GILFORD ZONING BOARD OF ADJUSTMENT

MINUTES

OCTOBER 12, 2021

 **CONFERENCE ROOM A**

**7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Tuesday, October 12, 2021, at 7:00 p.m. in Conference Room A of the Gilford Town Hall and via GoToMeeting.

Chairman Bill Knightly led the Pledge of Allegiance.

Members present were Chairman Bill Knightly; Vice Chairman Larry Routhier; Regular members Andy Howe, Scott Davis, and Adrianna Antonopoulos; and Alternate member Kevin Hayes.

Also present were Sandra Hart, Technical Assistant; Daniel Tousignant, Building Inspector/Code Enforcement Officer; and Laura Spector-Morgan, Town Attorney.

B. Knightly stated that the only rule that he has is that when you wish to speak come over to the microphone.

**1. Applications**

 **1.1** **Stones Throw Realty, LLC**

 **Application #2021000355** - A Variance is being requested from Article 5. Dimensional Regulations, Article 7. Off-Street Parking, Article 17. Architectural Design Standards, 5.2 Special District Standards, 5.2.1 Island and Shore Frontage District (a) Section 5.3 Building Standards, 5.3.1 Building Heights to construct a new building. The property is located at 40 Weirs Road, on Tax Map & Lot #223-539.000 in the Resort Commercial (RC) Zone. *Tabled from the August 24, 2021 meeting.*

Presentation

Christopher Drescher of Cronin Bisson & Zalinsky P.C., William Hannon of RWH Architect PLLC, and owner Ron Allen were present.

Motion made by A. Howe, seconded by L. Routhier, to take the application off the table. Motion carried with all in favor.

C. Drescher stated with regard to the FAA approval, they were told that if they reduce the building down to 30 feet in height that it would be an automatic yes for an approval, so we have done that. E said they were working on the parking agreement with Bart Jeffreys of Sports and Marine Parafunalia but unfortunately, they have several owners and cannot agree on a parking agreement. C. Drescher

said as fate would have it, the applicants are new owners of the Sawyers Dairy down the street, so they are think of providing a valet service. He said that is an option they have come up with to present to the board. C. Drescher said that he had drafted an easement for the board to see.

C. Drescher said that if they could put the parking lots together, they would be 15 parking spaces short of the required number, clarifying that that is taking into consideration the extra parking at Sawyers. C. Drescher said that his client could go on record to say that the Sawyer’s site is not busy in the evening. He said this is all subject to discussion and would have to go for Planning Board review. C. Drescher said that Mr. Jeffreys continues to offer the use of their parking lot, but they can’t have an agreement based on that. C. Drescher said they have reduced the building height to 30 feet, so they are only asking for a five (5) foot height variance. He said they lost a floor, which did soften the parking issue because they will be catering to a smaller group.

W. Hannon displayed the plans showing the changes. He stated that because they are removing one floor, they will have the kitchen on the main floor and the seating on the upper floor, and that they are looking to expand the back of the building into the parking lot. He said the total footprint is 5,880 sq. ft. and the second floor will have 282 seats. He reviewed the other changes. W. Hannon said the reduction of the floor area makes it look like a more dynamic building. He said that they are still trying to work on the signage piece and that they are still trying to maintain the tower area for the entrance.

A. Howe said the size is being reduced but you are expanding into the parking area. He asked if they will need a setback variance. S. Davis asked how they came up with the figure on the parking. C. Drescher said that it’s a formula, so technically they need 113 spaces including employee parking.

S. Davis asked how many parking spaces at Sawyers they would be using. R. Allen said that it was only 15 parking spaces from Sawyers. S. Davis said that he thought that Sawyers has a certain number of approved parking spaces per there site plan approval. R. Allen said that they need 15 parking spaces and that restaurants get busier in the evening during the summer. His thought would be that Sawyers could close at 8pm and they could then valet over there at that time.

A. Howe asked if D. Tousignant had any time to look at the Sawyers site plan and the required parking spaces. A. Howe said that he grew up going to Sawyers and that it can get absolutely packed after dinner. He said the board would need to put restrictions at Sawyers to accommodate use of those extra parking spaces. He noted that they added seating so they lost parking in the front area. C. Drescher said that this is just a new brainchild idea and he said they would need to work on the hours and discuss it with J. Ayer and go back to the Planning Board. S. Davis said that maybe they could pursue having a discussing with other property owners as well. C. Drescher stated that he was also discussing something with Shep Browns. R. Allen said that they have been working hard to find a place for parking. B. Knightly said that it actually reads that 15 spaces will remain so the rest of the parking would be taken up for valet.

S. Davis asked if they would have any entertainment. R. Allen said they would not. A. Howe asked what happened next door with the parking agreement. C. Drescher said that Bart Jeffreys said yes, but he contacted the attorney down in Florida and he said no way because it is half owned by a Family Trust by several trustees that aren’t in the area. C. Drescher said he asked B. Jeffreys for a license to park there and B. Jeffreys said that he would talk to those trustees and see what he can do. He said that is when they had the idea for valet service, which would be game changing, but they aren’t sure that the owners want to pay for that insurance.

A. Howe asked if they would need an easement. L. Spector-Morgan said yes they would. C. Drescher said that he could have that done and bring it to the next meeting. L. Spector-Morgan said that Sawyers may be grandfathered and it’s something that needs to be looked into. C. Drescher said that they could work with the Planning Board and maybe amend their hours of operation.

L. Spector-Morgan said to the board that they are not approving the easement, they are approving the parking. B. Knightly said that he doesn’t want to see happening here what is happening with parking at Ellacoya Barn & Grille.

A. Howe wanted to know if they could come back to the October 26th meeting and if that would be enough time. C. Drescher said that they could get that information, come back on the 26th, and hopefully get everything the board needs for a conditional approval.

Motion

Motion made by A. Howe, seconded by L. Routhier, to table the application to the October 26, 2021 meeting. Motion carried with all in favor.

**1.2 Jeremy Bonin of Bonin Architects & Associates, PLLC**

 **Application #2021000592**

Applicant is requesting a Variance from Article 9, Section 9.3.2(b), and Article 5, Section 5.1.4, Side Setback Area, and Table 2, Dimensional Regulations, to allow a side setback of approximately 17.29 feet where a minimum side setback of 25 feet is required, at 305 Dockham Shore Road on Tax Map & Lot #216-006.000 in the Single Family Residential (SFR) Zone and the Island and Shore Frontage District.

Motion made by S. Davis, seconded by L. Routhier, to take the application off the table. Motion carried with all in favor.

Presentation

Jeremy Bonin and Jude Dallaire of Bonin Architects & Associates, PLLC, were present representing property owners Ed and Rachel Chidsey.

J. Bonin asked if the board looks at the existing conditions plan and the proposed conditions plan, they can see the intent is that they are building the house further away from the lake and decreasing the impermeable area. He explained that the current encroachment into the side setback is 17.11 feet and the proposed encroachment is 17.29 feet.

J. Bonin read the facts that support the request for a variance:

*1. Granting the Variance will not be contrary to the public interest because:*

The proposed building will be less non-conforming than the existing structure, specifically within the 50’ shoreland setback. The existing non-conforming dimension from the side setback line will not be increased. It is our belief that the proposed site is an improvement aesthetically, environmentally, and does no harm to the town or adjacent properties.

*2. The spirit of the ordinance is observed because:*

The proposed structure will reduce the overall area of non-conformance by 47%. The use and character (waterfront residence) is unchanged.

*3. Substantial Justice is done because*:

Owners can construct a reasonable residence while improving the overall site. The proposed site plan provides greater relief from the waterfront setback and improves stormwater controls.

*4. The values of surrounding properties will not be diminished because:*

The proposed structure is no closer to the property line than the original building. By pulling the proposed building away from the water, peripheral views from abutters will be improved. Increased property value will have a positive effect on abutting lots/neighborhood.

*5. Literal enforcement of the provision of the ordinance would result in an unnecessary hardship because:*

*(A) For purpose of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:*

Literal enforcement of the ordinance would make vehicular circulation difficult. The proposed plan substantially reuses the existing driveway. Moving the garage would result in increased cost and need to remove additional vegetation and increase site impact.

1. *No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property:*

The existing lot being .69 acres is below the minimum size for lots in the zoning district and its proportions are narrow. Standard setbacks have a disproportionate effect on lots of this size and shape. The proposed plan seeks to alleviate non-conformity with a reasonable proposal.

1. *The proposed use is a reasonable use:*

The proposed use is residential, as is the current use, and is an approved use per zoning.

*(B) If the criteria in subparagraph (A) are not established, an “unnecessary hardship” will be deemed to exist if, and only if, owing to 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 if therefore necessary to enable a reasonable use of it.*

J. Bonin pointed out that from the start of the project the client’s intent was to make this lot better and the first step was to pull the house back from the lake as much as possible. We can reduce the pervious areas as well, noting that those percentages speak for themselves, and that it’s a drastic reduction.

As far as the eastern abutter, there’s is no change to the setback.

A. Howe asked what happens to the view to the people across the road. He said from what he understands this proposal pulls the house back from the lake. J. Bonin explained that it will be pulled back to meet the existing grade of the driveway.

S. Davis asked about the height. J. Dallaire stated that they decided to use a smaller pitch roof and that was an intent to bring the roofline down as much as possible. The grade naturally pitches 15 feet, and it’s a naturally wooded lot. As you go from Dockham Shore Road down the driveway, you will lose the view.

L. Spector-Morgan asked if they needed a height variance. J. Bonin said no, that the proposed building complies with the Zoning Ordinance height regulations.

L. Routhier asked if they knew if there was any structure next door that abutted the area of side setback encroachment. J. Bonin said no, they just know it’s a similar side setback encroachment.

Public

B. Knightly asked if there were any members of the public that wished to speak.

Judith Girardi of 301 Dockham Shore Road asked if they were going to take the existing driveway out. J. Bonin said yes they will be, but the new one will be in the same location. J. Girardi asked what the square footage of the proposed house is. J. Bonin said that it is 2,750 square feet. J. Girardi said that she would disagree with anything in the 25 foot setback.

K. Hayes asked for an explanation of the horizons plan. J. Bonin explained the property and leaving it at the same level. He said they have a knee wall and that they are balancing how far they are cutting back into the hill and how much stormwater they are battling as well. S. Davis said that looks like the proposal is moved 60 feet.

K. Hayes asked if they perc tested this site for dry wells yet. J. Bonin said that no test pits were done. J. Bonin said that typically they could amend the drawing and submit it over to NHDES if they need to.

B. Knightly asked if there were any other members of the public that wished to speak. Hearing none, he closed the public portion of the hearing.

Motion

A. Howe said that he thought this was a great job and that they did a great job with making this fit on the lot without making such a big impact, making it a better lot for the community, the lake, and the folks that are going to live there.

B. Knightly said that he is always concerned about the lake, so he applauded the applicant on this proposal and said that he wants to make sure that the drainage is properly taken care of.

A. Antonopoulos said that the proposal is beautiful and she loves the plans.

L. Routhier said that he had one concern about not knowing what the structure was on the other side of the encroachment, but being that it’s still a similar setback he doesn’t have too much of an issue with it.

S. Davis asked about the driveway and how that was going to be pervious. J. Bonin said that the permeable pavers are more durable and they will be adding those in front of the house and at the end of the driveway and they will be using the impervious grout, which requires maintenance.

Motion made by L. Routhier, seconded by S. Davis, to approve the Variances based on the facts that support this request for the reasons set forth in the application.

L. Routhier said that it meets the specific requirements under Gilford Zoning Ordinance Article 12, Section 12.1. And to grant the request for a Variance from Article 9, Section 9.3.2(b), and Article 5, Section 5.1.4, Side Setback Area, and Table 2, Dimensional Regulations, to allow a side setback of approximately 17.29 feet where a minimum side setback of 25 feet is required.

S. Hart took a roll call:

S. Davis - yes

A. Howe - yes

B. Knightly - yes

L. Routhier - yes

A. Antonopoulos - yes

Motion carried with all in favor.

**MINUTES**

September 28, 2021

Motion made by A. Howe, seconded by L. Routhier, to approve the minutes of September 28, 2021. Motion carried with all in favor.

**ADJOURNMENT**

Motion made by A. Howe, seconded by L. Routhier to adjourn the Zoning Board of Adjustment meeting of October 12, 2021 at 8:28 p.m. Motion carried with all in favor.

Respectfully submitted,

Sandra Hart, Secretary