

TOWN OF AMHERST
Zoning Board of Adjustment

January 21, 2020

APPROVED-AMENDED

In attendance: Robert Rowe – Vice Chair, Jamie Ramsay – Secretary/Treasurer, Charlie Vars, Danielle Pray, and Tim Kachmar – Alternate.

Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Minute Taker.

Robert Rowe called the meeting to order at 7:05 pm. He introduced the Board members and explained the ZBA's process. He stated that Chairman, Doug Kirkwood was unable to attend tonight's meeting and that he will be acting as Chair.

Tim Kachmar sat for Doug Kirkwood.

BUSINESS:

1. CASE #: PZ12021-111219 – VARIANCE

Amanda Zerola & Trevor McFarland (Owners & Applicants) – 6 Damon Pond, PIN #: 010-050-000 – Request for relief from Article IV, Section 4.4, Paragraph D2 to demo existing property and build a new modular home +/- 1,167 square feet. Zoned Northern Transitional. Continued from December 17, 2019.

Robert Rowe read and opened the case.

Trevor McFarland explained that he and his wife would like to raze their existing home and replace it with a new modular home. The current home is irregularly shaped. The new modular home will have a wrapped porch on both sides and a deck extending toward the pond. At the last meeting it was determined that two variances were needed for this application, and so there are now two being submitted for. There was also a request for a stamp on the drawing, which has been completed. There was conversation at the last meeting regarding the distance from neighboring homes to the water. One of the abutting properties has 11ft from the deck to the water; this proposed modular home's deck will be 16ft to the water. The current home's square footage is similar to what the new modular home will be.

Robert Rowe stated that the Board will hear information for both applications at the same time.

Trevor McFarland addressed the five tests:

1. This variance is upgrading the existing lot's appearance. He would like to build a new modular home with similar footprint/square footage as the current home. Granting the variance will not threaten the public health, safety or welfare. The current structure also contains a dilapidated garage that is a safety issue.
2. Granting the variance will improve the spirit of the ordinance. A new, year-round modular home will most likely improve the appearance of the neighborhood at Damon Pond. The general public should not be affected.
3. The general public and neighborhood should not be affected by the variance/new build. This is a private pond and neighborhood.

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- 45 4. This variance/new build will increase the value of surrounding properties by giving a
46 better comparable.
47 5. This variance will not affect the general public. This is a reasonable request because it
48 will keep a similar footprint and will make it a year-round property. The current home
49 has a crawl space and a dilapidated, unsafe out building that houses rodents, such as
50 mice, squirrels, and chipmunks. These could impact the neighbors' wellbeing. The
51 original home was built in the 1930's. The garage will be leveled and the area left for
52 parking.
53

54 In response to a question from Jamie Ramsay, Trevor McFarland stated that the road to access
55 this neighborhood is private. There is no public access on it. The neighborhood has no official
56 rules, but tries to work together to maintain the integrity of the pond. The owners maintain the
57 road by plowing it and fixing the potholes.
58

59 Jamie Ramsay noted that the applicant's father lives to one side and recently remodeled that
60 home. The other adjacent property was built approximately 25 years ago.
61

62 Robert Rowe noted that it is not uncommon for the side and front setbacks on these properties to
63 be less than the current zoning ordinances.
64

65 In response to a question from Charlie Vars, Trevor McFarland stated that the porches will be
66 covered and that the roofs will slope away from the water.
67

68 Charlie Vars suggested that the applicant install deck boards with at least ¼" spacing. This will
69 allow any water falling on it to go straight through the boards, instead of sheeting off. He also
70 suggested that the applicant have to install a silt fence between the house construction and the
71 water before and during construction. He also stated that the applicant is going to have a very
72 tight space to get this construction equipment into.
73

74 In response to a question from Danielle Pray, Trevor McFarland stated that, while he is unsure
75 the width of the private road, it is not wide enough for two cars to pass each other. It is passable
76 by firetrucks and ambulances.
77

78 Tim Kachmar stated that he is happy to see that the proposed deck will be slightly more set back
79 from the water than some of the surrounding properties. He also agreed with Charlie Vars'
80 suggestion regarding the deck board spacing.
81

82 Jamie Ramsay stated that all of these home, similar to those around Baboosic Lake, predate the
83 zoning ordinances. Thus each produces its own unique situation. Most of these variance
84 approvals truly do improve the pond.
85

86 Will Ludt, Chairman of the Heritage Commission, requested that pictures of the existing
87 structure be taken prior to demolition, in order to document the property.
88

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In response to a question from Danielle Pray, Charlie Vars stated that the current home is 1160sf. The proposed home is 1167sf, not counting the deck and porches.

In response to a question from Jamie Ramsay, Trevor McFarland stated that the proposed home, excluding the deck, will be along the exact same line as the existing property.

**Jamie Ramsay moved to enter deliberations. Danielle Pray seconded.
All in favor.**

CASE #: PZ12021-111219:

**Jamie Ramsay moved no regional impact. Charlie Vars seconded.
All in favor.**

Discussion:

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

- C. Vars – true, this is a family compound. This doesn't have much to do with the public interest and is hard to even see from the public way, Horace Greeley Road.
- J. Ramsay – true, this is a private road and is privately maintained. There is basically no consideration to the public other than a very concealed view from Horace Greeley Road.
- D. Pray – true, this variance doesn't violate the basic zoning objectives in the ordinance. The proposed is going to be of similar size to the existing.
- T. Kachmar – true.
- R. Rowe – true, this proposal is not much different from others along the same road.

5 True

2. The Variance is consistent with the spirit and the intent of the Ordinance

- J. Ramsay – true, this is consistent with the spirit of the ordinance, and poses no impact to the wellbeing of the general public.
- D. Pray – true, this will not have an effect on the general character of the neighborhood.
- T. Kachmar – true, this will have no impact on the public health, safety, or welfare.
- R. Rowe – true.
- C. Vars – true, the size of the proposed setback was allowed for many years under the zoning ordinance, until more recently.

5 True

3. Substantial justice is done.

- D. Pray – true, the proposed is consistent with the existing structure. There will be no harm to the general public. The applicant spoke to any issues regarding firetrucks still being able to access the road.
- T. Kachmar – true, there were no complaints from abutters.

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- C. Vars – true, the proposed is definitely an upgrade to the current physical structure.
- J. Ramsay – true, the proposed allows for the enjoyment of the property by the property owner and is a substantial upgrade to the neighbors.
- R. Rowe – true.

5 True

4. The values of the surrounding properties will not be diminished.

- T. Kachmar – true, the proposed will increase surrounding property values.
- C. Vars – true.
- J. Ramsay – true.
- D. Pray – true, the proposed is an improvement and will most likely not diminish property values.
- R. Rowe – true.

5 True

5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

- C. Vars – true, to deny this request would be unfair because others on the road have come before the Board to do something similar and were approved. This is more of an asset than a detriment to the area.
- J. Ramsay – true.
- D. Pray – true, the proposed is a reasonable use for the property.
- T. Kachmar – true.
- R. Rowe – true.

5 True

The Vice Chair stated that all the tests have been passed and the application is granted with conditions.

Charlie Vars moved that the application be granted with the following conditions: 1) in constructing the deck a 1/4" spacing be kept between the boards, 2) a silt fence be erected equidistant between the house construction and the pond [a minimum of 8ft from the pond] before, during and after construction for some time. Jamie Ramsay seconded.

All in favor.

2. CASE #: PZ12182-122619 – VARIANCE

Amanda Zerola & Trevor McFarland (Owners & Applicants) – 6 Damon Pond, PIN #: 010-050-000 – Request for relief from Article IV, Section 4.1, Paragraph F2 and Article IV, Section 4.4, Paragraph D1 to demo existing property and build a new modular home +/- 1,167 square feet. Zoned Northern Transitional.

CASE #: PZ12182-122619:

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**Jamie Ramsay moved no regional impact. Tim Kachmar seconded.
All in favor.**

Discussion:

In response to a question from Charlie Vars, Nic Strong, Community Development Director, explained that the road this property sits on is classified as a private road but is actually an easement. She had trouble calling anything on this road a front setback, as it is technically not a road, but an easement. If the Board agrees, the issue of front setbacks does not need to be acted on. The Board agreed to focus this variance request on the wetland impact.

**Tim Kachmar moved to not act on the front setback variance for the house to Damon Pond road. Jamie Ramsay seconded.
All in favor.**

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

- C. Vars – true, the proposed is no closer to the water than surrounding properties and the Board will require a certain spacing for the decking.
- J. Ramsay – true, the proposed has the same or no additional impact.
- D. Pray – true, the existing structure will occupy essentially the same space and will not impact the public interest.
- T. Kachmar – true.
- R. Rowe – true.

5 True

2. The Variance is consistent with the spirit and the intent of the Ordinance

- J. Ramsay – true, the proposed has no impact on the surrounding properties. The proposed deck is considered part of the structure but is not of the same type of material as the house and the impact from the deck will be mitigated.
- D. Pray – true, the proposed will have no impact to the pond or wetland. The proposed new structure does not alter the character of the neighborhood or affect the wetland more than the current use.
- T. Kachmar – true.
- R. Rowe – true, the proposed will only change the character of the area slightly for the good.
- C. Vars – true.

5 True

3. Substantial justice is done.

- D. Pray – true, the proposed will allow the owner to enjoy the property. Many questions were alleviated with the proposal of the silt fence.

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- T. Kachmar – true, there is a general sense that the residents around the pond take care of the properties, the pond and its ecosystem.

- C. Vars – true, the neighborhood will not be affected by the proposal.

- J. Ramsay – true.

- R. Rowe – true.

5 True

4. The values of the surrounding properties will not be diminished.

- C. Vars – true, a newly built structure will be an upgrade to the neighborhood.

- J. Ramsay – true, the proposal will keep with others in the neighborhood, as opposed to an older structure that would forever be in need of maintenance.

- D. Pray – true.

- T. Kachmar – true.

- R. Rowe – true.

5 True

5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

- T. Kachmar – true, based on the condition of the existing structure, enforcement of this ordinance would cause an unnecessary hardship.

- C. Vars – true.

- J. Ramsay – true, this property is unique, as are each property from one another around the pond. Any impact from this proposal would be substantially the same as what currently exists.

- D. Pray – true.

- R. Rowe – true.

5 True

The Vice Chair stated that all the tests have been passed and the application is granted with conditions.

Charlie Vars moved that the application be granted with the following condition: a silt fence be erected equidistant between the house construction and the pond, from side property line-to-side property line [a minimum of 8ft from the pond] before, during and after construction for some time. Jamie Ramsay seconded.

All in favor.

Charlie Vars moved to exit deliberations. Jamie Ramsay seconded.

All in favor.

OTHER BUSINESS:

1. Minutes: December 17, 2019

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260
261 **Jamie Ramsay moved to approve the minutes of December 17, 2019, as amended**
262 **[Addition of a note to Line 77-79, stating the correct square footage for the proposed**
263 **structure]. Charlie Vars seconded.**
264 **All in favor.**
265
266 **Tim Kachmar moved to adjourn at 8:14 p.m. Danielle Pray seconded.**
267 **All in favor.**
268
269
270
271
272
273
274 Respectfully submitted,
275 Kristan Patenaude
276
277 Minutes approved as amended: February 18, 2020