



Town of Hopkinton

Planning Department

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HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES JUNE 6, 2023

The Hopkinton Zoning Board of Adjustment held a meeting on Tuesday, June 6, 2023, at 5:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton. Members present: Chair Daniel Rinden, Jessica Scheinman, Kristen Cummings, Andy Locke, and Eric Buck. Staff present: Planning Director Karen Robertson.

I. **Roll Call.** Scheinman, Cummings, Locke, Buck and Rinden.

II. **Applications.**

#2023-05 Stuart Bronson and Beth Bissonnette Variance from Zoning Ordinance 4.2 and 4.4.1 to replace a non-conforming structure, barn, having less than the required front setback for the R2 zoning district with a new accessory structure that will be less non-conforming. Located at 2597 Hopkinton Road, shown on Tax Map 104, Lot 1.

Mr. Bronson explained his intentions to raze the existing barn and replace it with a "drive-thru boathouse" that will be used to store a 28' boat. Currently, the wall of the barn is at the front property line. Due to the terrain of the property, there is not enough flat area to construct the boathouse meeting the 40' front setback. The boathouse would be 10' from the front property line making it more conforming than the existing barn. Mr. Bronson provided a plan by Surveyor Jacques Belanger to show the existing and proposed structure with distances to the front property line.

The Applicant's response to the criteria 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 structure's setback will be more compliant than the existing structure. Additionally, replacing an old and aging, poorly made structure with a new code compliant structure will also be more attractive and is likely to enhance property values."
- 2) **Granting the variance would not be contrary to the public interest because:** "We are increasing the front setback by ten feet, thereby making the proposed structure more compliant than the current structure. This will increase the safety margin along Route 103 by affording more room for state snowplows and emergency vehicle pull-off room."

Subject to review and approval.

- 3) **By granting the variance, substantial justice would be done because:** "The proposed structure will enable me to shield, store and protect my boat and equipment. Additionally, there is no other possible alternative location that exists on the property due to the layout of the land situated on the flank of Gould Hill."
- 4) **The spirit and intent of the ordinance will not be broken by granting the variance because:** "We are improving the setback of the existing structure making it more compliant with the ordinance to the full extent that we are able given the physical site limitations. The structure would be as compliant as possible. This house was built in 1804 - well before both State Route 103 and the Ordinance existed."
- 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.** "The property is situated on the flank of Gould Hill and is on a substantial slope except for those areas that were made flat with retaining walls and concrete buttresses. This geography limits building site options to this single plot; we do not have options."
- ii) **The proposed use is a reasonable one.** "It is reasonable to house and protect my boat on a property situated right on the edge of a very busy Route 103. We are improving the setback, aesthetics, and safety by moving this building back as far as possible."
- b) **If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist, if and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, a variance is therefore necessary to enable reasonable use of it:** "True. The nature of the property situated on the hillside limits siting options to this one spot. The ability to safely tow a large boat off/on Route 103 and into/out of the boat house within the confines of this parcel further limits the siting of the structure. It is further reasonable to desire to build a structure on your land in order to house and protect your property."

The Board reviewed photographs showing the existing 12' retaining wall that will be located to the rear of the proposed boathouse.

Chair Rinden opened and closed public testimony as there was no public comment.

Chair Rinden inquired about the size of the proposed structure compared to the existing barn. Mr. Bronson noted the current barn is 19' wide. The proposed boathouse is approximately 24' wide and 40' long. However, the size may change if he finds he cannot make the turning radius to drive into the boathouse. In any event, the structure will not be closer than 10' to the front property line. Mr. Bronson understood that he must return before the Board if he needed the structure closer.

Mr. Buck asked if the boathouse would be constructed on a foundation or frost posts. In response, Mr. Bronson noted that he preferred a pole barn-style structure; however, his builder will work the details out with the Building Inspector.

During deliberations, members of the Board noted that the proposed structure would be more conforming and code compliant. Furthermore, the property being on a hillside limits the flat area available to construct the new structure.

Andy Locke, seconded by Eric Buck, moved to **APPROVE** application #2023-05 as presented. Motion carried in the affirmative (Scheinman, Cummings, Locke, Buck, and Rinden).

The Applicant successfully addressed all criteria to be granted a Variance as outlined in Section XV of the Zoning Ordinance. The Board's decision was based on the following findings:

- 1) Property Values:
 - There is no evidence that surrounding property values would diminish because of the removal of the barn and construction of a new accessory structure, a boathouse that is less non-conforming.
- 2) Public Interest:
 - There is no evidence that removing the existing barn located at the front property line and constructing a boathouse 10' from the front property line would alter the essential characteristics of the neighborhood or threaten public health, safety, or welfare.
 - Replacing the aging structure with a new code-compliant structure will likely be more attractive and enhance property values.
- 3) Substantial Justice:
 - There is no justified gain to the public by requiring a 40' front setback for the new accessory structure when the existing barn is located at the front property line.
 - Allowing the aging barn to be replaced with a new structure 10' from the front property line is in the public interest since the new structure will be less non-conforming.
- 4) Spirit and Intent:
 - The nature and character of the surrounding properties will not change as the new accessory structure will be partially on the same footprint as the existing barn but less non-conforming.

- The new accessory structure is to be located further away from the front property line than the existing house and more conforming than the existing barn.
- 5) Unnecessary Hardship:
- The property is on the downhill side of Gould Hill and has a 12' high retaining wall supporting the flat area, thereby limiting the area available for construction.
 - Granting the variance will continue to allow reasonable use of the property.

III. Minutes and Notices of Decisions of March 8 and May 2, 2023.

By roll call, the Board **APPROVED** the March 8, 2023, meeting Minutes and Notice of Decision. In favor: Scheinman, Cummings, and Rinden. In abstention: Buck and Locke.

By roll call, the Board **APPROVED** the May 2, 2023, meeting Minutes and Notice of Decision. In favor: Scheinman, Cummings, and Rinden. In abstention: Buck and Locke.

IV. Other Business.

- a) Draft Rules of Procedures — Review of the draft Rules of Procedures was postponed.
- b) July Meeting Schedule — The Board's July meeting will be held at 5:30 PM on Wednesday, July 12, 2023, at Town Hall.

V. Adjournment. Chair Daniel Rinden declared the meeting adjourned at 5:55 PM.

Karen Robertson
Planning Director

Ordinance §15.10. "Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."