

**TOWN OF NORTHFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
MAY 28, 2003**

Meeting called to order by Chairman Kent Finemore at 7:30 PM at the Northfield Town Hall. Members present: Dave Liberatore, Steve Bluhm, Roland Seymour, Kent Finemore, Michelle Davis, alternate. Also present: Mike Izard, LRPC and Eliza Conde, Secretary.

Dave Liberatore moved, Steve Bluhm seconded to accept the minutes of the April 23, 2003 meeting. Motion passed. Chairman Finemore asked to Michelle Davis to sit on the board for Chris Dunne.

NEW BUSINESS:

Michael Chauvette: Application for a variance to Article 7, Table #1 of the Zoning Ordinance to construct a Garage with an in-law apartment on property at 371 Concord Road (Map R08 Lot 60-13) in the Conservation zone.

Steve Bluhm moved, Dave Liberatore seconded to accept the application as complete. Motion passed 4-0. Michael Chauvette explained that he wishes to build a barn/garage with an in-law apartment separate from his residence. There is plenty of room, no abutter would see the building and it would allow privacy for his parents. Water would be supplied by the existing well and there would be a septic system for this building.

The board discussed the need for a variance because of the issue of two separate living units on one property not being allowed. The property is large enough for two units under one roof which is allowable. Allowing 2 separate buildings may cause problems in the future and this particular lot does not have enough frontage to be subdivided to accommodate two homes. Dave Liberatore stated that the town has made considerable effort to avoid this type of situation from occurring. Mike Izard stated that he is not familiar with any town that allows two homes on one property. An addition to the existing home for the apartment would be allowed with a building permit and a barn could be built anywhere on the property within the setbacks. Public hearing opened: Karen Feltham, abutter, stated she has no problem with this application. Public hearing closed.

The Board discussed the criteria for a variance for this application:

1. The proposed use would not diminish surrounding property values.
2. Granting the variance would not be of benefit to the public interest because the town does not advocate 2 separate living units on one property.
3. Denial of the variance would not create an unnecessary hardship as there are other options available to the landowner.
4. Granting the variance would not do substantial justice.
5. To allow 2 homes on one lot is contrary to the spirit of the ordinance.

David Liberatore moved, Roland Seymour seconded to deny the application for a variance to construct an in-law apartment separate from the existing home as it does not meet all of the above criteria. Motion passed 4-0. Application denied.

Roger LaBraney: Application for a variance to Article 7, Table #2 of the zoning ordinance to construct a Garage within the 50' setback on property at 78 Sandogardy Pond Road (Map R08, Lot 60-1) in the Conservation zone.

Dave Liberatore moved, Steve Bluhm seconded to accept the application as complete. Motion passed 4-0. Roger Labraney explained that he wishes to build a garage on his lot. He could easily have met the previously required setback of 20 feet, but since the area has been rezoned Conservation, there is now a 50 foot requirement. None of the lots in his immediate area would be able to meet that setback as they are small lots. Roland Seymour asked if there are any buildings on the lot next to this proposed garage. There are no buildings on that lot at this time. Roland Seymour stated that if the garage were moved to meet the setback it would be in front of the house and that this location appears to be the best place to place the garage. Public hearing opened and closed with no comment.

The board reviewed the criteria for a variance:

1. The proposed use would not diminish surrounding property values.
2. Granting the variance would be of benefit because of a modest tax increase.
3. Denial of the variance would cause unnecessary hardship because all lots in the immediate area are similar in size, many with garages and zoning changes have resulted in larger setbacks.
4. Granting the variance would do substantial justice, given the change in zoning setback requirements.
5. The proposed use is not contrary to the spirit of the ordinance because the ordinance was intended for new construction on larger lots and it is consistent with the existing development in the area.

David Liberatore moved, Steve Bluhm seconded to grant the variance with the condition that it be no closer than 30 feet from the property line. Motion passed 4-0. Application approved.

Ellison & Julie Welch: Application for a variance to Article 7, Table #2 of the zoning ordinance to construct a 12'x12' screen room within the setback on property at 8 Gale Ave. (Map U08, Lot 75) in the R-1 zone.

David Liberatore moved, Roland Seymour seconded to accept the application as complete. Motion passed 4-0.

Ellison Welch explained that he is requesting a permanent accessory structure because he has had experience with temporary screen rooms and wind in the past. He wants to build a brick and stone pad with columns to make it permanent. Kent Finemore asked if he could move it closer to the house. There are existing decks and patios making it difficult to move the screen room closer and the slope of the land does not allow him to locate it elsewhere on the property. Public hearing opened and closed with no comment. Dave Liberatore observed that he could move the screen room a few feet closer to the house but would still not meet the setback requirement. The board discussed the criteria for a variance:

1. The proposed use would not diminish surrounding property values as it would enhance subject property and is not an inconsistent use of surrounding lots.
2. Granting of the variance would be of benefit to the public interest as it would create a slight increase in property values.
3. Denial of the variance would result in a hardship because the existing permanent landscaping and structures limit the alternatives for placement of a screen room.
4. Granting the variance would do substantial justice because it would allow the owner to make reasonable use of the property.
5. The proposed use is not contrary to the spirit of the ordinance as it will not adversely affect surrounding properties.

Dave Liberatore moved, Steve Bluhm seconded to grant a variance for an accessory structure (12' by 12' screen room) no closer than 6 feet from the rear setback. Motion passed 4-0. Application approved.

Christopher & Rebecca Gagnon: Application for a variance to Article 7, Table #2 of the zoning ordinance to build a deck within the setback on property at 9 Bay Street (Map U08, Lot 95) in the R-1 zone.

David Liberatore moved, Roland Seymour seconded to accept the application as complete. Motion passed 4-0. Rebecca Gagnon demonstrated on her sketch the location of the existing deck and the replacement deck. The new deck will stay within the lines of the existing home and will not encroach the setback any more than it presently does. Public hearing opened: Abutter Brian Love approves the project as it will be less encroaching upon the setback than the present deck and it will look much better. Public hearing closed.

The board reviewed the criteria for a variance:

1. The proposed use would not diminish property values, but would enhance them.
2. Granting the variance would be of benefit to the public interest as it increase tax value and does not encroach on the setback as much as the old deck did.
3. Denial of the variance would result in a hardship as the zoning requirement does not allow use of the property within the setback and the existing house does not meet the setback requirement.
4. Granting the variance would allow reasonable use of the property.
5. The proposed use is not contrary to the spirit of the ordinance as it allows the owner to use the property in a reasonable manner.

David Liberatore moved, Steve Bluhm seconded to grant the variance to replace the deck with the condition that the proposed deck be no closer to the side setback than the existing residence. Motion passed 4-0. Application approved.

Blue Sky Enterprises, Inc.: Application for a variance to Article 7, Table # 2 note G of the zoning ordinance to issue a building permit on Map R15, Lot 52 with an easement in the Conservation zone.

Mike Izard explained to the Board that this variance request is a result of the Northfield zoning ordinance being incorrect in allowing 50 foot easements over another lot to create a buildable lot. The ordinance has since been corrected, requiring at least 50 feet of frontage on a road. A building permit was denied on this property as it does not meet the present zoning requirements of road frontage. This appears to be the last subdivision which would be affected by this error in the zoning ordinance. The town's Attorney suggested that the best remedy for this error on the part of the town would be through the variance process.

Dave Liberatore moved, Roland Seymour seconded to accept the application as complete. Motion passed 4-0. Karen Feltham, Blue Sky Ent. explained that after this subdivision was approved the error in the zoning regulations were discovered. Had she been notified before she sold the lots, a lot line adjustment could have been made to correct the problem. The two lots in question have now been sold and the new owners do not agree to a lot line adjustment. Public hearing opened: Christopher Hunt, Chairman of the Planning Board agreed that the subdivision was approved according the ordinance at the time and that this would be the way to correct the problem. Public hearing closed.

The board reviewed the criteria for a variance:

1. The proposed use would not diminish surrounding property values because it has already been approved.
2. Granting the variance would be of public interest because the approval of the original plan was based on the existing ordinance which allowed for 50' easements. This error was discovered after this subdivision was approved and a variance would remedy this situation.

3. Denial of the variance would result in unnecessary hardship because of the Town's error in not correcting this situation before the properties were sold.
4. Granting the variance would do substantial justice by correcting a problem created by the errant zoning ordinance.
5. The proposed use is not contrary to the spirit of the ordinance because the subdivision met the requirements of the ordinance at the time of approval.

Dave Liberatore moved, Steve Bluhm seconded to grant the variance as applied for by Blue Sky Ent. (it is now Article 7, Table #2, note E). Mike Izard commented that there was an expectation that this would be a buildable lot when the subdivision was approved. This is not a typical variance situation and should not happen again. Motion passed 4-0, variance approved.

R. John Roy: Application for a variance to the Growth Management Ordinance to allow a two-lot subdivision on property on Concord Road (Map R09 Lot 30A) in the R-1 zone. Application withdrawn by applicant.

Meeting adjourned at 9:40 PM.

Respectfully,

Eliza Conde, Secretary