

**TOWN OF NORTHFIELD
ZONING BOARD OF ADJUSTMENT
June 28, 2006**

MINUTES

Members present: Steve Bradbury, Dave Liberatore, Ken Gorrell, Alternates Polly Mills Fife and Keith Murray. Also present: Eliza Conde, Secretary

Acting Chairman Dave Liberatore asked Polly and Keith to be voting members of the board for this meeting.

Ken Gorrell moved, seconded by Polly Mills Fife to accept the minutes of April 6, 2006 as read. Motion passed

Steve Bradbury moved, seconded by Polly Mills Fife to accept the minutes of April 26, 2006 as read. Motion passed.

Polly Mills Fife moved, seconded by Keith Murray to accept the minutes of May 24, 2006 with an addition on page 5. Motion passed.

James Choquette: Application for a variance to the terms of Article 7, Table 2 of the Northfield Zoning Ordinance to allow construction of a 24'x24' garage within the front setback at 32 Silver Lane (Tax Map R7 Lot 7-5) in the Conservation zone.

Keith Murray moved, seconded by Steve Bradbury to accept the application as complete. Motion passed. Mr. Choquette presented pictures of his lot with the proposed location of the garage. The home is of berm construction built into the slope of the hill with no basement and no ability to attach the garage to the house. There is not enough room on the west side of the lot for the garage. In order to place the garage 100 feet from the front boundary the flow of water and the well location would be disturbed. Mr. Choquette pointed out that changing the flow of water on the lot would be detrimental to the home itself. The proposed location for the garage would not interfere with that water flow. The home is 75-90 feet from the front boundary. Board members discussed the water flow issues.

Public hearing opened and closed with no comment.

Polly Mills Fife asked if there would be fill needed. There will be none. Ken Gorrell reviewed the criteria for a variance as follows:

1. No decrease in the value of surrounding property values is anticipated.
2. Granting the variance would not provide a benefit to the general public.
3. a. This house lot does offer unique topographical characteristics which make placing the garage outside the 100' setback impractical. Land use boards should encourage the retention of natural drainage systems. Redirecting storm drainage often means concentrating the surface water which creates new drainage problems. The benefit of locating the garage outside the

surface water drainage system outweighs the benefit of the required 100' setback from the road.

b. The 100' setback required for the Conservation Zone is meant to give Silver Lane a rural character by keeping houses and outbuildings back from the road. Natural features of the property offer some restrictions to locating the garage 100' back from the road.

c. Granting the variance is not believed to interfere with the property rights of others in the neighborhood.

4. Granting the variance would allow the more practical location of the garage. The house lot is only 260' wide. Placing the garage in an alternate location is limited due to the location of the well and septic system on the lot.
5. Locating the garage nearer to the road will diminish the rural character of Silver Lane.

Ken Gorrell moved, seconded by Steve Bradbury to grant a variance of 30' from the front setback for Tax Map # R6, Lot # 7-5 located at 32 Silver Lane, James Choquette owner, to place a garage within the front setback. Motion passed 4-0.

Shawn Donovan: Application for a variance to the terms of Article 7, Table 1 of the Northfield Zoning Ordinance to conduct an Automotive Restoration business at 312 Shaw Road (Tax Map R8, Lot 4-5) in the R1 zone. Ken Gorrell moved, seconded by Steve Bradbury to accept the application as complete. Motion passed. Mr. Donovan plans to do automotive restoration in an existing garage with no change to the building. He would have 2 or 3 vehicles at a time, would disassemble the vehicle, send parts off site for repair, no painting on site, and re-assemble the vehicle on site. There would be no impact to the environment. He plans to plant a buffer in front of the building to keep noise down. For engine rebuilding, he sends parts off to a machine shop. Steve Bradbury asked about the buffer between the garage and the neighbor. Mr. Donovan stated there is approximately 50 feet of tree buffer. As for noise, the air compressor is quiet, but he does close the doors in order to not disturb the neighborhood. No cars would be stored outside. Any hazardous fluids are collected and sent to "Safety Clean". The building is on a cement slab. Steve Bradbury commented that it would be difficult to control the size of the operation. Dave Liberatore read a letter from abutters David and Hadley Barth with concerns about noise, signage and sales of vehicles. Board members discussed whether sales of vehicles could be allowed. Mr. Donovan does not plan to sell vehicles and doesn't have to have a sign. Keith Murray commented that it is important to remember that the variance stays with the property and future owners may not limit the size of the operation.

Public hearing: Abutter Jeff Dutton stated he is against allowing any automotive business on Shaw Road as it is rural even though lots of new houses have been built. The neighbors don't want the exhaust, the noise, car sales or signage. He is also concerned about potential contamination with fuel spills, etc. Abutter Jim Thomas stated that he hasn't cared for tow trucks on the property at night, doesn't like the cars that have been for sale on the property and was concerned about the variance staying with the property. Public hearing closed.

Ken Gorrell commented that automotive restoration is not a listed use so the board would have to try to make it fit with the ordinance. He also noted that if approved, this will be an enforcement issue in the future. Other commercial uses are not allowed in this zone in order to protect the rural character. Steve Bradbury expressed concern about diminishing surrounding property values. Polly Mills Fife agreed that this is not a great location for this type of business. The existing garage is a good hobby garage and hobby tinkering on cars is acceptable. The board considered the criteria for a variance:

1. The business could impact the visual quality of the neighborhood and could impact the noise level and possibly create odors. All the lots along this section of Shaw Road are between 230' to 250' wide. There is some vegetative buffer between this lot and the neighboring lots. These trees reduce visual impact but will do little to reduce possible noise. The applicant offers to limit the number of vehicles stored outside and to take auto parts off site to sand blast them. These types of restrictions should be considered voluntary since it is unreasonable to expect the code enforcement officer to monitor the site.

2. The proposed business would provide a service to the general public.

- 3a. Other uses for the property are possible. The zone is designated for single-family use and the lot already contains a house and garage.

- 3b. Automotive repair services are allowed in other zones (in the R-2 and C/I with SE). The R-1 zone is devoted to single-family use.

- 3c. There is a strong likelihood the an automobile restoration business would interfere with the tranquility of a strictly residential neighborhood.

4. The owner is not limited in the various uses of this lot. Therefore it is not considered an injustice to deny this use if it would be disruptive to the surrounding properties.

5. Since this Zone is described as "predominantly single-family housing" in its use, this proposal would be contrary to the spirit of the ordinance (see section 6.1, page 20).

Keith Murraray moved, seconded by Steve Bradbury to deny a variance for Tax Map #R8, Lot # 4-5 located at 312 Shaw Road, Shawn Donovan owner, to operate an automobile restoration business for the following reasons:

The request does not meet all five criteria for a variance. In particular, the application is contrary to the spirit of the ordinance.

Motion passed 4-0.

Paul Mason: Application for a variance to the terms of Article 7, Table 2 of the Northfield Zoning Ordinance to construct a porch at 48 Summer Street (Tax Map U9, Lot 12) in the R1 zone. Steve Bradbury moved, seconded by Keith Murray to accept the application as complete. Motion passed.

Mr. Mason stated he would like to build a farmer's porch on the front of the house. The porch would meet the front setback, however it is within the required 100 foot buffer from I93.

Public hearing opened: Abutter Dan Clark has no objections. Public hearing closed.

The board considered the criteria for a variance as follows:

1. *The proposed use would not diminish surrounding property values.*
The porch is not anticipated to devalue surrounding property
2. *Granting the variance would be of benefit to the public interest.*
The public would gain no significant benefit
3. *Denial of the variance would result in unnecessary hardship. Hardship, as the term applies to zoning, shall be met if all three of the following criteria are satisfied:*
 - a. *The zoning restriction as applied to the applicant's property interferes with the applicant's reasonable use of the property, considering the unique setting of the property in its environment.*
This is a unique situation since there is no vegetative buffer occupying the area of the proposed porch. And it is unlikely that there has been for some time since this area serves as the front yard to the house.
 - b. *No fair or substantial relationship exists between the general purpose of the zoning ordinance and the specific restrictions on the property.*

This is a good example where the purpose of the zoning ordinance is unrelated to the proposal.

- c. *The variance would not injure the public or private rights of others.*
The porch is not expected to interfere with the private rights of others.

4. *Granting the variance would do substantial justice.*

Adding the porch would be an attractive component to the house but is not considered a necessity.

5. *The proposed use is not contrary to the spirit of the ordinance.*

The purpose of the ordinance is to “minimize noise, air and visual pollution caused by I 93”. The proposed porch is not expected to impact these factors either way.

Ken Gorrell moved, seconded by Steve Bradbury to grant a variance for Tax Map #48, Lot # 12, located at 48 Summer Street, Paul Mason owner, to construct a farmer’s porch measuring 29’ 9” along the front of the house and 8’ wide, with steps as necessary placed outside the front setback. Motion passed, 4-0.

Thomas & Maureen Parker: Application for a variance to the terms of Article 7, Table 2 to construct a 24’x30’ garage with an 8’ attached car port within the side and front setbacks at 156 Sandogardy Pond Road (Tax Map R8, Lot 57-2 in the Conservation Zone. Keith Murray moved, seconded by Ken Gorrell to accept the application as complete. Motion passed. Tom Parker corrected the measurement as submitted with the south side setback being 24 feet instead of 14 feet. Placing the garage further back from the road would interfere with the circle driveway, remove the garden, impact the septic system and not be aesthetically pleasing. Public hearing opened and closed with no comment. Discussion followed relative to the size of the lots on the pond, the inability to conform to the setbacks, etc. Maureen Parker noted that if they pushed the garage back to 100 feet, it still would not meet the side setbacks and would need a new driveway. Building will be used for vehicles and storing woods, mowers, etc. while cleaning up the yard and removing small sheds. The board considered the criteria for a variance:

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

Placing the garage 40’ from the front of the lot would not appear to diminish the property values of surrounding lots.

2. *Granting the variance would be of benefit to the public interest.*

The general public will gain no benefit.

3. *Denial of the variance would result in unnecessary hardship. Hardship, as the term applies to zoning, shall be met if all three of the following criteria are satisfied:*

- a. *The zoning restriction as applied to the applicant's property interferes with the applicant's reasonable use of the property, considering the unique setting of the property in its environment.*

The 100' front setback was adopted after these lots were laid out. The single-family residential use of the property is considered a reasonable use. Reasonable use does not include a garage.

- b. *No fair or substantial relationship exists between the general purpose of the zoning ordinance and the specific restrictions on the property.*

There is a direct relationship between the zoning setbacks and how they apply to each individual residential lot along this road.

- c. *The variance would not injure the public or private rights of others.*

Granting the variance would not infringe on the rights of other property owners.

4. *Granting the variance would do substantial justice.*

Granting the variance would not be considered substantial justice since a garage is not essential.

5. *The proposed use is not contrary to the spirit of the ordinance.*

"The purpose of the Conservation Zone is to discourage scattered and premature growth and development" (see Sec. 6.1 page 17). The construction of this garage is not contrary to this purpose since this area is already fully developed with a town maintained road.

Ken Gorrell noted that this building does not meet the 250 foot setback requirement from the pond as it is in the Conservation zone. Ken Gorrell moved, seconded by Steve Bradbury to grant a variance of 60' from the front setback, 26 feet from the side setback and 96 feet from the high water point of the pond for Tax Map #R8, Lot # 57-2 located at 156 Sandogardy Pond Road, Thomas and Maureen Parker owners, to construct a storage garage 30' X 24' with an attached 8' carport, with the following condition:

- That the garage can not be used as a residence or apartment.

Dave Lorch clarified that the application referred to the building as "residential" use, meaning that it is not to be a business, but it is important that it not be allowed to be an apartment. Polly Mills Fife asked if the general trend has been to allow people to upgrade their homes on these small lots. Generally, variances have been approved, but not for additional residences. Motion passed, 4-0.

Other: Polly Mills Fife stated that she is concerned about Northfield's commercial industrial zones being located on the aquifers. She plans to make an inventory of existing

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businesses in order to help with future planning. Members agreed this is a good idea and there may be need for suggested zoning changes.

Meeting adjourned at 8:00 PM.

Respectfully submitted,

Eliza Conde, Secretary