

**Town of Amherst
Zoning Board of Adjustment
Tuesday August 21, 2018**

ATTENDEES: D. Kirkwood- Chair, K. Shea, C. Vars, J. Ramsay, and Staff G. Leedy

The Chair called the meeting to order at 7:03pm, explained the ZBA process and introduced the board members and staff present.

NEW BUSINESS:

CASE #: PZ10126-071618 – VARIANCE Paul & Susan Spiess (Owners & Applicants) – 142 Amherst Street, PIN #: 017-001- 000 – Request for relief from Article III, Section 3.2, Paragraph A to replace the existing 8’x8’ garden shed and construct a new 8’x14’ garden shed with a side yard setback of 1’ where 20’ is required. Property is located within the Historic District

Paul Spiess spoke on behalf of his wife, the homeowner. The shed is deteriorating. They plan to expand the shed by 6’ in length to house both the riding mower and snow blower. The home is from the 1800’s and the garage is very small not allowing for this equipment. They applied with the Historic District in the spring. His abutter’s concern is the property line which was undetermined. Therefore, the applicant had a plot plan done by Meridian. The shed sits close to and possibly on the existing property line. The applicant originally wanted a 10x14 shed but cut it down to 8x14 and agreed to move the shed back a foot away from the property line.

The applicant clarified the new shed will run parallel to the property line.

Mr. Spiess addressed the five tests as follows:

1. A) The current shed is a preexisting condition. A principal public interest of the Historic District is to preserve the historic and architectural integrity of the community. The present location of this shed minimizes visibility from the street and abutters. This proposal is to replace the current shed (8x8) and expand the length to 8x12 (design and materials to be acceptable to the HDC). The existing shed is physically deteriorating and does not provide sufficient space for storage of mowing and outside equipment.

1.B) The existing and proposed location of the shed is not adjacent to any public by-way and does not represent a change in use or any additional risk to abutters or the public in general.

2. The Historic District Commission in Amherst represents a desire to preserve both the architectural and historical integrity of the early community. Houses and public buildings are closely integrated into a small geographic setting. Many of the early structures required “out” buildings for keeping and feeding animals, protecting wagons and implements and storage of feed and tools of their trade. There are many examples of such structures in the district, many often attached to the house at later date. The proposed new shed, although marginally visible to the community will be in conformity with the architectural style and construction of the times.

3. The existing structure does not provide adequate space for a mower, snow blower and other outdoor implements. Some of these are, by necessity, stored outside under tarps in the off season. An expanded shed will move these implements inside and out of sight enhancing the overall visual appearance of the property.

4. The present shed is a preexisting condition. Only one of the three current abutters can directly see the structure. The proposed expanded shed will improve the physical condition of the structure, provide

for removal of “outside storage” of equipment and not materially affect the third abutter’s current views.

5. Many lots in the Historic District are small, and houses and outbuildings were constructed before zoning ordinances with setback requirements were established. (Our abutter’s house to the east is located 4’ from the lot line) This reality significantly diminishes the opportunity to locate new or expanded structures on a lot within the setback requirements that are not more deleterious to the scenic and architectural integrity of the district.

In his case, if he was to conform to the 20’ side setbacks, the shed will be in the middle of the lot which would be unattractive to both him and the public. The shed is out of sight with exception to the one abutter and his view is skewed by the angle of his home. The house and existing garage were never intended for the type of equipment necessary to keep a property maintained today. It seems better to keep it in its current location though off the property line rather than in a more visible location.

C. Vars asked and the applicant clarified the new shed will be 8x12’ not 8x14’.

Public Comment: None

CASE #: PZ10154-072018 – VARIANCE Lucinda Kendall & Donald Harrington (Owners & Applicants) – 53 Chestnut Hill Road, PIN #: 010-032-000 – Request for relief from Article IV, Section 4.5, Paragraph E to construct a 24’x24’ detached 2-car garage within 20’ of a sideline where 30’ is required. Zoned Northern Rural.

Bob Kilmer from Sanford survey and engineering represented the applicant and presented the case. The applicant is proposing a 24x24 garage at the end of their driveway to free up their existing garage to park their cars. He described the parcel and abutters to the property. They do not have plans at this time. They are waiting for ZBA approval first. He described some images of the property from Google Earth.

He addressed the five tests as follows:

1. Granting the variance will not be contrary to the public interest. The proposed variance will accommodate a 24x24 detached garage off the end of the existing paved driveway. This will encroach on the 30’ side setback for accessory structures by approximately 10’. The granting of this variance would not impact the public, as the proposed garage is behind the back line of the existing residence thus meeting the front setback of 50’ from the road. It would only be in full view from the road at the entrance to the existing drive. There would be no threat to the public safety, health or welfare as the garage would be used to park cars and lawn/snow removal equipment out of view of the public.

2. Granting the variance will be consistent with the spirit and intent of the ordinance. The garage will not increase the amount of traffic to or from the residence and will have no adverse effect on public safety as there are no structures on abutting properties within close proximity to the proposed location. The parcel will continue to be used as a single-family residence so there will be no increase in use. The parcel is in a rural setting with large fields and interspersed woodlands with most of the homes set back from the road and not fully visible from the road. The few homes on this portion of Chestnut Hill Rd happen to be built closer to the road. The immediate area north and east of this parcel is owned by the Town of Amherst and is part of a large open space area.

3. Granting the variance will allow the applicant to further enjoy their property and with the garage being closer to the house and driveway, it will not impose an undue burden of additional site work and added driveway.

4. Granting the variance will not cause a diminution of value to any abutting or surrounding property. It will be constructed to current codes, have similar appearance and be maintained in the same manner as the existing residence.

5. The parcel is smaller than is required by current zoning containing 3.116 acres where 5 acres is required. The existing residence is built in the northwest corner of the lot and the septic is to the south of the house. Requiring the proposed garage to be built anywhere else on the property would require either an additional driveway entrance to the property or a much more extensive driveway than already exists. The proposed location is the only location that would create the least visual impact to the surrounding properties and public.

5.(A)(i) By requiring the applicant to place the proposed garage in a place on the property that would meet the required setbacks it would place an undue hardship on the owners for the use they plan for the garage. There is no relationship between the general public purposes of the ordinance that they are seeking the variance from and the specific application to the subject parcel because the proposed detached garage has no impact on the public safety or overcrowding.

5.(A)(ii) Placing a detached garage on the property where it will be more useful to the owners for enclosed storage of vehicles and equipment, out of the weather and out of sight of the general public and to have their snow removal equipment in close proximity to where it will be used, is not an expansion of the use of the property. It will still be used as a single-family residence therefore it is a reasonable use.

D. Kirkwood asked if it's possible to locate the garage nearby but reduce the encroachment. If it goes closer to the house, they have to extend the driveway back and to the right. That also gets close to the house and the well.

Public Comment

Paul Dishong- 57 Chestnut Hill Rd

He is the immediate neighbor to the north and doesn't have any objections. He won't see it through the trees. It's the best location to put it.

K. Shea asked if there will be any disturbance to the existing tree line. No tree cutting, some possible trimming.

C. Vars is it currently staked in that spot? It is very close- a few feet off.

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

PZ10126-071618

K. Shea moved no regional impact. J. Ramsay seconded. All in favor

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

C. Vars yes viewed the site from a number of different angles and agree it's the best place for the shed. Also, the reduction of size helps it work for that location

J. Ramsay yes, no harm to public. No better place to put it with less impact

K. Shea yes, no threat to public health, safety or welfare. Great job reducing public visibility.

4 True

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

J. Ramsay yes with the fact it's in the Historic District and that is another hurdle that has to be met and has been met. It meets a modern-day use that wasn't contemplated at the time of construction

145 K. Shea yes agree with Ramsay
 146 C. Vars yes also best to put the equipment inside
 147 D. Kirkwood applicant stated the shed would be constructed within Historic District restrictions
 148 4 True
 149
 150 3. Substantial justice is done.
 151 K. Shea yes it's an improvement to get the equipment inside and he has worked well with his neighbor's
 152 concerns
 153 C. Vars agreed with Shea
 154 J. Ramsay yes present shed is preexisting structure so not introducing new structures to the property
 155 4 True
 156
 157 4. The values of the surrounding properties will not be diminished.
 158 C. Vars yes there is a shed there. This is a small size increase to get the equipment in. Will not diminish
 159 any values- it probably increases the value by cleaning up the view
 160 J. Ramsay The Historic District is now full of sheds that were not there before. When these houses were
 161 built, modern-day necessities could not have been contemplated.
 162 K. Shea agreed with Vars
 163 4 True
 164
 165 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.
 166 K. Shea hardship is in the Historic District the properties are small and under a microscope with making
 167 sure everything looks good. The size and setbacks are a hardship. If held to setbacks, shed would be in a
 168 bad location.
 169 C. Vars reasonable request. To meet the setbacks, the location would not be desirable to the
 170 neighborhood
 171 J. Ramsay agreed
 172 D. Kirkwood no substantial relationship between the general purpose of the ordinance and the
 173 application to this specific piece of property. Could be an expansion of use considering the size
 174 replacement of the shed but given the size of the lot and condition of the property that's not an issue.
 175 The solution the applicant worked out with the abutter works well.
 176 4 True
 177
 178 The board discussed adding the condition of the shed being the size 8'x12' as stated, which is different
 179 than what is stated in the application. The board agreed to that condition.
 180 The Chair stated that having passed the tests, the application is granted with the condition it is to be
 181 8'x12'.
 182
 183 **PZ10154-072018**
 184 **K. Shea moved and C. Vars seconded no regional impact. All in favor**
 185 D. Kirkwood commented that there are alternative locations for the proposed garage. No abutters were
 186 present. It would have to be moved a considerable amount to get it away from the setback.
 187
 188 1. The Variance will not be contrary to the public interest.
 189 K. Shea yes, no threat to public health, safety or welfare
 190 C. Vars agree public interest has to do with aesthetics. Moving it back won't change the aesthetics. A
 191 few years ago, the setback in that zone was 15 feet which this proposal would have cleared
 192 J. Ramsay agree it will look better there than back and to the south.

193 4 True
194
195 2. The Variance is consistent with the spirit and intent of the Ordinance.
196 C. Vars yes many of the same reasons mentioned. It fits better to what the ordinance requires. He also
197 stated he is familiar with the family, but doesn't feel he needs to recuse himself
198 J. Ramsay no threat to public health, safety or welfare. No change to aesthetics to the character of the
199 neighborhood.
200 K. Shea agree
201 4 True
202
203 3. Substantial justice is done.
204 J. Ramsay yes it gives the owners greater opportunity of enjoyment of their property
205 K. Shea parking should be in the proximity to the driveway and the home. This location is best.
206 C. Vars yes if move it further back, in the winter there is more snow to deal with.
207 J. Ramsay yes
208 4 True
209
210 4. The values of the surrounding properties will not be diminished.
211 K. Shea yes this wouldn't diminish property values
212 D. Kirkwood this is subjective and difficult to determine without a realtor's notes. It's not a reasonable
213 answer to just state that property values won't be diminished.
214 K. Shea most times if something was going to diminish values of surrounding properties, it would also
215 significantly diminish the value of its own property.
216 J. Ramsay looks at it being a year or more down the road. You notice it at first, but then it will just fit in
217 C. Vars yes
218 4 True
219
220 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.
221 C. Vars yes putting it where proposed has the least negative visual impact. There is a thick tree line
222 which will make it not too visible.
223 J. Ramsay yes the house is a preexisting condition on the property and located as far north and west on
224 this property as it can get. There are other areas to place the garage, but this is the only practical place.
225 K. Shea yes the home as well as driveway and existing garage are all in that corner of the lot. So
226 functionally this is the best location
227 D. Kirkwood it's still possible to locate the garage in less of a violation of the setback and still within
228 reasonable walking distance to the home.
229 4 True
230
231 The Chair stated having passed the tests, the application is granted.
232
233 **J. Ramsay moved and K. Shea seconded to exit deliberations. All in favor**
234
235 **K. Shea moved and C. Vars seconded to reenter deliberations. All in favor**
236
237 **CASE #: PZ10087-071118 – VARIANCE Frank Reynolds (Owner & Applicant) – 52 Spring Road, PIN #:**
238 **006-025-002 – Request for relief from Article IV, Section 4,3, Paragraph A to build a detached**
239 **accessory dwelling unit. Zoned Residential Rural.**
240 The applicant has asked for the case to be tabled to the September meeting.

241 J. Ramsay moved to table the case to September 18th. C. Vars seconded. All in favor
242
243 **CASE #: PZ10153-072018 – VARIANCE Pathway Homes (Owner & Applicant) – 16 Pinnacle Road, PIN #:**
244 **006-074-011 – Request for relief from Article 4.3, Section D, Paragraph 2 to add a 14x12’ exterior**
245 **structure with a rear setback of 18’ where 25’ is required. Zoned Residential/Rural.**
246 The applicant has asked for the case to be tabled to the September meeting.
247 **K. Shea moved to table the case to September 18th. J. Ramsay seconded. All in favor**
248
249 **K. Shea moved and J. Ramsay seconded to exit deliberations. All in favor**
250
251 OTHER BUSINESS:
252 **Minutes: June 19, 2018**
253 A resident asked that his written statement be added to the minutes verbatim. That can be done.
254 D. Kirkwood stated he needs to add it to the file as an exhibit.
255 **K. Shea moved and C. Vars seconded to approve the minutes of June 19 as submitted. All in favor**
256
257 **ZBA Rules of Procedures**
258 Only four members of the board were present. D. Kirkwood prefers to have a full board for this
259 discussion. Also, Town Counsel went on vacation before he and Doug completed their discussions on
260 this matter.
261
262 C. Vars stated Danielle Pray lives in town and is interested in becoming an alternate for the ZBA. Can we
263 vote to put her on the board? Then she will need to take the oath at the office.
264 **C. Vars moved for the board to invite Danielle to be a ZBA alternate member. K. Shea seconded.**
265 **All in favor**
266
267 **J. Ramsay moved to adjourn at 8:23pm. C. Vars seconded. All in favor**
268
269 Respectfully submitted,
270 Jessica Marchant