



ZONING BOARD OF ADJUSTMENT
MINUTES MEETING OF JUNE 16, 2014
APPROVED MEETING OF JULY 21, 2014

Present: S. Bogert, **Chairman**; S. Perley, **Vice-Chair**; M. Foote; O. Gibbs; K. Geraci

Absent: D. Greski; R. Smith

Staff: S. Saunders, **Planning Director**; K. Snow, **Zoning Technician**

The board excused itself to meet with legal counsel.

S. Bogert called the meeting to order at 7:25 pm. He apologized for the delay in the start of the meeting and welcomed everyone to the June 16 meeting of the Laconia ZBA.

He said we are one member short tonight so K. Geraci was seated as a full board member.

He let the public know that the hearing for the Gables was being continued until the July 21 meeting of the ZBA.

MINUTES: There was no further discussion on the minutes from the May 19, 2014 meeting of the ZBA so a motion was called for.

Motion: O. Gibbs moved to accept the minutes from May 19, 2014, as written; S. Perley seconded and all voted in favor of approval.

HEARINGS: EXTENSIONS:

The applicant is seeking a 6 month extension on the following applications. The current expiration date is June 16, 2014 and 6 months would be December 16, 2014.

2009-0027 (Also 2012-0017): Akwa Waterfront: MSL 130-234-001, Use of Multi-Family Dwellings

2009-0030 (Also) 2012-0019: Akwa Vista: MSL 130-234-001, Height restriction

2009-0029 (Also 2012-0018): Akwa Waterfront: MSL 117-234-001, Use of Multi-Family Dwellings

The applicant spoke to all of the motions as one but votes will be done separately.

Applicant: C. Duprey appeared for the hearings. He said the current expiration is actually July 16, 2014 so the expiration date would be January 16, 2015. He showed the 3 parcels they are requesting

the extensions for and said that previously there was a 4th parcel involved but that is now under construction.

He talked of other changes made since their last extension request. They have completed the water line extension up to about the mid-point. They have now acquired another parcel which is located between these; he indicated that on the map. There is now only one single family residence that remains here. Walking trails will be done to tie in and that construction has begun. The plan itself is unchanged from their last appearance. They applied to the Attorney General's office for approval of the condominium, hope to receive shortly. They plan to kick off sales effort for this at the end of June.

S. Saunders said the new expiration would be January 16, 2015. C. Duprey said they will be before the Planning Board in October.

S. Bogert asked about the new parcel they obtained and C. Duprey said they have done nothing yet but do hope to do something in the future on that lot.

S. Perley said the project is underway, and progress is being made so she sees no issue with this.

Public: No one spoke for or against the proposal.

Board: There were no further questions.

S. Bogert closed the hearings to the public.

Motion: 2009-0027: S. Perley moved to grant the 6 month extension for the use of the multi-family dwellings from July 16, 2014 to January 16, 2015. O. Gibbs seconded and all voted in favor.

Motion: 2009-0030:S. Perley moved to grant the 6 month extension for the the height restriction from July 16, 2014 to January 16, 2015. O. Gibbs seconded and all voted in favor.

Motion: 2009-0029: S. Perley moved to grant the 6 month extension for the use of multi-family dwellings from July 16, 2014 to January 16, 2015. O. Gibbs seconded and all voted in favor.

HEARINGS:

Application # 2014-0008
Jason Cooper

MSL #194-248-4-11
937 Weirs Blvd

CR Zone
Variance

The applicant is requesting a variance from 235-35(B), side and rear setbacks, in order to construct a deck which would infringe into the side setback of 10 ft. This would allow a 5 ft setback.

Applicant: Jason Cooper appeared for the application. He is asking to construct a deck which would infringe into the setback. He wants to extend an existing porch around the corner. He received a unanimous approval from the condo association. He wants to extend this into the setback by about an additional 4 ft or it would end in the middle of a window.

S. Perley asked if there is a deck now and was told there is a porch in the front that he wants to wrap around the corner. The units are very small. He showed on the plan where he wants to add this. S. Perley asked if this reduces the setback in just the corner to about 5 ft and was told yes. S. Perley asked if anyone else here has a deck and was told yes, his is the only one on the end so it is the only one that infringes into the setback.

O. Gibbs asked if the exterior would match what is there now and he said yes, that is the only way the condo association would make the approval. J. Cooper said the 8 x 8 would fit without a variance but that would mean the deck would end in the middle of the window which is why he is asking for the 8 x 12 and why he needs the variance. This covers the last 4 ft.

S. Bogert said there appear to be a lot of trees on the property line and J. Cooper said yes there are. First the trees, then a parking lot, and then about 30 ft to the building on the adjacent lot.

J. Cooper said that the representative from the association's management company, Tom Carroll, was along to answer any questions if needed.

Public: Glen McKiel appeared in opposition to the project. He said he is the President of the Summer Hill Homeowners Association, which is part of the Four Seasons. He said that all 74 owners here are in opposition to the project.

Summer Hill directly abuts the parking lot and the proposed deck. Both associations are opposed to the project. He read letters from both Summer Hill and the Four Seasons Recreation Association.

June 11, 2014

City of Laconia
Zoning Board of Adjustment
45 Beacon Street East
Laconia, NH 03246

To whom it may concern,

The Four Seasons Recreation Association Board of Directors would like to take this opportunity to voice its opposition to the request for variance by Jason Cooper at 937 Weirs BLVD; Application #2014-00008, MSU #194-248-4-11. The applicant, Jason Cooper is requesting a variance from 235-35(B), side and rear setbacks, in order to construct a deck which would infringe into the side setback of 10 ft. The resulting set back would be 5 ft. The Association is opposed to this variance as it will adversely affect the property in a variety of ways, including appearance, privacy and potentially value.

Currently, the buffer zone between Four Seasons and St. Moritz is a wooded area, which contributes to the privacy between the two properties and enhances the natural, wooded feel of the property. The current owners purchased their units at Four Seasons and Summer Hill, a sub-association at Four Seasons, because of the natural, rustic ambiance of the property with its tall mature trees which lends itself to the feeling of being in far less developed area than the City of Laconia. The proposed deck project, necessitating the variance, will require that several of the trees in the buffer zone be cut down which will erode the very ambiance that makes Four Seasons so attractive to its current and future owners.

Additionally, the fact the trees will be disturbed and a new deck built several feet into the buffer zone severely impacts the privacy of the owners and residents at Building 26-33. This building is situated near the property buffer line between Four Seasons and St. Moritz. The privacy of the owners in the units on the North West corner of the building will be greatly compromised once the trees in the buffer zone are removed and the proposed deck is built into the buffer zone potentially resulting in a situation where users of the deck will be looking into their windows.

Lastly, for the reasons indicated above, the proposed variance has potential to negatively impact the values of Summer Hill and Four Seasons as whole. The buffer zone between the properties was instituted for a purpose, presumably to provide privacy, enhance the beauty of the area and delineate the properties. The proposed variance will negatively impact all these things that have encouraged individuals to purchase homes at Four Seasons and contribute to the betterment of City of Laconia. We graciously request that the proposed variance be denied.

Sincerely,

Donald McEwen (4 Seasons)

The Board of Directors
Four Seasons Recreation Association
883 Weirs BLVD
Laconia, NH 03246

Summer Hill Homeowners Association
883 Weirs Boulevard
Laconia, NH 03246

June 12, 2014

City of Laconia
Zoning Board of Adjustment
45 Beacon Street East
Laconia, NH 03246

To the Members of the Board,

The Summer Hill Homeowners Association Board of Directors would like to take this opportunity to voice its opposition to the request for variance by Jason Cooper at 937 Weirs Blvd; Application #2014-00008, MSL #194-248-4-11. The applicant, Jason Cooper is requesting a variance from 235-35(B), side and rear setbacks, in order to construct a deck which would infringe into the side setback of 10 ft. The resulting set back would be 5 ft. The Association is opposed to this variance as it will adversely affect the property in a variety of ways, including appearance, privacy and potentially value.

Currently, the buffer zone between Four Seasons, Summer Hill and St. Moritz is a wooded area, which contributes to the privacy between the two properties and enhances the natural, wooded feel of the property. The current owners purchased their units at Summer Hill, a sub-association of Four Seasons, because of the natural, rustic ambiance of the property with its tall mature trees which lends itself to the feeling of being in a far less developed area than the City of Laconia. The proposed deck project, necessitating the variance, will require that several of the trees in the buffer zone be cut down which will erode the very ambiance that makes Four Seasons so attractive to its current and future owners.

Additionally, the fact the trees will be disturbed and a new deck built several feet into the buffer zone severely impacts the privacy of the owners and residents at Summer Hill - Building 26-33. This building is situated near the property buffer line between Four Seasons, Summer Hill and St. Moritz. The privacy of the owners in the units on the North West corner of the building will be greatly compromised once the trees in the buffer zone are removed and the proposed deck is built into the buffer zone potentially resulting in a situation where users of the deck will be looking into their windows.

Lastly, for the reasons indicated above, the proposed variance has potential to negatively impact the values of Summer Hill and Four Seasons as a whole. The buffer zone between the properties was instituted for a purpose, presumably to provide privacy, enhance the beauty of the area and delineate the properties. The proposed variance will negatively impact all these things that have encouraged individuals to purchase homes at Four Seasons and Summer Hill in hopes of

contributing to the betterment of City of Laconia. We respectfully request that the proposed variance be denied and we stand strongly opposed.

Sincerely,

J. L. M. R. President

The Board of Directors
Summer Hill Homeowners Association

He said that both groups oppose the project and feel it will adversely affect them for the reasons above. He said the project will require that several trees will be cut down. The current owners

purchased their units because of the rustic ambiance of the property. The privacy of units 26-33 will be greatly compromised. Users of the deck will be able to look into their windows.

He said he is representing the entire property as a whole; there are 4 associations, and 74 owners and all of the home owners here are in opposition.

G. McKiel said they are concerned because construction has already been started. Sono tubes have been placed. He submitted pictures of the sono tube and stakes that have been placed in the ground.

He said that an increase in the Cooper's property values could cause a decrease in theirs.

S. Bogert asked about the buffer; if it is not touched, will the deck still cause an issue for them. G. McKiel said if the applicant can legally do this without a variance, then he is fine. They can't do anything about it if the deck doesn't require a variance but do feel that if completed it would have a negative impact as well.

No other abutters spoke for or against the application.

Board: O. Gibbs asked about the deck and porch and that was clarified. J. Cooper said no trees will be removed to do this. They did put one sono tube into the ground. If this passes, they have a head start. If this fails they can still do the 8 x 8 deck without a variance. They prefer not to disturb the window so are asking for the larger size but will do the smaller if not approved.

S. Perley asked if this is a thick buffer; can they see through it, and J. Cooper said he doesn't think they can; you can barely see the cars in the parking lot. S. Perley asked how far it is to the actual building, and he estimated this at about 40 feet, and about 25 feet to the parking lot.

S. Bogert scaled this out on the plan that was in the packet. He puts this is at about 50 feet from the building.

S. Perley asked if it will be an open deck, and was told yes; there will be no roof. They are removing the railing on the existing porch and wrapping it around. They will still have a door into the crawl space which is under the unit. He showed a stake in the picture; that is where the end of the proposed deck would be.

S. Bogert said it does look like they would have to trim the tree in the picture and J. Cooper said this tree is more in the front; he would have to trim some branches, maybe about 4 feet, but nothing is being taken down. S. Bogert asked who owns the property the trees are actually on and J. Cooper said the trees are probably on both. There is a telephone pole by the house.

Board: S. Bogert said the abutters input is interesting as the deck is going in anyway; either as an 8 x 8 or as an 8 x 12. S. Perley said she is having a hard time with the impact argument from the abutters; she feels this is a small area but they have a point. O. Gibbs said the buffer area is heavily wooded, and she cannot picture someone sitting on the deck having a problem with the units. S. Perley said she didn't get out to see this before bike week began so it might be a good idea to make a site visit in this case. O. Gibbs agreed that it might be a good idea to check out the property line from both properties. S. Perley said she finds this very hard to visualize.

S. Bogert said they could draw the area on the ground, or use a hose or something to indicate the area of the deck. S. Perley said the applicant could just choose to go ahead with the smaller deck.

S. Bogert explained to the applicant and abutters that they want to make a site visit here as it would help to make their determination. Based on the information received and the abutters input, the applicant has a choice. The board can make a motion to do site visit and continue this or he can go ahead with the smaller deck now.

Motion: S. Bogert moved to continue this until the meeting of July 21 so the board can meet at the site before the meeting and walk it. S. Saunders said will be a posted meeting and if this is a posted meeting they could make the vote at that meeting so the applicant does not have to wait. The abutters can attend as well since it will be a posted meeting.

M. Foote seconded, and all voted in favor of doing a site walk before making a determination on the project.

S. Bogert told J. Cooper he will be notified as to what is going on. He can decide to continue the project and go on with the smaller deck with no variance or wait until the board can get out to view the site.

J. Cooper will wait until the board gets to do the site walk.

Application # 2014-0009

MSL # 224-248-3

RG Zone

Mark Emery

58 Belknap St

Variance

The applicant is requesting a variance from 235-35 (A), front setbacks, in order to add a front door, along with a porch and stairs onto the existing residence. The front setback in the RG zone is 25 ft so the structure is currently non-conforming with a setback that ranges from 11-16 ft. This would bring that setback down to a range from 6-9 ft.

Applicant: Mark Emery appeared for the application. He wants to add a front door to the house, with a small front porch. The house has been in the family since 1940, and has never had a front door. The only door is down the drive and in the back. There are actually two entrances in the rear of the house. They had an arsonist a few years back, and they barely got out the back at that time. They have been talking about putting on a front door for some time, especially after that, as if there is a fire in the rear of the house, they have no exit.

All of the neighboring houses have front doors. A lot have porches within the front setback. This will enhance his property and not cause a distraction.

S. Perley showed a picture and asked if that is the house. M. Emery said one corner of the house is currently at 16 ft, the other is about 13.5 ft. The porch would come about half way down the house as there is an oil fill in the front. There is also a Japanese cherry tree his wife loves and they don't want to hurt that.

In the back corner, shown on the plan submitted, is where the only entrance is now. He said he isn't a contractor and wanted this permission first before he contacts someone on doing this. He can put a door in without the variance but no steps. He said they are not looking for a huge porch, just steps so they can get in and out and enough room for 2 chairs to sit out if they want to.

They will not exceed the 5 ft width. The porch may be 4 ft with steps to meet the 5 ft. They only want to have 2 steps.

S. Bogert said that would be about 15" off the ground. He asked if 5 feet is enough and M. Emery said they don't want a huge porch, they have a small deck in the back they can use. This is to get in and out and sit out there if they want to. S. Perley asked how they access the back deck, and M.

Emery showed the area on the plan. They have a slider in the rear, and a door by the garage but both doors are located in the rear of the house.

Public: No one from the public spoke for or against the application.

M. Emery said he will be happy with what the board permits. S. Bogert said he is asking one final time if they want the 5 foot porch and M. Emery said yes.

S. Bogert closed the hearing to the public.

Board: S. Bogert said the measurement will be a 5 foot width; that is the base. Then add the stairs, which is about 15". S. Saunders said a 5' x 19' deck with 2 stairs could be the wording. S. Perley said we forgot to ask if this will be covered and S. Bogert said the applicant said deck, not porch, so it won't be enclosed.

Motion: O. Gibbs moved to approve application # 2014-0009, 58 Belknap, for the variance in order to add the front door and 5 x 19 ft deck with 2 stairs which will infringe into the front setback area.

This won't be contrary to public interest as there is nothing that will impact the public health, safety or welfare by permitting this.

The spirit of the ordinance is observed by permitting him to add a deck to have a second egress into the home while keeping the structure consistent with the other structures in the neighborhood.

Substantial justice is done as this will conform to the neighborhood. It will enhance life safety attributes of the home by giving them an exit from a different area in the house; this provides a needed exit from the front of the home.

Property values won't be diminished as this will conform to the character of the neighborhood. The encroachment will be that of an open deck and is not a substantial structure.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. This is an older neighborhood and many structures encroach into the setbacks. This structure is presently non-conforming and cannot conform to setbacks now. The location of the house on the lot is the special condition that causes the deck to be built.

This should increase the property values in the neighborhood as this brings the structure into conformity with other homes in the area.

This is a reasonable use and it permitted in the district.

S. Perley seconded the motion.

S. Bogert added to the motion. He said this is not contrary to public interest, the spirit of the ordinance is observed, and substantial justice is done as the current main entrance is in the rear of the property so the public has to encroach deep into the property to enter the home. This will allow public access in a safe manner in the front of the house.

This also provides a safe environment for the home owners due to fire safety, by permitting an additional ingress/egress to the structure. This gives an alternative exit/entrance to the house for medical and fire safety.

