

ZONING BOARD OF REVIEW MINUTES

Tuesday, May 26, 2015 Meeting 7:00 pm

Town Council Chambers, Town Hall

Present: Richard Land, Chair; Renu Englehart, Vice-Chair; Ashley Cullion, Jody Sceery, Christopher Mulhearn, Melody Alger (Alternate) and Barry Golden (Alternate).

Staff: Lea Anthony Hitchen, Assistant Town Planner; and Peter Clarkin, Town Solicitor.

Mr. Land, Chair of the Board, called the meeting to order at 7:05 PM and introduced the members and staff present. He then read the Board's procedures into the record. Each person addressing the Board will first state his or her name and address for the record. The applicant and his or her legal representative will present the case and witnesses may be called to testify. Such testimony must be relevant to the application. Expert witnesses will be sworn in and there will be no prejudice as to the expertise of any witness. Pictures, diagrams and other documents given to the Board as evidence will be appropriately marked as exhibits and will be retained by the Board for the record. Upon completion of the applicant's presentation all other persons wishing to offer evidence in favor of the application may then do so one at a time. Following that all persons wishing to offer evidence against the application may then do so one at a time. It is asked that comments are confined to the zoning matter being heard and that repetitive remarks are avoided. Cross examination or rebuttal may be allowed if the Board feels it would be appropriate and useful. All questions from the floor will be directed through the Chair only. After all relevant facts have been heard the Chair will call for a motion; the Board will then discuss the motion and the Chair will call for a vote. During the discussion among voting Board members, the Board will not accept and new and further testimony unless it is specifically requested by a Board member. The Board will make every attempt this evening to render a decision. The written decision will be recorded in the Town Clerk's Office as soon as possible following the approval of the minutes of the meeting.

Zoning Board of Appeal Hearings – 7:00 PM

- 1. Christopher Beaulieu** for property located at 20 David Court; being Map 13 A.P. 19 Lot 254 (Zoned Farming, F-2). The Applicant seeks a Dimensional Variance from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone and Section 8(F) of the same chapter pertaining to the siting of accessory structures. The Applicant seeks to construct a 12'x20' shed within the side setback.

Mr. Christopher Beaulieu of 20 David Court represented the application. Mr. Beaulieu explained he would like to construct a shed on the side of the property. He noted there is a 30 foot side setback requirement and he would like to position the shed so that it is 15 feet from the property line. He explained the shed will be right off the back part of the driveway. Mr. Beaulieu noted the shed will also align with the side of the neighbor's house, to the south, so they do not have a direct view of the shed from their patio. He stated this is an amicable agreement to his only abutter most affected by the shed.

Ms. Englehart questioned the only reason for the positioning in that particular location is so it is not visible to the neighbors. Mr. Beaulieu explained that he was originally going to locate the shed further back in the side yard; he since talked to his neighbor before he went through the zoning process who preferred not to see the structure from his back patio. Mr. Beaulieu took the abutter's comment into consideration and pushed it closer to the driveway so it literally aligns/is adjacent to the abutter's side of the house. Mr. Beaulieu confirmed the south abutter will have no view of the shed.

Ms. Englehart asked what the shed will be used for. Mr. Beaulieu said the shed will be used for utility, to store a snow blower, kid's bikes and lots of miscellaneous stuff.

Ms. Englehart queried if a land survey has ever been done on the property. Mr. Beaulieu answered in the negative but he did submit with the application a plat map but there is no formal survey.

Mr. Land confirmed the application notes the Applicant is seeking 15' of relief but in reality only 10' of relief will most likely be needed; meaning the shed will be 20' from the side property line. Mr. Beaulieu asserted the proposed spot for the shed is ideal as there will be no need to remove maple trees either.

Ms. Englehart asked if there would be any new vegetation planted. Mr. Beaulieu said no.

Mr. Golden queried as to why the shed could not be located within the accessory structure location requirements. Mr. Beaulieu asserted that at the 30' he would have to knock down a tree and it would be closer to the walk-out part of the basement. Additionally the shed would almost block a walking path and he simply did not want the shed in the middle of the backyard. Mr. Beaulieu reiterated the proposed location is the perfect location and it will be right off of the driveway.

Ms. Sceery wondered if there is any chance of placing the shed behind the house so it would not be visible from the street. Mr. Beaulieu noted the shed would have to be positioned in the middle of the yard in order for it to not be visible.

With no further comments from the Board, Mr. Land opened the hearing to the public.

With no public comments, Mr. Land noted in order to be granted a dimensional variance the following standards that must be met:

The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and not the general characteristics of the surrounding area.

The hardship is not the result of any prior action by the applicant and does not result primarily from the desire for greater financial gain.

Granting the request will not alter the general character of the surrounding area or impair the purpose or intent of the Zoning Ordinance or Comprehensive Plan.

The relief to be granted is the least relief necessary.

The hardship suffered by the owner if the variance is not granted shall amount to more than a mere inconvenience, which shall mean there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property.

With no further questions from the Board, Mr. Land asked for a motion.

Mr. Mulhearn motioned to approve the application.

Ms. Englehart commented that due to the southerly neighbor requesting to move the shed closer to the driveway which the Applicant is willing to comply with she does not have as much of a concern as originally anticipated. She did recommend the Applicant obtain a survey of the property line in order to properly delineate it.

Mr. Beaulieu questioned the accuracy of his submitted plat map. Staff commented that the Tipping Rock subdivision is fairly new and is fairly accurate. Mr. Land stated that it is not legally enforceable. It was noted that granite markers can generally be found in a twenty year old subdivision.

Mr. Land stated that because there is no one present to speak against the application, in particular the one neighbor truly effected by the shed, he is more likely than not to vote in favor of the petition but as a general rule his thought is that the application is on the cusp of whether or not this is an appropriate variance for what this Board typically hears. Since there is no one objecting to the application and the Applicant has accommodated the southerly neighbor's request he will be voting in favor.

Seconded by Ms. Cullion.

VOTE: 5 – 0.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the February 24, 2015 meetings.

Motion by Ms. Cullion to approve the minutes of February 24, 2015.
Seconded by Ms. Sceery.

VOTE: 5 – 0.

With conclusion of all business, there was a motion by Ms. Englehart, second by Ms. Cullion to adjourn at 7:15 PM. Motion supported 5-0.

Minutes respectfully submitted by:

Lea Anthony Hitchen,
Assistant Town Planner

For more information, please refer to the recording available in the Planning Department.