of the Zoning Ordinance, is, in my opinion, unintentionally restricted by setback requirements that were established with the expectation that the minimum lot size would be 80,000 SF and that significant setbacks were required in order to ensure privacy between properties with (1) much larger structures covering as much as 30% of the lot and (2) much greater activity in terms of people and traffic. It is not unusual for waterfront properties, particularly seasonal properties, to be closer together than conventional, full-time residences.”

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

“Granting the variance will not cause the essential character of the surrounding area to be altered; the open nature of the adjacent properties would not be compromised. Construction of the addition will not create a sense of overcrowding. Although granting the variance and allowing this small addition to be constructed would result in a reduction in the side setback, which is currently less than required by the Zoning Ordinance, the 12.03% lot coverage would be significantly less than the 30% permitted by the Zoning Ordinance. The distance between the cottages at 46 and 52 Salmon Lane will still be more than the minimum distance of 40 feet (two 20 ft. setbacks) allowed between structures within the R-2 district. Granting the variance will not affect the health, safety or welfare of the public. The privacy of residents at 52 Salmon Lane or other abutting properties will not be adversely affected.”

**5. Literal enforcement of the Ordinance results in unnecessary hardship.**

- (a) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area.

(i) **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.**

“As previously stated, this undersized 7,500 SF lot, which was created before the adoption of the Zoning Ordinance, is restricted by setback requirements that were likely intended for lots having a minimum size of 80,000 SF. This "Special Condition", i.e., a lot that is so much smaller than 80,000 SF, although not uncommon to other Rolfe Pond properties, is very uncommon within the R-2 district. Due to the location of the property and the existing distance between the cottages at 46 and 52 Salmon Lane, it is inconceivable that the proposed addition could have any impact on the interests of the general public.”

(ii) **The proposed use is a reasonable one.** “The proposed 32 SF addition to this seasonal cottage represents a minor expansion (0.43%) of the existing use. The proposed addition will allow the small existing master bedroom to be enlarged in order to improve accessibility with the realistic expectation that the owner occupants' are likely to experience mobility limitations with advancing age.”

There was no one in the audience to offer public testimony.

Charles Koontz, seconded by Daniel Rinden, moved to **APPROVE** the Variance (#2014-4) as presented. With five members voting, all five voted in favor (Koontz, Gray, Rinden, McLeod and Krzyzaniak).

Reasons for approval as follows:

1. There was no evidence that the surrounding property values would diminish as a result of the proposed 32 SF addition. While the addition will reduce the existing sideline setback, the distance between the cottages at 46 and 52 Salmon Lane will remain at over 40 feet.
2. There was no evidence that the public's interest will be impacted as a result of the proposed addition. The cottage is located at the end of a dead-end, private road and therefore, it is anticipated that the proposed addition will be unseen by the public.
3. Substantial Justice: The lot consists of 7,500 SF of area fronting along Rolfe Pond. The lot size is similar to other lots in the area. The waterfront cottages/homes are particularly close together due to the fact that the lots were created prior to the adoption of zoning. Again, the addition is to a seasonal cottage that is located at the end of a dead-end, private road that will have little to no impact on the public. In other words, the public would realize no appreciable gain from denying the Variance.
4. The spirit and intent of the Ordinance will not be broken by granting the Variance as the 3'-4" x 9'-6" addition will not change the character of the surrounding area. The current R-2 side line setback requirement (20 feet) will not be met. The cottages will be at least 40 feet from one another.
5. The restriction on the building setback is not necessary in order to give full effect to the purpose of the Zoning Ordinance (health, safety, convenience, general welfare, property values, promotes efficiency and economy). The Applicant's lot (7,500 SF) and cottage (720

SF) were created prior to zoning being adopted, similar to others in the development. It is assumed that the current setback requirement was likely intended for lots meeting the minimum lot size requirement (80,000 SF). Furthermore, the proposed addition is considered reasonable as it represents a minimal expansion when considering the overall size of the cottage. Lastly, the proposed 32 SF addition will improve life safety (accessibility) within the cottage.

**II. Review of the Minutes and Notice of Decision of the April 14, 2014 joint Planning Board and Zoning Board of Adjustment meeting.**

Toni Gray, seconded by Charles Koontz, moved to **APPROVE** the Minutes and Notice of Decision of April 1, 2014. Motion carried unanimously.

**III. Other Business.**

- a. **Appoint Officer** – Toni Gray, seconded by Charles Koontz, moved to **REAPPOINT** Janet Krzyzaniak as Chairman. Motion carried unanimously.

**IV. Adjournment.**

With no further business to come before the Board, the meeting was **ADJOURNED** at 5:45 PM. The next scheduled meeting of the Zoning Board of Adjustment is Tuesday, July 1, 2014, at 5:30 PM in the Town Hall.

Karen L. Robertson  
Planning Director

Pursuant to New Hampshire RSA 677:2, any party to the action or proceedings, or any person directly affected thereby, may apply to the Zoning Board of Adjustment 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.