

TOWN OF NEW BOSTON

NEW BOSTON ZONING BOARD OF ADJUSTMENT

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

April 20, 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. Absent were alternate member Wayne Charest and Planning Coordinator Shannon Silver.

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.

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Review and approval of the minutes of March 16, 2021

Michael Dahlberg **MOVED** to approve the Zoning Board of Adjustment meeting minutes, of March 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.

Election of Officers

Michael Dahlberg nominated David Craig as the Chairman, Kenneth Clinton as the Vice Chairman and Nadine Scholes as the Clerk. All accepted the nomination.

Michael Dahlberg **MOVED** to approve David Craig as Chairman, Kenneth Clinton as Vice Chairman, and Nadine Scholes as Clerk, as nominated. 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.

SEAN & KRISTEN MITCHELL (OWNERS)

Application for a Variance

Location: Middle Branch Road

Tax/Map Lot #2/20

Residential & Agricultural "R-A" District

Present virtually for the hearing were Sean and Kristen Mitchell, owners of the property, and the applicants.

The applicants presented the variance application, for permission to replace an existing shed within the 20' side setback. Sean Mitchell presented the application as follows:

A variance is requested from Article II, Section 204.4 of the Zoning Ordinance to permit a 14' x 20' shed (replacing existing 8' x 10' shed) within the side setback on a non-conforming lot of record. The Zoning states that a shed needs to be a minimum of 20' from the property line. Due to the lot size of 0.43 acres, we are limited in location options. The existing shed was put in an ideal location, but is only 5' from the property line. We are looking to replace the existing shed with a new one, in the same location. Our abutting neighbor has already given permission. Abutter, Emerito Rolon, 244 Middle Branch Road (Endorsed application in applicants favor)

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SEAN & KRISTEN MITCHELL, cont.

Facts in support of granting the variance:

1. Granting the variance would not be contrary to the public interest:
The shed would be located on the back of our property - opposite from the street and public eye.
2. If the variance were granted, the spirit of the ordinance would be observed because:
Our small property and house was perfect when my wife and I first moved here. Now our family of four (4) is running out of room. We need more space to store outside toys, yard equipment, a work bench, etc. This would also free up space in our basement.
3. Granting the variance would do substantial justice because:
It would increase the value of our property and free up much needed space in our small house.
4. If the variance were granted, the values of the surrounding properties would not be diminished:
We would be increasing the property value with a well designed, beautiful shed from a local manufacturer.
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 shed would be out of the public's eye. The only neighbor who would see the shed has already given his permission.*
 - ii. *The proposed use is a reasonable one because: Our property is small, 0.43 acres. This would replace an existing shed and improve our storage ability for outdoor toys, yard equipment, etc. It allows for easy access and is an ideal spot.*
 - 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.
A shed has been in this location for +15 years, we only wish to replace and extend further into our property. The old shed is deteriorating, and we have never had complaints about the location.

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SEAN & KRISTEN MITCHELL, cont.

Sean Mitchell noted they placed backyard items in other areas of the backyard based on the existing shed location, if the shed were moved to within the 20' rear and side setbacks, it would be right in the middle of their very small the backyard. Total lot size is 0.43 acres.

David Craig asked who the abutter was that signed off on the application for his approval. The applicants noted they knew him as Tony but didn't know his full name off memory. Nadine Scholes noted the abutter was Emerito Rolon, 244 Middle Branch Road. David Craig asked if Mr. Rolon had contacted the office. Nadine Scholes replied no, she had not heard from any abutters regarding this application.

David Craig asked some questions about the sketch submitted with the application and where did the plot plan that was used come from. The plot plan had been provided by the Town office to the applicants to use for the hearing. David Craig asked the applicants to explain why the shed had to be in the same location of the existing shed within the side setback. The applicants stated that the ground is most level where the existing shed sits and if the shed were moved, it would be more difficult to access, there would be necessary site work to remove the trees, shrubs and boulders that are in the backyard. The lot is extremely small, if the shed had to be within the setbacks, they would lose what they have for a backyard.

David Craig asked if the new shed would be the same size as the existing shed. Sean Mitchell replied that the new shed would be larger. The existing shed is 8' x 10' and proposed replacing with a 14' x 20' shed. He noted the new shed would be place exactly where the existing shed is along the abutters property line so it would not be any closer to the property line than it was currently. The new shed would protrude further onto their property. The only difference between the old shed and the new size from the abutters perspective, would be the width increasing by 6' along the property line.

David Craig asked if the applicants knew what kind of foundation is under the existing shed. The applicants replied they were unsure what was under the shed, they believe it could be dirt or crushed stone. David Craig asked what would be used for the foundation of the new shed. Sean Mitchell said they would put it on some type of foundation that would keep it off the ground, they most likely would use blocks or sonotubes.

Kenneth Clinton asked how it was determined that the existing shed is 5' off the property line. Sean Mitchell said he measured the property line using the property markers he found. Kenneth Clinton noted that the proposed shed is 3x larger than the existing shed and he was not sure if the abutter understands the size proposed compared to what is existing. Kenneth Clinton stated that the sketch submitted does not appear to accurately show the size of the new shed, it should extend past the 20' setback line, drawn to scale. Kenneth Clinton noted that he understood the applicants need for the larger shed, but he believed there would be enough room to shift the shed westerly and not

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enough evidence had been provided to prove the existing shed is 5' from the property line, he would not be comfortable granting the variance based on these facts. The applicants described the characters and obstructions in the backyard within the setbacks that would make it difficult to relocate the shed.

Anthony Olivier asked if the shed could be located closer to the edge of the driveway. The applicants explained that the leech field is in that area and they had a playset put in that location.

Michael Dahlberg said he pulled up Google Earth and can confirm there are obstructions in the backyard and recommended if the Board granted the variance that approval be conditioned that a certified plot plan be created by a licensed surveyor certifying that the existing shed is in fact 5' from the property line. David Craig added that if the shed is found to be further than 5' from the property line, the new shed shall be placed no closer than the existing shed.

Kenneth Clinton noted although he was not in favor of granting the variance, he recommended the motion made included the condition that the setback be the east side of the existing shed or 5' from property line, whichever is greater.

Michael Dahlberg **MOVED** to grant the Variance to permit replacement of an existing shed within the 20' side setback, on a pre-existing, non-conforming lot, subject to:

CONDITIONS:

1. This approval is granted for replacement of an existing shed within the 20' side setback. The replacement shed shall not be any closer to property line than the existing shed or at least 5' from said property line, whichever is found to be greater.
2. The applicant is responsible to have the property line surveyed before the existing shed is removed to determine the current distance from the existing shed to the property line as set out above.

Anthony Olivier seconded the motion. The motion **PASSED**. 3-1, Roll Call Vote: David Craig-yes, Michael Dahlberg-yes, Anthony Olivier-yes, Kenneth Clinton-no.

There was no other business to discuss.

Anthony Olivier **MOVED** to adjourn at 7:57 p.m. Michael Dahlberg seconded the motion and it **PASSED** unanimously.

Respectfully submitted,
Nadine Scholes, Zoning Board Clerk

Minutes Approved: 06/15/21