

A

Town of Bedford
July 16, 2019
Zoning Board of Adjustment
Minutes

regular meeting of the Bedford Zoning Board was held on Tuesday, July 16, 2019 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH.

Present: John Morin (Chair), Kevin Duhaime, Melissa Stevens, Len Green (alternate member – voting this evening), David Gilbert (alternate member – voting this evening), Karin Elmer (Planner 1)

Absent: Gigi Georges (Vice Chair), Sharon Stirling, Neal Casale (alternate member)

Chairman Morin called the meeting to order at 7:00 p.m. and introduced members of the Board.

Approval of Minutes: June 18, 2019

MOTION by Mr. Green to approve the minutes of the June 18, 2019 meeting of the Bedford Zoning Board of Adjustment as written. Mr. Gilbert duly seconded the motion. One abstention: Mr. Duhaime. Vote taken - all in favor. Motion carried

Applications:

Chairman Morin reviewed the rules of procedure and swore in the applicants (there were no other members of the public present to testify).

- 1. Chow-Weng & Gloria Chong (Owners)** – Requests for a variance from Article III, Section 275-22 and Table 1, in order to permit the construction of a 24 ft. x 32 ft. storage building 10.0 feet from the side property line where 25 feet is required at 14 Swan Ave, Lot 43-89, Zoned GR. (*Continued from June 18, 2019*)

Mr. Chong provided a briefing of what has changed in their application since the last Zoning Board meeting and provided a revised survey map. The original structure was 10 feet from the setback. They rotated structure so it aligns with the front of the house (one will not be at an angle as it was originally). They have also moved the structure to the back of the existing house. Looking from the street one would have a very difficult time seeing it. The setback is now 12-16 feet back which was achieved by angling the building. Mr. and Mrs. Chong believe they have gone as far back as they possible can in terms of proximity to the septic tank. This was verified by the surveyor using town records. Mr. Chong stated the setback requirement is 10 feet from the septic tank and leach field. They have also reduced frontage of the proposed structure from 24 feet to 22 feet, and a depth of 32 feet remains. The roofline will now match the height of the existing home's roofline which is approximately 14-15 feet high.

Mr. Chong reviewed the criteria for the variance:

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

Mr. Chong stated the architecture and dimension would be in keeping with the Existing house.

(1) Whether granting the variance would alter the essential character of the locality:

Mr. Chong stated granting of the variance would not alter the essential character of the neighborhood.

(2) Whether granting the variance would threaten public health, safety or welfare:

Mr. Chong stated granting of the variance would not threaten public health, safety or welfare.

2. The spirit of the ordinance is observed because:

Mr. Chong stated the spirit of the ordinance would be observed because the setback of all abutters, except for #20, would be in compliance. The minimum setback of #20 would be 12 feet and increase as the building would be angled to match the existing house.

3. Granting the variance would do substantial justice because:

Mr. Chong stated that granting the variance would do substantial justice because it would provide storage space for when Mr. and Mrs. Chong downsize from their current property and would also provide storage space for outdoor furniture from #14 which is currently located at #20.

4. The values of the surrounding properties will not be diminished for the following reasons:

Mr. Chong stated that the values of the surrounding properties will not be diminished for the following reasons: The proposed structure would increase the value of the property, and in turn, that of the neighborhood as a whole.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:

Mr. Chong stated that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because the lot sizes are small in size making it difficult to meet setbacks. There is also a row of large pine trees on the side on which #20 is located that would obscure the proposed structure from #20.

(A) Denial of the variance would result in unnecessary hardship because

Mr. Chong stated that denial of the variance would result in unnecessary hardship because the proposed structure would be located in the rear of #14 and that of all abutters, as a result the public welfare would be unaffected.

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

(ii) The proposed use is a reasonable one because:

Mr. Chong stated the proposed structure is a reasonable one because it would allow for needed storage when the homeowners move into #14 at retirement.

Chairman Morin opened the floor for questions from the board. Chairman Morin indicated that Mr. Chong stated the changes were: A bit narrower of a building (by a couple of feet) and that building was pushed back and aligned with the existing house, and the roofline was dropped.

Mr. Gilbert noted that the proposed shed's distance to the septic was as close as they could get, and angling it to match made sense to him. To him the key is not getting too close to the septic tank and he feels they don't have many choices.

Ms. Stevens asked if the garage doors on the structure had been discussed. Mrs. Chong indicated that a shed door would be used. Ms. Stevens asked if there would be an additional driveway going into the shed. Mrs. Chong indicated there would not be a driveway.

Mr. Duhaime asked a procedural question: "If they get into excavation and the septic is 8 feet away and that puts them at 10 feet to the variance..." Ms. Elmer interjected and said if they get any closer to the property line than what has been approved, they have to come back to the Zoning Board of Adjustment (ZBA). They can always go further away from the property line but they cannot get closer without coming back to the ZBA. Chairman Morin indicated their requirement would be the 16.4 feet and 12 feet from the side of the property line – so that is what would have to be maintained.

There was no one from the public attending the meeting or wishing to speak regarding this application for a variance.

MOTION by Mr. Green to go into non-public input for deliberation purposes. Mr. Gilbert duly seconded the motion. Vote taken – all in favor. Motion carried.

Chairman Morin reviewed the criteria for granting of the variance.

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

**** NO AUDIO on tape or televised meeting.****

(1) Whether granting the variance would alter the essential character of the locality:

(2) Whether granting the variance would threaten public health, safety or welfare:

Mr. Duhaime indicated that the applicants made efforts to match the existing structure, and Chairman Morin indicated that the applicants have worked with the Zoning Board.

2. The spirit of the ordinance is observed because:

Chairman Morin indicated the applicants are making sure there is enough of a setback from the property line and the Zoning Board understands these are small lots. The spirit is to make sure there is enough space on sidelines and borders of the property and the applicants have worked to create more space and have shifted things around to try and hide the proposed structure as best as they can.

3. Granting the variance would do substantial justice because:

Mr. Duhaime said it would allow storage for a small lot.

4. The values of the surrounding properties will not be diminished for the following reasons:

Chairman Morin noted the Zoning Board heard no expert testimony to the contrary nor anything from the public or abutters.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:

Chairman Morin indicated the property is located in an old part of town with smaller areas with not a lot of buildable space making it very challenging to put things up.

(A) 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 the specific application of that provision to the property because:

Chairman Morin indicated no public attended to speak out, so he is guessing that it is not going to bother the public, especially the abutters that are involved who might see it.

(ii.) The proposed use is a reasonable one because:

Chairman Morin indicated the proposed use is a reasonable one, because it is reasonable to have a shed/garage type structure in the backyard for storage.

MOTION by Mr. Duhaime that the Zoning Board of Adjustment approve the application from Chow-Weng and Gloria Chong on the request for a variance from Article III, Section 275-22 and Table 1, in order to permit the construction of a 22 foot x 32 foot storage building, 12 feet and 16.4 feet from the side property line where 25 feet is required at 14 Swan Ave. Lot 43-89, Zoned GR per our deliberations. Ms. Stevens duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Mr. Gilbert to move out of deliberations on this variance application. Mr. Duhaime duly seconded the motion. Vote taken – all in favor. Motion carried.

The next meeting will take place on August 20, 2019.

Adjournment

Motion by Ms. Stevens to adjourn the meeting at 7:15 p.m. Mr. Gilbert duly seconded the motion. Vote taken – all in favor. Motion carried.

Respectfully submitted,
Tiffany Lewis