

**Town of Amherst  
Zoning Board of Adjustment  
Tuesday May 21, 2019**

ATTENDEES: D. Kirkwood- Chair, C. Vars, J. Ramsay, D. Pray

The Chair called the meeting to order at 7:09pm, explained the ZBA process and introduced the board members and staff present. He also explained that there are only four board members present tonight. Three votes in favor will be needed tonight for a variance to be granted. If the vote ends in a tie, the variance will be denied. The applicant was given the option to move forward tonight or to present at a later date. The applicant chose to proceed.

C. Vars noted Tim Kashmar is present tonight as a potential ZBA alternate and is here to learn more about the process.

**NEW BUSINESS:**

**1. PZ11218-041219 – VARIANCE Richard & Kassandra Galipeault (Owners & Applicants) – 43 Embankment Road, PIN #: 008-117-000 – Request for relief from Article IV, Section 4.3, Paragraph D.2, D.4 to construct a residential addition within the side setback and increase the F.A.R. greater than 15%. Zoned Residential Rural.**

George Chadwick, Bedford Design presented the case. Richard and Kassandra Galipeault, owners were present as well.

G. Chadwick described the variance sought for the side setback and floor area.

Currently there is a two-story structure along with two sheds and a carport. The proposal is to remove the front deck of the house which remedies an encroachment, remove the carport and two sheds, add a third story and increase the square footage of living area by 475 sq. ft. Removing the outbuildings will reduce the impervious areas by 965 sq. ft.

A Clean Solutions septic system will be installed which will accommodate four bedrooms. They have approval for the septic system and the shore land permit necessary. The new system will be larger than the current leach field and will treat the septage.

The front setback will increase from being in violation to 2.7'.

The side setback will reduce from 30.8' to 20.7'.

G. Chadwick addressed the five tests.

1. The ordinance allows for expansion of nonconforming setbacks as long as it does not increase the degree of non-compliance. The addition will occur away from the lake and outside the 50-foot shore land line. 965 sq. ft. of impervious structures will be removed, and the home will only increase by 475 sq. ft. There will be a 6% decrease in lot coverage. The addition of a third story will not alter any abutters views of the lake. The character of the neighborhood will not be altered as there are other three-story homes on the lake. There will be no additional traffic, health or life safety issues created.

2. The zoning regulations are reasonable for a new subdivision, but not for these camp lots created 100 years ago. Many of these lots cannot meet regulations due to their small size and cannot be held to the current standards. The size and shape of the existing parcel does not currently meet the setbacks and floor area ratio standards. It's currently 48.7%. The proposal is to increase the ratio to 80.9%.

3. To allow this parcel to be developed in a way that's consistent with the neighborhood is beneficial to the neighborhood. Impervious areas will be reduced, and the septic system will be upgraded. They will meet current building standards.

4. The home will be upgraded to standards. The character of the neighborhood will not be affected by the improvements. There will be a new septic system and decreased lot coverage.

5. There are similar uses and dimensional violations in the Baboosic Lake area. The property is unique in its size, shape and location. The setback and floor area request does not alter the public health, safety or welfare. There is no fair and substantial reason to prohibit this request.  
The proposed use is reasonable because the residential use is allowed in this zone.

D. Kirkwood asked for the height of the proposed building. They discussed the garage height and stated the total height will be less than 40'.

D. Kirkwood asked for details about the well. It is an existing well which will not be altered. They have Town and State approval for the septic system.

D. Kirkwood is concerned the plan does not show where the abutting wells are located. G. Chadwick stated the State has no issue with that. They are replacing the system currently in the same location and upgrading to a better system which is better for both properties.

C. Vars clarified with the applicants the plans for the decks/porch/ second story on the east side of the house.

K. Galipeault explained how they do a lot of work around the neighborhood on the roads, snow plowing and working on the bridge.

D. Pray wondered which other homes in the neighborhood have three stories and K. Galipeault elaborated.

She also asked for more detail about not obstructing abutting views of the lake. The applicants explained there are no homes to the west and the surrounding land is owned by the abutters and is an easement.

#### Public Comment

Kevin Bevis and Susan LaBelle of 45 Embankment Rd were present. Mr. Bevis said the current septic system is failing. He appreciates that the applicants are going to upgrade it. The system they are putting in cleans the water and reduces the size of his leach field. This is why the State would support the improvement even within 75' of abutting wells. This will be a great improvement for the abutters. He expounded on some of the oddities to the structure of the house.

He explained the sacrifices the applicant has made to fixing/ replacing the bridge and plowing and fixing the road. These abutters are in support of granting this variance.

**C. Vars moved and D. Pray seconded to enter deliberations. All in favor**

#### **CASE PZ11046-041219**

**J. Ramsay moved no regional impact. C. Vars seconded. All in favor**

#### Discussion

J. Ramsay noted Baboosic Lake residents often seek variances for these issues.

C. Vars noted all the plans presented are upgrades.

96 1. The Variance will not be contrary to the public interest.  
 97 C. Vars yes it won't affect adjacent lots  
 98 J. Ramsay agree doesn't negatively impact the public  
 99 D. Pray agree no negative impact to traffic and safety  
 100 D. Kirkwood True  
 101 4 True  
 102  
 103 2. The Variance is consistent with the spirit and intent of the Ordinance.  
 104 J. Ramsay yes they are preserving the look of surrounding properties. Baboosic Lake area is unique  
 105 D. Pray yes  
 106 C. Vars health and safety will be improved from what it was. He is not concerned with the floor ratio  
 107 since the neighboring property is so much larger  
 108 D. Kirkwood the importance of the waste disposal system is a great improvement  
 109 4 True  
 110  
 111 3. Substantial justice is done.  
 112 D. Pray huge improvements to the septic and to the structure for building codes  
 113 C. Vars agree and if denied their loss would be greater than the gain to the general public  
 114 J. Ramsay agree this allows the owners to enjoy their property to its fullest extent  
 115 D. Kirkwood the septic system is being improved dramatically and that is better for the health, safety  
 116 and welfare  
 117 4 True  
 118  
 119 4. The values of the surrounding properties will not be diminished.  
 120 C. Vars yes this project will increase the value of this property and those around it  
 121 J. Ramsay no testimony was given, but this property is being improved so yes  
 122 D. Pray yes no evidence given that values will diminish. Improvements include better septic system and  
 123 removal of the old sheds  
 124 D. Kirkwood this is subjective but investing in a property does not diminish surrounding properties  
 125 True  
 126  
 127 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.  
 128 J. Ramsay yes the proposed use is reasonable and they are expanding on an existing footprint mostly to  
 129 the west, which is the best and only direction to go  
 130 To require compliance to zoning in this case creates hardship to the property owner  
 131 D. Pray yes it's reasonable and the shape of lot and existing structures cause hardship  
 132 C. Vars this property is unique and the abutter's testimony was very favorable  
 133 True  
 134  
 135 The Chair stated all the tests have passed and the application has been granted with the condition a  
 136 note stating the height be listed on the plan.  
 137  
 138 **C. Vars moved and J. Ramsay seconded to exit deliberations. All in favor**  
 139  
 140 **OTHER BUSINESS:**  
 141 **3. Minutes: April 16, 2019**  
 142 **D. Pray moved, and C. Vars seconded to approve the minutes of April 16 as submitted.**  
 143 **All in favor**

144 **3. Rules of Procedures**

145 D. Kirkwood noted after his discussions with Bill, on some proposals where there is a stenographer, a  
146 transcript can be requested and that can satisfy the requirement for the recorded minutes.

147  
148 The board discussed the Rules of Procedures notes that had been submitted at the previous meeting.  
149 D. Kirkwood will attempt to make edits and get the new version out to the board members for review.

150  
151 Board members will come into the office to sign the decision sheet from tonight's case.

152  
153 **J. Ramsay moved to adjourn at 8:50 pm. D. Pray seconded. All in favor**

154  
155 Respectfully submitted,  
156 Jessica Marchant