



ZONING BOARD OF ADJUSTMENT

Approved Minutes

May 9, 2023 – 7:00 pm @ Community Development Department

Physical Location: 3 North Lowell Road (Community Development Department) Live
Broadcast: WCTV Channel 20 – Local Cable TV
Live Stream: <http://www.wctv21.com/>

To access via Zoom: [ZBA Meeting](#)

Meeting number/access code: 865 4393 1593 **Password:** 250013 **To join by phone:** 1 646 876 9923

Attendance:

Chairman Michelle Stith- present
Vice Chair Betty Dunn- present
Pam Skinner, Secretary- present
Neelima Gogumalla, regular member- present
Mark Brockmeier, regular member- present
Galen Stearns, alternate- present
Mike Scholz, alternate- excused

Staff:

Julie Suech- Planning Technician
Anitra Lincicum- minute taker (present via Zoom)

Call to Order

Case # 12-2023 Parcel 22-I-81 & 22-L-83
Applicant – Benchmark, LLC
Owner – Thomas J Jr & Lynn Murray
Location – 27-29 West Shore Road
Zoning District – Residential District A / WPOD

35 *On May 2, 2023, the Applicant submitted a request to continue the case to May 23, 2023, which the Board shall*
36 *consider.*

37
38 Variance relief is requested from **Section(s) 406.2, 702/ Appendix A-1, and 703** to construct an addition to the
39 existing single-family dwelling (22-L-81), on a pre-existing, non-conforming lot. The addition to the SFD would
40 expand the area from 2,462 sf to 3,052 sf and the area from 44,316 cu/ft to 50,300 cu/ft in volume and be 30 feet
41 from the front lot line and 33 feet from the pond, where such addition increases the non-conforming nature of the
42 property. To construct an inground pool 22 ft from the side lot line, where 30 ft is required; 33 ft from the pond
43 where 50 ft is required; and 28 ft from the front lot line, where such are prohibited within the front yard. To
44 construct a greenhouse 10 ft from the front lot line, where such are prohibited within the front yard. To construct a
45 shed 18 ft from the front lot line, where such are prohibited within the front yard; and 15 ft from the side property
46 line, where 30 ft is required.

47
48 **A motion was made by Vice Chair Dunn to continue Case #12-2023 to May 23rd, 2023 at 7 pm. Seconded by**
49 **Ms. Skinner. Vote 5-0. Motion passes.**

50
51 **Case #11-2023 Parcel 17-L-45**
52 **Applicant – Kiara Mooney**
53 **Owner – Kevin Penta & Kiara Mooney**
54 **Location – 134 Range Rd**
55 **Zoning District – Residential District A**

56
57 Variance relief is requested from **Section 200** from the definitions of “dwelling: single family” and “dwelling unit”
58 to allow the transient occupancy of small families or couples who wish to visit the “carriage house” on the
59 property.

60
61 Mr. Joseph Maynard of Benchmark LLC addressed the Board and is assisting the applicants with their application.
62 Mr. Maynard stated that the carriage house has long existed as an apartment before the current zoning regulations.
63 Mr. Maynard stated that the current leach field, after discussing calculations, is adequate for the use with a 2-
64 bedroom dwelling and the apartment dwelling. The dwellings are serviced by Pennichuck Water. Mr. Maynard
65 stated that the property does not need the permit for the current driveways. Mr. Maynard then stated that drainage
66 really only comes into play if something is being altered and there will not be changes at this time. Mr. Maynard
67 stated that since there is no change in use, there is no need for changes in drainage.

68
69 Vice Chair Dunn stated that her concerns have been addressed with the exception of parking.

70
71 Ms. Gogumalla asked what exactly the variance was for. Mr. Maynard stated that the variance is for the use of the
72 accessory dwelling which is a pre-existing non-conforming building that has long since been used as an apartment.
73 Mr. Maynard stated that they are here to potentially grant a use for transient occupancy.

74
75 Ms. Kiara Mooney and Mr. Kevin Penta, the applicants, addressed the Board. Ms. Mooney stated that they
76 submitted a document which abutters had signed in support of the variance request.

77
78 The Chair invited public comment at this time. There were none who wished to speak.

79
80 The Board then entered deliberative session.

81
82 Mr. Brockmeier appreciated the applicant obtaining the approval from the abutters.

83

84 Vice Chair Dunn reviewed whether or not the application met the 5 criteria. She believes it does. Vice Chair Dunn
85 stated that she believes this is a reasonable use in this location.

86
87 **A motion was made by Vice Chair Dunn for Case #11-2023 to grant variance relief as requested from**
88 **Section 200 from the definitions of “dwelling: single family” and “dwelling unit” to allow the transient**
89 **occupancy of small families or couples who wish to use the “carriage house” on the property with the**
90 **condition that no more than 3 vehicles be used for transient dwelling use. Seconded by Ms. Skinner.**

91
92 **Vote 5-0.**
93 **Motion passes.**
94 **The Chair advised of the 30-day appeal period.**

95
96
97 **Case #14-2023 Parcel 7-A-1808**
98 **Applicant – Theodore & Christine Moser**
99 **Owner – Theodore & Christine Moser**
100 **Location – 48 Morrison Rd**
101 **Zoning District – Rural District**

102
103 The applicant is requesting a variance from **Section 702 / Appendix A-1** to allow construction of 984 sf. addition,
104 where 492 sf. will be used as an Accessory Dwelling Unit above the garage. The proposed addition will have a 15
105 ft side yard setback, where 30 ft is required in the Rural District.

106
107 Ms. Skinner read the case into the record. The Board waived the reading of the list of abutters. There was no
108 comment from the Conservation Commission.

109
110 The applicants, Theodore and Christine Moser, addressed the Board. Mr. Moser stated that they spoke with the
111 abutter closest to them about the project and they also needed to notify many of their neighbors because the
112 property abuts conservation land. Mr. Moser stated that one of the stipulations is that they must share a driveway
113 with the accessory dwelling. The Moser’s stated that the abutters are in favor of the project.

114
115 Mr. Moser reviewed the 5 criteria contained in the public packet. Mr. Moser stated that if they are not able to add
116 an ADU, they will not be able to accommodate their parents on the property. Mrs. Moser stated that there is a
117 barrier of trees between themselves and the closest neighbor so both parties will be able to maintain their privacy.
118 Mr. Moser stated that the project will not disrupt any well or septic systems and the site will be accessible to
119 construction vehicles as proposed.

120
121 The applicant showed where the proposed ADU would be located on the lot. Mr. Moser explained the uses of the
122 garage bays for the inhabitants of both the dwelling and the ADU.

123
124 The Chair invited public comment at this time; there was none.

125
126 Ms. Gogumalla reviewed the whether or not the applicant met the 5 criteria; she believes they do and she had no
127 objections to the variance request as presented.

128
129 **A motion was made by Ms. Gogumalla for Case #14-2023 to grant variance relief as requested from Section**
130 **702 / Appendix A-1 to allow construction of 984 sf. addition, where 492 sf. will be used as an Accessory**
131 **Dwelling Unit above the garage. The proposed addition will have a 15 ft side yard setback, where 30 ft is**
132 **required in the Rural District per plan submitted. Seconded by Vice Chair Dunn.**

133

134 **Vote 5-0.**
135 **Motion passes.**
136 **The Chair advised of the 30-day appeal period.**

137
138 **Case #15-2023 Parcel 9-A-904**
139 **Applicant – Michael L DeBruyckere**
140 **Owner – DeBruyckere 2009 Family Trust**
141 **Location – 4 Balmorra Rd**
142 **Zoning District – Rural District / WWPD**
143

144 The applicant is requesting a variance from **Section 603.1** to allow the construction of a 28 ft. x 40 ft. detached one
145 story accessory building, within the WWPD where permanent structures are prohibited. The Applicant intends to
146 use it as a garage for the storage of automobiles, yard equipment, and lawn furniture.

147
148 Ms. Skinner read the case into the record. The Board waived the reading of the list of abutters. Ms. Skinner read
149 the letter from the Conservation Commission. The Conservation Commission does not agree with any structures
150 being built in the WWPD and they would like more information on the application.

151
152 Mr. Michael DeBruyckere, the applicant, addressed the Board. The applicant and the Board discussed the
153 classification of the lot. Mr. DeBruyckere provided pictures of the lot and the elevation change along with the
154 current use of the property. Mr. DeBruyckere was not aware that the lot was impeded by WWPD until he went for
155 an application several years ago. Mr. DeBruyckere restores vehicles on the property and explained this in reference
156 to his intended future use of the property. Mr. DeBruyckere is seeking a variance for an accessory dwelling for car
157 restoration and storage.

158
159 Mr. DeBruyckere stated that he takes out his vehicle several times a year. Mr. DeBruyckere stated that he has
160 looked at the property several different ways and this is the best scenario they could come up with. Chairman Stith
161 asked if there was a drainage plan.

162
163 Vice Chair Dunn stated that she has issues with the plan as presented and would like to go for a site walk.

164
165 Ms. Gogumalla stated that her concerns are around the building. Ms. Skinner discussed that the purpose of a
166 WWPD is to protect a wetland. Vice Chair Dunn stated that if this application was denied, the applicant could
167 come back with another plan but not the same plan to try to get a different plan approved. Mr. DeBruyckere stated
168 that, if approved, he would then approach an engineer or architect to try and get together building plans.

169
170 **A motion was made by Vice Chair Dunn to schedule a site walk for Case #15-2023 Dunn. Seconded by Ms.**
171 **Skinner. Vote 5-0. Motion passes.**

172
173 **A motion was made by Vice Chair Dunn to continue Case #15-2023 to the site walk at 6 pm on June 8th and**
174 **to the ZBA meeting on June 13th. Seconded by Ms. Skinner.**

175
176 The applicant asked if there was anything they could to prepare for the meeting with the Conservation
177 Commission. The Board did not have any suggestions.

178
179 **Case #16-2023 Parcel 19-B-908**
180 **Applicant – Sean Graham**
181 **Owner – Sean and Ashlee Graham**
182 **Location – 14 Autumn St**
183 **Zoning District – Rural District**

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The application is requesting a variance from **Sections 702 / Appendix A-1** to allow the construction of a 21 ft round above ground swimming pool with an approximate 400 sq ft deck surrounding the pool. The proposed deck surrounding the pool would be approximately seven (7) ft away from the side yard lot line, where 30 ft is required in the Rural District.

Ms. Skinner read the case into the record. The Board waived the reading of the list of abutters. Mr. Graham addressed the Board to describe the project and then reviewed the 5 criteria contained in the public packet. Mr. Graham stated that they would be taking down about 5 trees in order to install the pool. Mr. Graham stated that he did speak with both of the abutters and neither are opposed to the variance request as presented.

Mr. Graham discussed some of the uses of the surrounding properties including the conservation land nearby.

The Board entered deliberative session.

Mr. Brockmeier thinks that the application does meet all of the variance criteria as presented. Applicant’s proposal meets #1 and #2, is not contrary to the public interest as it does not threaten public health, safety or welfare and is within the Spirit of the ordinance. It meets criteria 3, substantial justice, being in a specific location which allows the applicant to have access to an above-ground pool in one of the few locations in which the parents can watch their young children from the home. Criteria #4 is satisfied as the pool does not diminish abutting property values as it will not be visible from the street or by the abutting properties, and #5 as the pool is in the only location on the property which allows for this construction while, again, allowing supervision of the applicant’s children while using the pool.

A motion was made by Mr. Brockmeier to grant variance relief as requested for Case #16-2023 from Sections 702 / Appendix A-1 to allow the construction of a 21 ft round above ground swimming pool with an approximate 400 sq ft deck surrounding the pool. The proposed deck surrounding the pool would be approximately seven (7) ft away from the side yard lot line, where 30 ft is required in the Rural District per plan submitted. Seconded by Ms. Gogumalla.

**Vote 5-0.
Motion passes.
The Chair advised of the 30-day appeal period.**

**Case #17-2023 Parcel 25-R-867
Applicant – Michael Covey
Owner – Michael and Susan Covey
Location – 18 Corliss Rd
Zoning District – Rural District, Open Space, WWPD**

The applicant is requesting a variance from **Sections 611.6.4.3.3 and 702 / Appendix A-1** to allow construction of a 24’ x 30’ accessory building to be used as a garage/ workshop one foot from the side lot line, where a 15 ft. side yard setback is required in the Open Space Residential Overlay District and 30 ft. side yard setback is required in the Rural District.

Ms. Skinner read the case into the record. The applicant, Mr. Michael Covey, addressed the Board. Mr. Covey stated that they are looking to install the garage/workshop 1(one) foot from the side setback and keep it away from the water and septic system on the property. A family member owns the abutting property and is in favor of the proposal. Mr. Covey reviewed the 5 criteria contained in the public packet. Mr. Covey reviewed where the WWPD and the wetlands were on the property. Mr. Covey stated that the property cannot be reasonably used without the

234 variance request as presented. Mr. Covey stated the garage will be on his property but it will sit about 1 foot from
235 the true lot line which is about 7 feet from the trees that are on the property presently.

236
237 Mr. Covey stated that this would be a 2-story structure and it will not be used as living space.

238
239 Ms. Skinner read the letter from the Conservation Commission. Mr. Covey stated that they would be putting in the
240 drip line infiltration as suggested. The Board discussed the location of the drip line infiltration and whether or not
241 that would go over the lot line and how that might impact the wording of an approved variance.

242
243 The Board discussed asking the applicant to address the questions they have about the shed and continuing the
244 case so that their questions can be answered by the applicant rather than trying to formulate a motion that will
245 accommodate their concerns.

246
247 The Board mentioned the following questions for the applicant to consider:

248
249 How are you going to treat the water close to the WWPD? (the run off)

250 Is there a way to get the drip line away from the property line?

251 Are there pictures of the structure from the applicant? (potentially stake this out on the property)

252
253 **A motion was made by Vice Chair Dunn to continue Case #17-2023 to June 13th, 2023. Seconded by Ms.
254 Gogumalla. Vote 5-0. Motion passes.**

255
256 **Meeting Minutes to Review and Approve: 04-11-23**

257
258 **A motion was made by Vice Chair Dunn to approve the April 11th draft minutes as amended. Seconded by
259 Ms. Skinner. Vote 5-0. Motion passes.**

260
261 **A motion was made by Vice Chair Dunn to adjourn at 9:05 pm. Seconded by Ms. Skinner. Vote 5-0. Motion
262 passes.**

263
264 Respectfully submitted by Anitra Lincicum