



ZONING BOARD OF ADJUSTMENT
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MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING

Tuesday, December 15, 2020 – 6:30 p.m. – Virtual via Zoom

Members Present: Lindsey Franck, Ron Gross, David Sandmann, Leonard Schwab, Chip Hussey (Alternate)

Late Arrival: Steve Gerrato

Staff Present: Jack Shephard – Building Inspector

Chair Gross opened the Board of Adjustment meeting at 6:38 p.m. and a roll call was taken. A checklist to ensure meetings are compliant with the Right-to-Know Law during the State of Emergency was read into the record by Chair Gross. He stated this was a Zoom meeting and was being recorded.

Roll call attendance: L. Franck – present, D. Sandmann – present, L. Schwab – present, C. Hussey – present, R. Gross – present.

1. 410 Portsmouth Avenue – Commercial A (U4, 17)

Special Exception

Owner/Applicant: 410 Portsmouth Ave LLC

The owner/applicant is seeking a Special Exception as specified in the Zoning Ordinance: Article III, Section 3.6.1, Item 'O' (Residential-Commercial-Industrial Mixed Use District), to construct three new buildings on the property, each structure containing three townhouses. There will be a total of ten units, including the Pickering House.

Chair Gross stated that at the meeting on November 17, 2020, the Board requested comments from the Planning Board Attorney and additional information from the applicant (traffic study and detailed information referring to housing in Greenland or towns similar in size). The letter from the Planning Board Attorney was received on Monday afternoon, December 14, 2020. The applicant has requested a continuance to the meeting on Tuesday, January 19, 2021.

Colby Gamester, Attorney and representing the owner/applicant, stated they were waiting for Attorney Somers opinion. Given the short notice, it seemed prudent to request a postponement to the January 2021 meeting. They wanted to review Attorney Somers opinion as well as provide the information requested by the Board.

In a roll call vote, the Board approved the request to continue the Special Exception for 410 Portsmouth Avenue to the meeting on Tuesday, January 19, 2021. Roll call vote: S. Gerrato – yes, L. Franck – yes, D. Sandmann – yes, L. Schwab – yes, C. Hussey – yes, R. Gross – yes.

S. Gerrato joined the meeting via Zoom.

Chair Gross explained that 410 Portsmouth Avenue was continued to the January 19, 2021 meeting and there would be no further discussion of that application.

2. 153 Dearborn Road – Residential (R12, 13)

Request for a Variance

Owner/Applicant: Larrabee Family Revocable Trust of 2017 (Matthew & Kristin Larrabee, Trustees)

The owner/applicant is requesting a Variance to Article IV – Dimensional Requirements, Sections 4.2 (e) and 4.2 (h), and Article VII – Aquifer Protection District, Section 7.10, of the Zoning Ordinance, to construct a pool within the 20 ft. setback.

Matt Larrabee, owner/applicant, addressed the Board. Also present was Katharena Racine, Millennium Engineering. He is proposing to install an inground swimming pool in the back yard. The proposed location behind the house provides a few positives: the biggest factor is safety. The proposed location will put the pool within their view from the house as opposed to being located elsewhere on the property. In addition, the pool will be out of view of the general neighborhood and not seen from the road; it will not alter the intention of the neighborhood. The existing shed, swing set and patio will be removed. A replacement shed will be added and meet the setback requirements. M. Larrabee has spoken to his neighbors; they have no objections. The biggest hardship is the overall setback requirements, which is challenge to his property (approximately .75 acres). The application and criteria are on file.

L. Schwab, looking at the plans, noted there was not a fence around the pool. M. Larrabee explained there would be a black vinyl chain-link style fence, coming off the corner of the main house within the setbacks, attaching to the existing large garage. The zoning requirement is a 5 ft. fence around a pool. There will also be two lockable gates. The only wetlands are located in the southeast corner of the property, more than 50 ft. from the pool. There was a discussion about a road adjacent to the property.

Responding to a question from Chair Gross, K. Racine stated the existing sealed surface on the property was 24.8 and will increase with the proposed pool and concrete. J. Shephard stated there was a 5 ft. minimum required around the pool. J. Shephard also noted the property was not located in the Aquifer Protection Zone. L. Schwab noted that from the edge of the pool to the edge of the concrete was approximately 5 ft. K. Racine stated it was approximately 4.5 ft. on the rear lot line. All other dimensions of the concrete were over 5 ft. J. Shephard stated that the 2015 IRC requirement was 5 ft. and interpreted as advisory. He recommended not going any less than 4 ft.

M. Larrabee stated the general landscaping would be the concrete around the pool, with the remainder as grass. The same general layout will be maintained. The fence will be as close to the pool deck as possible to maintain distance from the property line.

Responding to a question from S. Gerrato, the engineer stated they had originally tried to place the pool off the end of the garage. That location did not make sense due to the existing contour as well as the safety factor of being able to watch the children. They decided to go back to the location directly behind the house, making use of the existing deck as a facet to the design.

K. Racine stated that the proposed deck and concrete structure is proposed to add 1,288 ft. Some sealed surface will be taken down. The sealed surface increases from 24.8 to 29.8. It will be slightly less with the planters, patio and shed being removed. Chair Gross noted it would be significantly more than it is currently and more than 20%. K. Racine stated it is currently more than 20%; it is the existing non-conforming.

Chair Gross questioned why the application was presented as being in the Aquifer Protection Zone. M. Larrabee responded there is a small corner of his lot that indicates water. Chair Gross explained the Aquifer Protection Zone and its location. C. Hussey stated it was a lot of record and a non-conforming lot; the Aquifer Protection Zone Article is the only ordinance that refers to non-conforming lots.

L. Franck questioned the location of pool equipment. M. Larrabee stated pool equipment would be located inside the new shed. There was a discussion about the absence of a Wetland Scientist stamp.

Chair Gross opened the hearing to public comments. There being no comments, Chair Gross closed the public hearing and returned to the Board for discussion.

Clarification question from L. Schwab to J. Shephard: The applicant will be removing some planters and a children's swing set; are they considered permanent structures? J. Shephard stated they can be left because they are portable items. Chair Gross noted it was the existing shed and patio.

Chair Gross commented it is very close to the property line. There is a large parcel adjacent that can be subdivided. In addition, there is 30% coverage; 20% is normally allowed. L. Franck agreed it was a big ask to go from 20% to 30%. The 9.5 ft. distance from the property line vs. 20 ft. was a very big ask. J. Shephard asked if the deck could be brought closer or shortened. M. Larrabee stated he might gain 1 ft. or 2 ft. by shortening the deck; he will push it in as far as possible. The challenge is the existing sewer line that runs across the backyard and feeds into his basement.

M. Larrabee stated the deck on the back of the garage is elevated and approximately 10 ft. off the ground. The biggest reason for the pool's proposed location is the sewer line. He was willing to work with the Board. The deck next to the pool, at its highest point, is approximately 20 inches off the ground. Chair Gross suggested narrowing the deck and moving the pool closer, decreasing the distance 4 ft. to 5 ft. J. Shephard noted the deck would require a railing all the way around, 42 inches high; there needs to be a barrier to get to the deck for safety reasons. It cannot be an open deck onto the patio and into the pool. M. Larrabee explained the current railing is 42 inches all the way around; the opening will be closed.

L. Schwab stated if the deck could be shortened and moved closer, it would solve some of the coverage problem and reduce the amount of relief requested. D. Sandmann did not think it was an infringement with the existing pool drawing, deck, and buffer around the pool; it is infringing on the property line. L. Franck felt the numbers were a little too small from the pool deck to the boundary line. She was concerned with the percentage being bigger. S. Gerrato felt the pool could be pulled forward, entering the deck from the side. He was willing to leave as is. Chair Gross stated it was a huge change going from 25% to 30% coverage. He reminded the Board it was one property in Greenland and sets a precedent. The current coverage is way more than what is allowed by the Town; a huge percentage more would be created.

K. Racine asked if lot coverage was the impervious surface requirement; Chair Gross stated it was. K. Racine suggested that pervious concrete could be used rather than the standard impervious concrete. Pervious concrete would allow drainage and infiltration to occur, taking a percentage off to make it less than 5%. This would get them to the original number. Even though they would still be over the 20%, it would be less of an impact overall. Chair Gross stated that was a great compromise.

Chair Gross requested updated information on the revised calculations with the deck moved. His opinion was to continue further discussion to the January 2021 meeting for a better plan to be

submitted. C. Hussey stated that it was a lot of record that does not meet the 60,000 sq. ft. requirement. He suggested plantings at the rear property line. M. Larrabee was supportive of plantings or a privacy fence vs. a vinyl chain link style fence. C. Hussey stated since it was a lot of record, the applicant is limited in what he has for percentages and size; it becomes what is reasonable.

Chair Gross agreed a barrier would be helpful. He was concerned with the overall percentage. Theoretically, there was a location for the pool that would not affect the boundary issue. L. Schwab noted the applicant was willing to use pervious concrete on the apron. He continued that a swimming pool where the water level is typically 6 inches below the top of the pool would not be shedding water in a heavy rain. The pool could be considered pervious. He did not have any problem with the coverage numbers; it was a tight lot.

MOTION: S. Gerrato moved to grant the Variance at 153 Dearborn Road to construct a pool within the 20 ft. setback. Second – L. Schwab

Discussion: D. Sandmann wanted to guarantee the pervious surface happened.

AMENDED MOTION: D. Sandmann moved that the apron around the pool must be a pervious surface. Second – L. Schwab; roll call vote: S. Gerrato – yes, L. Franck – yes, D. Sandmann – yes, L. Schwab – yes, R. Gross – yes. All in favor. MOTION CARRIED

MOTION: R. Gross moved to add a condition that screening or year-round landscaping must be done at the rear of the property. Second – D. Sandmann; roll call vote: S. Gerrato – yes, L. Franck – yes, D. Sandmann – yes, L. Schwab – yes, R. Gross – yes. All in favor. MOTION CARRIED

MOTION: S. Gerrato moved to grant the Variance at 153 Dearborn Road to construct a pool within the 20 ft. setback. The apron around the pool must be a pervious surface. Further, screening or year-round landscaping must be done at the rear of the property. Second – L. Schwab; roll call vote: S. Gerrato – yes, L. Franck – no, D. Sandmann – yes, L. Schwab – yes, R. Gross – no. Three in favor, two against (L. Franck, R. Gross). MOTION CARRIED

Changes to the plan must be submitted with the building permit, showing the pervious area, fencing, and screening.

3. Approval of Minutes

MOTION: D. Sandmann moved to approve the minutes of Tuesday, November 17, 2020. Second – S. Gerrato

After discussion of several points in the minutes, the motion to approve the minutes was withdrawn. Approval of minutes was continued to the meeting on Tuesday, January 19, 2021.

4. Other Business

There was no other business to discuss.

5. Adjournment

MOTION: S. Gerrato moved to adjourn at 8:00 p.m. Second – D. Sandmann; roll call vote: L. Franck – yes, S. Gerrato – yes, D. Sandmann – yes, L. Schwab – yes, R. Gross – yes. All in favor. MOTION CARRIED

NEXT MEETING

Tuesday, January 19, 2021 – 6:30 p.m., Virtual via Zoom

Respectfully Submitted: Charlotte Hussey, Administrative Assistant