

TOWN OF NEW BOSTON

NEW BOSTON ZONING BOARD OF ADJUSTMENT

Minutes of 2021 - Meeting conducted virtually, using ZOOM due to COVID-19 pandemic.

March 16, 2021

The virtual meeting was called to order at 7:00 p.m. by Zoning Board Chairman David Craig. Present virtually were Vice Chairman Kenneth Clinton and regular members Michael Dahlberg and Anthony Olivier. Also present virtually was Zoning Board Clerk Nadine Scholes and Planning Coordinator Shannon Silver. Absent was alternate member Wayne Charest.

David Craig read the meeting preamble as follows,

‘MEETING PREAMBLE DURING COVID-19 EMERGENCY

Good evening, as Chairman of the Town of New Boston Zoning Board, I am invoking the provisions of RSA 91-A:2, III (b) during the current State of Emergency. Governor Sununu has issued Emergency Order #12, pursuant to Executive Order 2020-04, that allows local government and this public body to meet virtually. I am declaring that conducting this meeting is imperative and required in order to continue vital Town government, services and operations.

We have utilized the Zoom platform to conduct the meeting and all Board members will have the ability to communicate concurrently and the public has access to concurrently listen and if necessary, will be given the opportunity to participate in the meeting when opened for public comment.

If anyone has an issue connecting, they should contact Nadine Scholes [REDACTED]
[REDACTED]

Property owners, applicant and direct abutters were given proper notice of this hearing, along with the instructions of how to access the meeting. Public Notice and Zoom access instructions were also posted for public view on the Town website.

To help minimize background noise and provide privacy to everyone, we have started this meeting with all microphones muted and video cameras off. You do not need to turn on your camera to participate in the meeting and we ask that everyone keep their microphones muted unless you would like to speak. Any public comment will need to wait until the meeting is opened to the public and will need full name and address stated for the record.

If anyone accessing this meeting is disruptive, they will be asked to cease the disruptive behavior. Should the disruption continue thereafter, that person will be automatically removed from the meeting.

Please be aware all votes taken during this meeting will be done by Roll Call vote. Let's start the meeting by taking a Roll Call attendance. When each member states their name, please also state if there is anyone else in the room with you during this meeting, under the provisions of the Right-to-know law.'

Roll Call attendance, David Craig present and alone, Kenneth Clinton present and alone, Michael Dahlberg present and alone, Anthony Olivier present and alone, Nadine Scholes present and alone and Shannon Silver present and alone.

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Review and approval of the minutes of December 15, 2020, January 19, 2021 and February 16, 2021.

Michael Dahlberg **MOVED** to approve the Zoning Board of Adjustment meeting minutes, of December 15, 2020, as written, January 19, 2021, as amended and February 16, 2021, as written. Anthony Olivier seconded the motion and it **PASSED**. 4-0, Roll Call Vote - David Craig-yes, Ken Clinton-yes, Michael Dahlberg-yes, Anthony Olivier- yes.

David Craig opened the Public Hearing.

JAY & GINETTE RANFOS (OWNERS)

Application for a Variance

Location: Lull Road

Tax/Map Lot #2/100-10

Residential & Agricultural "R-A" District

Present virtually for the hearing were Jay and Ginette Ranfos, owners of the property, and the applicants.

The applicants presented the variance application for permission to construct a 2 stall, 26' x 28' detached garage within the 20' side setback. Jay Ranfos noted that they have lived in the home since it was built +/- 30 years ago and would have liked to build a garage when the house was constructed but could not afford to at that time. They noted that they had requested from the builder, Bunting Builders, that the house placement on lot be such so they would have enough space to add a garage in the future.

The applicants explained that they had not known there were requirements for side setbacks but when Scott Elliott had recently installed the new septic on their lot, he explained that side setbacks could prevent constructing the garage in the location they desired and would need to apply for a variance from the Zoning Board to permit the structure within the setback.

Jay Ranfos stated that the proposed location of the detached garage would be +/- 5' from the side property line. The applicants noted that abutters homes are barely visible even now without vegetation coverage and the closest abutting residence would be over 200' away from the proposed garage location. There are only a few residences without a garage on Lull Road. They would prefer a detached garage from the main house, the proposed location would be preferred as the site work would be minimal in this location and the existing trees that provide shade would not need to be removed. The applicants explained they were told that even if the garage were attached to the house, it would still be within the 20' side setback and require a variance.

David Craig noted that in order for the Zoning Board to be able to grant a variance, the applicants had to provide specific criteria to prove a hardship, he asked the

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applicants to read the facts to support of granting the variance from the submitted application for the record.

Facts in support of granting the variance:

1. Granting the variance would not be contrary to the public interest:
We sit back up on a hill approximately 250' from road, boundary line between us and the abutting neighbor is wooded.
2. If the variance were granted, the spirit of the ordinance would be observed because:
We have always wanted a 2 stall garage and now have the means to achieve it.
3. Granting the variance would do substantial justice because:
It would increase the value of our property and blend in with the existing homes in the neighborhood.
4. If the variance were granted, the values of the surrounding properties would not be diminished:
We would be increasing the property value to us and our neighbors.
5. Literal enforcement of the provision of the ordinance would result in an unnecessary hardship.
 - A. For the purposes of this paragraph unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - i. *Our house sits approximately 250' away from Lull Road, up on a hill and would not interfere with the public in anyway.*
 - ii. *The proposed use is a reasonable one because: according to the current Zoning Ordinance, the proposed location would be logical for the 2-stall garage.*
 - B. Explain how an unnecessary hardship will be deemed to exist if, and only if, owing special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.
When we had the house built in 1987, we were assured by Bunton Builders, that we had enough room for a detached 2 stall garage per the Zoning Ordinance at that time.

The applicants noted that on the other side of the house was the septic system and the well was outback, these areas would not be feasible for the garage and then out front there were some wetlands and that location would also be difficult to get to the garage from the house.

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The Board discussed the well radius and noted that because the well had been drilled prior to 1989, it would be exempt from the 75' radius from the abutting property line.

Michael Dahlberg explained that when he drove by the property, he believed there would be plenty of room to attach the garage to the house and be within the side setback, not requiring a variance. The applicants noted that would require all the windows on the east side to be removed, losing natural light if they attached the garage to the house. The applicants reiterated that they were told even if the garage were attached, it would still be over the 20' side setback.

Michael Dahlberg noted that the plan/sketch submitted with application does not appear to properly show the proposed 26' x 28' garage to scale, the existing kennel is almost the same size as the sketch of the garage.

Ken Clinton asked the applicants if the plan used to sketch the proposed garage location was the septic plan recently created when the new septic was installed. The applicants replied yes. Ken Clinton explained that property lines on septic plans are usually approximate and he would question the actual distance from the surveyed property line. He agreed with Michael Dahlberg regarding the proposed garage not being shown on the plan to scale, the sketched size would only be 14.5' x 22', based on the scale of the plan, and he stated the application requesting a variance for the garage approximately 5' from the property line but as sketched, would be +/- 3' from the property line based on the scale. Ken Clinton stated that the application for the variance to reduce setback distance requirements was inadequate as presented. Further, he also agreed with Michael Dahlberg that there could be enough space within the setbacks for the garage attached to the east side of the house where the existing patio was shown. Ken Clinton said the variance application and exhibits as presented would not meet the criteria for a hardship in order for the Board to grant a variance.

The applicants explained that the patio shown on the plan is now an addition to the house to expand the kitchen.

The Board confirmed that the plan submitted does not accurately identify what is existing on the lot and explained that an accurate plan would be needed before the Board could make a decision on the variance requested. David Craig explained that a variance application had certain criteria that would need to prove a hardship. He noted that in order to continue with the variance application, a surveyed to scale plan would need to be produced and submitted in order for the Board to make a decision on the requested variance. He said that the Board could not guarantee that the variance would be granted if the applicants decided to continue the hearing to allow time to produce the plan requested, if the Board agreed that there is enough space on the lot for the garage in another location and within the setbacks, then that would not meet the hardship criteria for granting a variance.

The Board discussed how long the applicants would need in order to produce the surveyed plan requested and continuing the hearing with the applicants. It was agreed that the hearing would be continued to May 18, 2021.

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David Craig recommended the applicants request that the engineer/surveyor they use to create the plan, attend the May 18, 2021, hearing, to help justify the proposed location.

Ken Clinton noted that the applicants would only need the property line on the east side surveyed and the survey plan should also show the existing footprint of the house including the 10' x 13' addition. The Board could also make the determination that the proposed 26' x 28' garage would fit within the setbacks if the size were reduced or attached to the house, and deny the variance based on the fact the garage would fit if reconfigured.

The applicants asked if the design of the proposed garage should be provided. The Board replied that would be helpful if able for the continued hearing.

Ken Clinton **MOVED** to continue the hearing to May 18, 2021, at 7:00 p.m. Michael Dahlberg seconded the motion and it **PASSED**. 4-0, Roll Call Vote - David Craig-yes, Ken Clinton-yes, Michael Dahlberg-yes, Anthony Olivier-yes.

David Craig noted that if the applicants decided to not proceed with the application, they could submit a written request to the Planning Department to withdraw the application prior to the May 18, 2021, meeting. The applicants thanked the Board.

David Craig asked what happened with the Merva Properties, LLC special exception application that had been withdrawn. The Planning Coordinator, Shannon Silver replied that they have decided to proceed with the site plan application for the office use for their own operations and they understand if a tenant propose a use that will require a special exception, they would need to apply to the Zoning Board.

There was no other business to discuss.

Anthony Olivier **MOVED** to adjourn at 7:51 p.m. Michael Dahlberg seconded the motion and it **PASSED** unanimously.

Respectfully submitted,
Nadine Scholes, Zoning Board Clerk

Minutes Approved: 4/20/21