

Walpole Zoning Board of Adjustment
Wednesday, July 17, 2021
Town Hall
7 pm

Roll Call: Board members present were Chair Tom Murray, Vice-Chair Dave Edkins, Clerk Pauline Barnes, Shane O’Keefe, alternates Myra Mansouri and Don Sellarole. Absent: Board member Tom Winmill.

Call to Order: Mr. Murray called the meeting to order at 7 pm and asked alternate Mansouri to fill in for the absent board member. She agreed.

Minutes: Review minutes of June 2024: Corrections: On page one second to last paragraph. Tractor Supply sign is 3.1 feet by 10 feet conforming to Articles IV D-1 and 6. Page 2 paragraph 8 remove “d” from word “issued” and in the next paragraph change 3 nays to 3 yeas.

The statute at the top of page 3 is RSA 33-A: 5-a. This was the entire statute read at the June meeting by Ms. Barnes. It says “Electronic municipal records listed on the disposition and retention schedule of RSA 33 A:3-a that are to be retained for 10 years or less may be retained solely electronically in their original form if so approved by the municipal committee responsible for the records. The municipality is responsible for assuring the accessibility of the record of the retention period. If the records retention period exceeds 10 years or the municipal committee does not approve retention of the record solely electronically in an approved format, the records shall be transferred to paper, microfilmed or stored in portable document format/archival (PDF/A) or another approved file format on a medium from which is is readily retrievable.”

Mr. O’Keefe made a motion to approve the minutes as amended. Ms. Barnes seconded the motion and the motion passed with four yea votes. Mr. Edkins abstained because he was not present at the June meeting.

Public Hearing for Appeal for a Variance

Cathy Robinson, her sister Jill Robinson, and Melanie Zwolinski .

Ms. Zwolinski presented an illustration of the house with the addition of a porch and handicap accessibility ramp in front of the porch. She pointed out the garage, mud room with an entry to the house, stairs to the 41.2-foot-by-12-foot porch on the front of the house as well as a ramp that goes up to the porch and is approached from an asphalt driveway to the west side of the property. There is a lawn in front of the house.

Mr. Murray opened the public hearing for an appeal for a variance by Cathy Robinson, 105 North Road, Map 22, Lot 14 in the Residential A district. Mr. Murray said the application is complete. Mr. Edkins asked the secretary if the abutters had been notified. She replied yes saying that all abutters returned and had signed the return/receipt certified letter card and notification of the public hearing was placed in The Keene Sentinel on June 29. The variance was for a handicap accessible ramp and

porch that was too close to the road – zoning ordinance Article V, Section D (2) Land Standards, Yard Requirements.

“No building may be erected closer than sixty-five (65) feet to the center of the abutting right-of-way¹

nor closer than twenty (20) feet to any side or rear property line.” The house, built in 1965, was 62 feet from the center of the road and with the addition of the porch would be 51 feet from the center of the road.

Ms. Jill Robinson, who also resides in Walpole, read the questions and answers aloud on the variance application. Ms. Robinson said she had never been in her sister’s house on North Road and she thought there were only two residences that she knew of that had handicap accessibility.

A variance is requested from article V section D (2) of the zoning ordinance to permit construction of a front porch and ramp within the center line setback from North Rd.

Facts in support of the granting the variance:

1. Granting the variance would not be contrary to the public **interest** because:

Rather than contrary to the public interest, this project is instead in the town’s interest in promoting the health, safety and general welfare of it and/or disabled residents and all their friends and family. There is a shocking dearth of wheelchair accessible housing in town. This project will take a tiny step toward improving that situation. There will remain ample room for town activities (plowing and utility maintenance, for example.)

2. If the variance were granted, the **spirit** of the ordinance would be observed because:

The town’s interest allowing our seniors to age in place is also enhanced by however a modest increase in accessible housing. Often aging people who acquire a mobility disability stay in homes they cannot get in or out of without a strong, able companion to deal with entry stairs. This is dangerous to all concerned. Accessible entries are a necessary first step to the safety that would allow seniors to age in place. Also, we look forward to enhancing our community connections sitting on our front porch, visiting with neighbors as they pass by.

3. Granting the variance would do substantial **justice** because:

The answer is personal ... it would allow my sister, Jill Robinson, to visit me in my home. That alone is sufficient, but in addition, she knows of only four houses in town that she or others

similarly situated can enter. One more is not much, visiting friends and family, attending meetings, taking meals and medicines to acquaintances in need.

4. Granting the variance will not diminish the values of the surrounding properties because:

The project includes a thorough update of the exterior, including the siding and windows. These, together with the front porch and ramp (which needs to connect to a paved surface), will enhance the appearance of the house and add value.

5. Unnecessary Hardship

a. Owing to the special conditions of the property that distinguish it from the other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and specific application of the provision to the property because:

2.

As you know, Section 674.33 (V) of the NH Statutes allows you to grant a variance from the terms of a zoning ordinance without finding a hardship when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use a premises.

Before the hearing was closed Ms. Zwolinski said she too was glad of the addition of the ramp as she has had two knee replacements.

The hearing was closed and Mr. Murray asked the board what their thoughts were regarding the answers to the five criteria. Ms. Barnes said the handicap accessibility ramp up to the porch is needed and without it it would violate the basics of the zoning ordinance. It would not alter the character of the neighborhood and it would be a loss to the individual's substantial justice if it were denied. Mr. Murray said that the answers to variance criteria were well-written and the porch enhances the value of the property and is an asset to their situation. The wheelchair ramp across the front of the porch is needed. Mr. Edkins said the first three questions were answered properly and fulfills the conditions of the criteria. The property will be enhanced and no abutters came to the meeting to object. There will

be no impact on neighbors. He read the following from the NH Planning and Land Use manual about variances.

674:33 Powers of Zoning Board of Adjustment

“(a) The zoning board of adjustment shall have the power to:

“(1) Hear and decide appeals if it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16; and ordinance

“(2) Authorized, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:”

Listed are the five criteria.

“(b)(1) For purpose of subparagraph I (a)(2)(E) “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area.

“(A) No fair and substantial relationship exists between the general public of purposes of the ordinance provision and the specific application of that provision to the property: and application of that provision to the property: and

“(B)The proposed use is a reasonable one.

“(2) If the criteria in subparagraph (1) are not established, an unnecessary hardship will be deemed to exist if. And only if, owing to special condition of that 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.

“ In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance, that the variance shall survive only so

long as the particular person has a continuing need to use the premises.” However, Mr. Edkins said, that he wasn’t recommending that.

3.

End of Mr. Edkins reading from the manual.

Mr. O’Keefe said he had no reason to object to granting the variance. Ms. Mansouri also agreed with what everyone else said, adding that the ramp to the porch was a solution to their situation.

Mr. Edkins made a motion that all of the five criteria were answered satisfactorily and that the variance be granted. Ms. Mansouri seconded the motion and the motion carried unanimously. The applicants left the meeting.

Fact Sheet: Mr. Murray gave the secretary a fact sheet regarding the Tractor Supply approval of signage and asked her to put it in the file.

Joint Meeting with SWRPC and Planning Board: Mr. Murray reminded the board of the upcoming meeting on Tuesday, July 23 at 7 pm in the Town Hall.

Adjournment: Mr. Murray asked for a motion to adjourn. Mr. O’Keefe moved the motion. The motion was seconded by Mr. Edkins and passed by the rest of the board. The time was 7:42 pm.

These minutes are unapproved and will be reviewed at the August 2024 regular meeting for corrections.

Respectfully submitted,
Marilou Blaine
ZBA Recording Secretary

cc: ZBA. WPB, Town Offices, The Walpolean.

Posted: Inside the Town Offices, on the bulletin board outside the Post Office, www.walpolenh.us

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