

**Town of Amherst
Zoning Board of Adjustment
Tuesday December 19, 2017**

ATTENDEES: D. Kirkwood- Chair, R. Rowe, C. Vars, J. Ramsay, R. Panasiti (Alt) and Staff G. Leedy

The Chair called the meeting to order at 7:18pm.

NEW BUSINESS:

CASE #: PZ9316-111617- Variance

Robert & Alexis Stevenson (Owners) – 63 Chestnut Hill Road, PIN #: 011-011-008 – Request for a Variance to Article IV, Section 4.5, Paragraph D.2 to build an addition on an existing single family home 23.1 feet from the property line where 40' is required. Zoned Northern Rural.

Bob Kilmer from Sandford Surveying and Engineering presented the case.

The applicant is seeking a zoning variance to put an addition on their single-family home.

The lot was created by a subdivision in 2001 and the house was built in 2003. The lot is odd shaped with wetlands. The house, at the closest point, sits 52.2 feet from the property line. The addition will bring it to 23.1 feet from the line.

D. Kirkwood asked about the wetlands and Bob explained where they are on the map. D. Kirkwood asked for a topographical map and Bob provided one to the board for their perusal.

Bob addressed the tests

1) How will granting the Variance not be contrary to the public interest?

Granting of the variance will not be contrary to the public interest. The proposed variance will accommodate a 30' by 31.5' addition to the south end of the existing home, which would encroach on the 40-foot side setback by approximately 18 feet. The public would not be impacted by the granting of this variance. The current residence is set back almost 600 feet from Chestnut Hill Road and almost 50 feet below the grade of Chestnut Hill Road. Thus, the proposed addition would not be visible to the public. All other aspects as they pertain to public safety would be the same.

2) How will granting of the variance ensure the spirit and intent of the ordinance will be observed?

Granting of this variance will be consistent with the spirit and intent of the ordinance. The spirit and intent of the ordinance pertains largely to both public safety and overcrowding. The encroachment on the side set back will not have any adverse effect on public safety. The addition does not change the current use or intensity of use on this single-family home. The addition will not increase the amount of traffic to the residence or restrict access by fire and police.

Relative to overcrowding, the residence is in a mostly rural and often wooded area of homes. The variance would allow for an encroachment into the side setback bordering lot 11-11-7, which, similar to the subject property, is a long, oddly shaped parcel. The area proximate to the encroachment is protected by a densely wooded buffer between the two lots and is no closer to the structure on 11-11-7. Further, the subject residence is located on a grade of approximately 13%. This puts the subject residence in a subordinate position to the single-family residence on 11-11-7. In other words, the subject property, and proposed addition, will be located approximately 25 feet below the level grade of the house on 11-11-7, therefore, sitting outside of their line of sight.

3) How will substantial justice be done?

Granting of the variance will be substantially just to the applicant. Substantial justice is defined as the benefit to the applicant is not outweighed by harm to the general public or to other individuals. In this instance, there is no harm to the general public, as the variance would not affect public safety, public view, or any other impact to the town and general area. Relative to harm to specific individuals, the only individual impacted by the variance would be the owners of 11-11-7. Included with our application is a letter of support from Shaun and Kirsten Hickman, the owners of lot 11-11-7, indicating their support for the proposed project. Thus, there is no harm to the general public or specific individuals, against which to balance the gain to the applicant. Therefore, in granting the variance, substantial justice would be done.

4) How will the value of the surrounding properties not be diminished.

Granting of the variance will not cause a diminution of value to any abutting or surrounding properties. The subject property is abutted by four other parcels. One, the Hickman residence at 11-11-7 has been discussed previously. The property to the north, 11-11, is a large 28.5 acre parcel. The improvements on 11-11 (consisting of a barn and farmhouse) are over 1,000 feet from the subject parcel. The abutting parcel to the east is an unimproved strip of conservation land owned by the Town of Amherst. The final abutting parcel is across Chestnut Hill Road (10-28-9) and is an unimproved 11 acre parcel. Only two of the abutting parcels are improved. In all cases, there are significant wooded buffers between the proposed addition and the abutting parcel.

We have attached a letter from LandVest, a real estate and appraisal firm.

5) Literal enforcement of the provisions of the Ordinance would result in unnecessary hardship because:

The subject parcel, 11-11-8 is an oddly shaped parcel. Whereas most of the parcels along Chestnut Hill are larger, and typically rectangular, the subject is a longer, more narrow plat, connected to Chestnut Hill via a long private drive. Further, the parcel is on a grade of approximately 13% sloping down from Chestnut Hill as one heads to the west. The situation of the present structure, as built, creates physical challenges of where to site any addition. An addition off the front of the house would encroach more noticeably on the neighboring structure. Any expansion to the rear of the house would both encroach on the existing septic and require extensive amounts of fill, due to the 13% grade. The North side of the house is the current location of the garage - so an expansion from the North side would require the relocation of the garage, which would be economically unreasonable.

The only logical expansion is to the south, which encroaches on the side setback to parcel 11-11-7.

a. For the purpose of this subparagraph, "unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area:

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:

The unique shape of the subject parcel largely defined the siting of the existing house on 11-11-8. It further restricts the options for expanding the residence. The unique physical restrictions, pertaining to both the configuration and grade of the subject parcel create a hardship on the owner, requiring a side setback variance. There is no relationship between the general public purposes of the ordinance seeking relief from (public safety and overcrowding) and the specific application to the subject property, because the proposed addition has no impact on public safety or overcrowding.

ii. The proposed use is a reasonable one because:

Expansion of a single-family home, while maintaining the same current use, is inherently a reasonable one. We are not proposing the variance for the purpose of an accessory apartment, in-home business,

or other alternative use. The proposed addition would enlarge the home to a size that is consistent with other properties in the area. Therefore, it is a reasonable use.

In the packet the board can find the letter from the abutter, from the real estate expert and the proposed plans and front, side and rear views of the property.

R. Rowe noted the abutting properties are not shown on the plan. That is an oversight. How close is the closest property to the addition (lot 11-11-7) to that property line?

It sits to the southwest. Approximately 75-100 feet from the line. And is it heavily wooded between? Yes, that's true.

D. Kirkwood asked about an arrow on the map. Bob said it was inadvertently left from the subdivision plan. He also asked the distance of the well to the addition and Bob replied. He asked why it is not possible to add onto the east side. Steep slopes and septic.

R. Panasiti looked at a satellite image. There's a big open space- what is there? It's the abutting septic.

C. Vars looked on the topography map and asked if the driveway was off to the right. It's a common driveway up to that point, and then it shoots off to the property at 11-7.

R. Panasiti asked, what is the elevation change from the addition and the abutting home? The addition will be covered by the woods between and the abutting home sits higher- about 20-30 feet.

Public comment

Steve Albano- 79 Chestnut Hill Rd

The intent of the addition is to put in a bedroom on the first floor and this is the most accessible place to put it. He supports the application. Lot 7 has no issues with it and the other lot is just woods and drainage.

J. Ramsay moved and C. Vars seconded to enter deliberations. All in favor

R. Rowe moved and J. Ramsay seconded no regional impact. All in favor

Discussion

J. Ramsay is familiar with this property, the distance and that this house sits substantially below Chestnut Hill Rd. The drop off into the back yard is also substantial. It is a steep slope.

D. Kirkwood asked if the distance from the well to the addition is satisfactory to Gordon. It is.

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1. The Variance will not be contrary to the public interest.

R. Rowe yes the setbacks are set up so we don't have overcrowding. This instance is extremely rural so it's not contrary to public interest

R. Panasiti agree with Bob

C. Vars agree can't be seen from the road so it won't affect the public and has approval from abutters

J. Ramsay agree very limited view from Chestnut Hill Rd. if anyone would have an issue it's the abutters and they don't

D. Kirkwood agreed but pointed out public interest doesn't mean view, could cut off an access for fire.

5 True

145 2. The Variance is consistent with the spirit and intent of the Ordinance.
 146 R. Panasiti still consistent with spirit of the ordinance. Not affecting public safety
 147 C. Vars agree location on the site is the only practical place to put it. Doesn't affect intent of ordinance
 148 J. Ramsay this addition poses no change to the surrounding properties
 149 R. Rowe yes
 150 D. Kirkwood yes
 151 5 True
 152
 153 3. Substantial justice is done.
 154 C. Vars yes no harm to anyone in this instance. They could seek out a lot line adjustment, but it would be
 155 costly. Abutters are not objecting to it based on letters.
 156 J. Ramsay agree
 157 R. Rowe no detriment to the public and there is a benefit to the homeowner. This is a reasonable
 158 location for the addition based on the shape of their lot
 159 R. Panasiti agree substantial justice is done.
 160 D. Kirkwood agree though it is possible to add onto the house without encroaching, however this is the
 161 most reasonable expansion due to costs. No one will see this from the road
 162 5 True
 163
 164 4. The values of the surrounding properties will not be diminished.
 165 J. Ramsay agree no diminution of value to abutting properties. It will never be seen
 166 R. Rowe True
 167 R. Panasiti True and it's a smaller property. Adding to it will bring it up to the rest of the neighborhood
 168 C. Vars True
 169 D. Kirkwood True
 170 5 True
 171
 172 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.
 173 R. Rowe yes based on the topography and the location of the house. Also considering the large sizes of
 174 the lots in that area.
 175 R. Panasiti yes the lot configuration results in unnecessary hardship
 176 C. Vars agree there are physical restrictions. A poor lot design and don't know how addition would be
 177 able to be added to the rear.
 178 J. Ramsay emphasized the topography on this lot is a challenge. The existing house is built far over to the
 179 south to keep distance from property lines. There are steep drop offs near the driveway.
 180 D. Kirkwood True
 181 5 True
 182
 183 The chair stated that after having passed the tests, the variance is granted as submitted.
 184
 185 **C. Vars moved and J. Ramsay seconded to exit deliberations. All in favor**
 186
 187 R. Rowe and D. Kirkwood asked G. Leedy to make sure abutters are shown on the maps provided
 188 especially for setback variances. G. Leedy said he could put together a checklist for applicants to follow.
 189 He also said other boards are putting up a projected image of the tax maps during the meeting and the
 190 ZBA could do that if they wish. D. Kirkwood was concerned that the information shown becomes part of
 191 the official record.
 192

193 G. Leedy handed out a copy of an email.
194 The Community Development office is working with the Historic District Commission to put together an
195 educational program. It is supported by a grant. There will be a presentation on January 6th. The
196 morning topic is about the legal basis of historic districts and how we use maps to regulate those
197 districts. It affects other boards more, but the ZBA is welcome and should RSVP if planning to attend.
198
199 OTHER BUSINESS:
200 **Minutes: November 19, 2017**
201 **J. Ramsay moved and C. Vars seconded to approve the minutes of November 21st, 2017 as submitted.**
202 **All in favor with R. Panasiti abstaining**
203
204 D. Kirkwood informed the board that he spoke to Sam about his spotty attendance and it's due to his
205 business travel. He is considering resigning his alternate position, but D. Kirkwood asked him to stay on
206 for when he is back in town. He is an asset and the board agreed with that.
207 J. Ramsay wondered if there's anything the Town can do encourage participation.
208 G. Leedy noted they can post notices on the website and in the Cabinet and the Citizen.
209
210 **C. Vars moved to adjourn at 8:16pm. R. Panasiti seconded. All in favor**
211
212 Respectfully submitted,
213 Jessica Marchant