

TOWN OF WEBSTER, NEW HAMPSHIRE
Zoning Board of Adjustment
945 Battle Street/Rte. 127
Webster, NH 03303
Tel. (603) 648-2272

Zoning Board of Adjustment Minutes March 19, 2013

CONTINUED FROM FEBRUARY 19, 2013 PUBLIC HEARING:

Case No.: 13-01 Original Application from Susan D. Panilaitis et al c/o Benson, for a Variance from Article IV Section 4. (A), (B), & (C) of the Webster Zoning Ordinance. Applicant proposes to raze current dwelling and construct a replacement dwelling not being able to meet the setbacks. This property is a pre-existing non-conforming lot located at 118 Westwind Village Road, tax map 13 lot 4.

(NOTE: Included with the application was a two page 22" X 17" Site Plan)

Members present: Chairman Marty Bender, David Barnes, Bob Drown, Jr. and Barbara Corliss; Alternate Member, Dee Blake, who was appointed as a voting member due to the absence of Member Don Koberski. Member Corliss was acting Secretary due to the absence of Alternate Jaye Terrazzano.

7:05 pm: Chairman Bender convened the meeting. Acting Secretary, Member Corliss took attendance.

7:06 pm: Chairman Bender opened the continued the public hearing from February 19, 2013. He asked Mr. Moser, agent for the property owners, for their decision.

Mr. Moser presented a revised site plan to the board. The existing cottage is 13.2 feet from the property line. The proposed new cottage would be 13.3 feet from the property line abutting Dr. Berryman and no closer than 25 feet from the property line abutting the property owner's other lot on the opposite side.

Member Corliss asked if this would still require a variance. Chairman Bender stated that it did not; the application was now for a special exception. Member Corliss asked for clarification regarding the footprint of the old building vs. the dimensions of the new building. Mr. Moser stated that the footprint of the building was different. Chairman Bender pointed out that the current setback on the easterly side is 31.9 feet and the revised plan proposes that setback to be 25 feet, which can be done by a special exception rather than a variance. Member Corliss asked about the height of the building because the proposed building includes four bedrooms, whereas the current building is a two bedroom cottage on one level. At this time, Mr. Dean Anderson, builder, stated the

proposed building would be similar to the building on the owner's abutting lot which is a cape style with a walkout basement and a full dormer. Chairman Bender stated that the Town's Zoning Ordinance says nothing at all about height. At this time, Dr. Berryman, an abutter, asked to look at the revised site plans. He then asked the Board if this was now a special exception instead of a variance. Chairman Bender stated yes, this is now a special exception. Dr. Berryman then cited the clause in the Zoning Ordinance about granting special exceptions with existing violations that would need to be corrected. He clarified that the Board did not consider the 13.2 feet an existing violation because it was "grandfathered". Member Drown stated that was correct because the building was already there. Chairman Bender stated it had been built before zoning and as long as the proposed building stays within the same footprint, one can build in the same spot. Dr. Berryman stated that the proposed building was not on the same footprint. Chairman Bender stated not exactly, however, the expansion from 32 feet to 25 feet meets the setback requirement for a special exception under the Zoning Ordinance. Member Drown stated that if the applicant had proposed to build on the existing footprint, then there would be no need to come before the Board at all. Dr. Berryman agreed and stated that is what he did. At this time, Mr. Moser asked the Board if the applicant could have some flexibility with expanding the lakeside portion of the deck a few feet. Chairman Bender stated that was not under the Board's jurisdiction and the applicant would have to go to DES for the Shoreline Protection Permit. Mr. Moser stated they would be applying for a revised permit. Mr. Moser stated that DES's main concern is the impervious footprint. A brief discussion ensued.

At this time, Chairman Bender asked for any input in favor of the application, there was none. He asked for input in opposition other than what Dr. Berryman had already mentioned. Dr. Berryman stated that his primary concern was the fact that they cannot overcome the "grandfathering" of the 13.2 feet setback, because the Board does not consider that an existing violation.

7:21 pm: Chairman Bender closed the testimony and opened up the hearing for Board discussion. Member Drown, Jr., stated that he understood Dr. Berryman's concerns, but unfortunately, the Board's hands are tied with regards to what can be done with property in existence before zoning. Member Corliss made a motion to approve the special exception; seconded by Member Barnes. A vote was taken: Chairman Bender – in favor; Robert Drown, Jr. – in favor; David Barnes – in favor; Barbara Corliss – in favor and Dee Blake – in favor. The vote was unanimously in favor. At this time, Mrs. Larson, the Town's Planning and Zoning Board Secretary, reminded the Mr. Moser, agent for the applicant, that when the time comes, they will need to apply for a Building Permit.

7:25 pm: The first public hearing was adjourned.

**Case NO. 13-02: Application from Kevin Culpon for a Special Exception
Under Article V Section 2. of the Zoning Ordinance
to operate a home business. The property is located at
776 Battle Street, Webster, NH in the residential/agricultural zone;
Tax map 5 lot 32-1.**

7:26 pm: Chairman Bender opened the public hearing. Acting Secretary, Member Corliss, took attendance and then read the application. Chairman Bender explained the procedure to the applicant, Mr. Culpon, and then invited him to address the Board. Mr. Culpon stated that he would like to establish an internet based retail home business similar to “amazon.com” or “e-bay” to sell hunting, fishing gear, sporting goods, etc. His wife would also be selling purses, with a small amount of stock in their home. He stated he would be working out of a small portion of his basement using a computer. Products for his business would be ordered on line and shipped directly from a warehouse to the customer; Mr. Culpon would be the “middle man”. Member Barnes asked if he was going to ship weapons. Mr. Culpon stated no. His plan is to sell fishing flies, bird calls, camping gear, etc. Chairman Bender stated that the Board usually inquires about hours of operation for home businesses, but he did not think that would apply in this case if Mr. Culpon was not going to have customers coming to his house. Chairman Bender stated that he appreciated that Mr. Culpon asked for the special exception. A brief discussion ensued. Mrs. Larson informed the Board that Mr. Culpon now has to apply to the Planning Board for a Site Plan Review. Chairman Bender suggested that Mr. Culpon attend the Planning Board meeting on March 21, 2013 and ask them to waive their application for the Site Plan Review. Mr. Culpon will put his request in writing for Mrs. Larson to give to the Planning Board. Mr. Culpon will also attend the meeting to explain his request directly to the Board.

At this time Chairman Bender asked for any input from the public in favor of the application; there was none; was there any input in opposition; there was none.

7:40 pm: Chairman Bender closed the testimony and opened up the hearing for Board discussion. Member Barnes made a motion to approve the Special Exception for a Home Business; seconded by Acting Member Blake. A vote was taken: Chairman Bender – in favor; Robert Drown, Jr. – in favor; David Barnes – in favor; Barbara Corliss – in favor and Dee Blake – in favor. The vote was unanimously in favor.

7:45 pm: The public hearing was adjourned.

At this time Member Corliss made a motion to accept the February 19, 2013 minutes as written; seconded by Acting Member Blake and passed unanimously.

7:46 pm: The meeting was adjourned.

These minutes were approved as written at the ZBA meeting June 11, 2013.

Respectfully,

Jaye Terrazzano
ZBA Secretary

Approved as Written