

Appeal Board Meeting Summary
Public Hearing
November 16, 2017

Members present: Cathy Blake, Norman Casas, Bob deGroff, Lowell Freiman, Traci Hoffman, James Kearney, Dorothy Sainio, Bob Temple, Peter Drum-town attorney Public: Sheryl Bartlett, David Bartlett, Henry Sainio, Martha Barron, Roland Croteau, Theresa Barron Jones, Susan Mendleson, Diane Vanous

Lowell Freiman called the meeting to order with roll call at 7:00PM.

Dorothy Sainio moved to accept the 10/19/17 summary as written, Cathy Blake seconded, all in favor.

Lowell Freiman asked the Bartlett's if they had received a copy of the notification from DEP. They did receive it via email this afternoon. Lowell stated the Board could go forward with the public hearing and make a decision based on the information or opt out so the applicant can retool their plans to meet DEP concerns would be an option to consider. David Bartlett stated he finds it more feasible to have the house built on the lake side of the road as opposed to the backside because of the lay of the land. Lowell stated the Board will go forward with the public hearing. David asked if DEP had physically gone out to the property or used a map. Bob Temple sent DEP the full packet that everyone has; DEP did not physically see the property.

Lowell Freiman moved into the public hearing outlining the process: Lowell set up sequentially the paperwork that has been submitted, as exhibits, to be in the record – Application #1; Scale Drawing of foundation #2; Floor Plan #3; Subsurface Wastewater Disposal System Application #4; Letter from Scott Edwards #5; Letter from DEP #6; Letter from Dennis McLain. Applicant's will have an opportunity to present all their information (essentially to present the justification for why the variance needs to be granted, covering all the things in the ordinance that is asked to be addressed) in an uninterrupted fashion; the Board and people directly affected (abutters) will have an opportunity to ask for more information or questions of the applicant (please stand and identify yourself for the record); the abutters will have an opportunity to present any information they want to present to the Board; the applicant will have a change to ask the abutter's questions; opportunity for rebuttal statements on both sides about any testimony that has been received; comments from people not directly affected but interested parties. The public meeting will then be closed and then the Board will start deliberations going through the ordinances one step at a time, have discussion and make Findings of Fact whether the applicant does or does not meet the requirements as detailed in the ordinance.

Lowell Freiman reiterated to Sheryl Bartlett that she could explain to the Appeals Board, as best she can, the rational for applying for the variance and how she thinks the request for a variance will be compatible with the ordinances as they are currently written. Sheryl stated she would like to ask the town to consider allowing them to build a house on Washington Pond and not make it 100 feet setback from the lake. If they do that they would have to adjust the road and she

feels that's a hardship, not just for them, but for their neighbors.. Sheryl feels when looking at the property everyone saw the drainage areas and the natural lay of the land, if they put a house there it will be wet. It is not where they want to put the house. They had the house designed with the flood plain in mind and taken great care to make sure it is not going to be an eye sore or out of compliance. David Bartlett stated they met with Bob Temple numerous times. Basically through conversations with him it was decided it was a non-conforming lot. They looked at a number of different scenarios taking the looks of the property in mind and don't want to disturb the road. They do not want a cottage, they want a house. They property has been in the family for fifty years. His parents had a wish to build but were unable to do it financially, time and health wise. They do want to do this in a quality manner. The septic plan was designed to be put in the best place to protect the area and the lake.

Lowell Freiman asked the Board if they had any questions. Lowell confirmed that the land has been in the family for 50 years. When was it switched to the applicant's name? They bought it from David Bartlett's parents in 1997. Over the years how have you utilized the property? David said he and his brother's would go there when they were young and play at the pond, for a few years they had a float on the pond. They did the same with their kids, they couldn't afford to build, go up quite a few times during the summer to enjoy it. Lowell confirmed they would use it recreationally. David said yes. Lowell asked if the road was on their property or owned by a road association. David said it isn't really owned, though there is a road association that was developed, it's a right of way. Lowell asked how far back they would have to build to meet the 100 foot setback. David stated it would have to go to the other side of the road; the road would have to be moved.

Peter Drum asked if the septic system is already installed. David Bartlett said it is not.

Lowell Freiman opened the questioning to the abutters. Susan Mendleson had a copy of Dennis McLain's letter which had been previously added to the record. As she reads the ordinance, the things that can be considered in an appeal for dimensional purposes the very first item says all of these things have to be true; one of these things is that it is not in the Shoreland District. She wonders why this is even considered. Lowell explained the Board is not at that point in the deliberation. At this point any questions are for the applicant. As an architect she does these types of projects, the very first thing she does is a site analysis (survey, setbacks, find boxes where things are allowed to be built); has it been done or considered. David Bartlett stated they grew up in town and are not used to big city where everything is an ordinance. He thinks it's crazy they can't just do what they want with the land, you have to ask permission of everybody. They didn't know the process thus there was no plan it was their idea where to put the house. Lowell stated to go back to Susan's question ultimately this Board will look at everything and decide if it fits with the wording in the ordinances in terms of setbacks. Norman Casas stated the 100 foot setback was not on the sketches.

Diane Vanous confirmed that is was stated the back lot is too wet to build on. David Bartlett said it's a drainage issue which does dry out; not wetland. The applicant was advised to have the building be above the flood plain marker. The back lot would need to be raised up enough to get above the flood plain which could affect the natural drainage. Diane stated the Bartlett's suggested they would put in a culvert to take care of the drainage and build a garage. David said

a garage is smaller than a house and would need less fill. Lowell Freiman asked that the comments be made to the chairman and the applicant will have time for a rebuttal. Diane is concerned about Ordinance 6.3.2 “granting a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties”. The applicants have removed all the trees from the back lot, the lakeshore lot every tree that they can take down is going to be removed. The stakes for the house shows it will be huge in comparison to the size of this property. Diane’s parents bought this property twenty-five years ago because it was private, secluded and in the woods. The whole flavor of the neighborhood is ‘we’re in the woods’. The applicants are proposing to wipe out almost every tree that they can. Diane stated her privacy and seclusion is gone, her parent’s would not have bought this piece of property if it was going to look like it is going to as they propose. She feels it will bring the property values down.

Roland Croteau stated he was looking at the plot plan that was drawn with the person who is going to put the septic in. Currently, the road that runs from the Achorn property through Bartlett’s into Vanous’ property runs straight through. If this house is approved there is no reason why the road cannot be detoured in the opposite direction swerving towards the lake pushing the house backwards which could possibly fit in the plot land within the constraints of the boundaries of all the abutting neighbors. Roland explained his finding to the Board with a map.

Susan Mendleson stated that having the house in the back would be more adaptable to the drainage issue than a garage.

Lowell Freiman moved to ask the abutters to present any other information.

Susan Mendleson stated before she purchased her property the road was changed to put a right of way to her back lot; there is a historic precedence for moving the road.

Diane Vanous stated when she spoke with the Bartlett’s they were going to build a small, two-story house and they had the 100 foot setback that they needed. The cottages around are in keeping with the size of the lots. She doesn’t understand why such a big house is needed for that size lot.

Peter Drum asked if most of the lots about the same size. They are not. He asked how the Bartlett lot compares to the other lots. Diane Vanous stated it’s narrower and deep from the water’s edge. Peter asked how many houses are on Noyes Lane, how many are behind the road away from the lake, and how many are on the lake side. Roland Croteau stated there are about 11 or 12 house all on the lake side. Peter asked if the Bartlett’s house would be the biggest house in the area. Roland stated it’s almost double the size of the other cottages. David Bartlett stated it will be a 1 ½ story home.

Lowell Freiman invited the Board to ask questions.

Dorothy Sainio stated that on the site visit, the Board made, she asked the applicant if they could move the road. The applicant said they couldn’t move the road because they didn’t own it.

David Bartlett said that was a comment that could have been taken out of context. Dorothy said those were his exact words. David apologized for the misunderstanding. David also stated that Bob Temple said moving the road might be a problem with DEP. Bob Temple read the ordinance. There was discussion regarding moving the road.

David Bartlett asked Diane Vanous if they could move the road would she accept her entrance driveway to be closer to the pond. Diane stated she would like to see what he is proposing.

Peter Drum read the criteria the Board will use to determine whether the applicant is subjected to undue hardship. Lowell Freiman stated the Board's deliberation will be going over each of the four points seeing if this does or doesn't meet those. All four need to be met.

Lowell Freiman closed the public hearing. **Dorothy Sainio moved to take a ten minute break, Norman Casas seconded, all in favor.** The meeting reconvened at 8:10pm.

Lowell Freiman stated the Board needs to decide on four major areas from Section 6.4 Standards in Shoreland Areas:

Move that the land in question cannot yield a reasonable return unless the variance is granted; Norman Casas so moved, Dorothy Sainio seconded. Discussion ensued. Vote – 5 opposed; unanimously opposed.

Move that the need for a variance is due to the unique circumstances of the property and not the general conditions of the neighborhood; Norman Casas so moved, Cathy Blake seconded. Discussion ensued. Vote – 4 in favor, 1 opposed; unanimously in favor.

Move that the hardship is not the result of action taken by the applicant or owner; Norman Casas so moved, Cathy Blake seconded. Discussion ensued. Vote- 5 in favor; unanimously in favor.

Move that the granting of the variance will not alter the essential character of the locality; Cathy Blake so moved, James Kearney seconded. Discussion ensued. Vote – 4 in favor, 1 opposed; unanimously in favor.

James Kearney moved to adjourn the meeting at 8:47pm.

Respectfully submitted,

Mary Anderson