

TOWN OF AMHERST
Zoning Board of Adjustment

December 17, 2019

APPROVED as AMENDED

In attendance: Doug Kirkwood – 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.

Doug Kirkwood called the meeting to order at 7:03 pm. He explained the ZBA's process and introduced the Board and staff members.

BUSINESS:

2. CASE #: PZ12045-111519 – VARIANCE

EAM Amherst Holdings, LLC (Owner & Applicant) – 317 Route 101, PIN #: 008-072-000 – Request for relief from Article IV, Section 4.3 to allow for a self-storage facility. Zoned Residential Rural.

Tim Kachmar sat for Rob Rowe.

Andrew Prolman, Esq., stated that he had asked the applicants of the first agenda item if they would allow him to go first. They had no objections. He is requesting additional time for this application to improve the plan, continue engineering work, and to continue to work with the neighbors.

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

**Charlie Vars moved to table consideration of the second agenda item to the February 18, 2020, Zoning Board of Adjustment meeting. Tim Kachmar seconded.
All in favor.**

**Jamie Ramsay moved to exit deliberations. Charlie Vars seconded.
All in favor.**

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.

Jamie Ramsay read and opened the case.

Trevor McFarland explained that he and his wife would like to demolish their current home and rebuild a modular home in its place. They would also like to put on a deck to the new home. The current home is irregularly shaped. It is also a seasonal home and they would like to make it a year-round residence.

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Trevor McFarland addressed the five tests.

In regards to the first test, granting the Variance will not be contrary to the public interest because the current house is approximately 70 years old and so a new home will increase the appearance of the small pond neighborhood. The new home will fit a similar footprint and square footage and thus there will be no impact to the public health, safety, or welfare.

In regards to the second test, granting the Variance will ensure that the spirit of the ordinance will be observed because the home will become a year-round one and will improve the appearance of the neighborhood. The new structure will be of a higher quality. The current garage on site is a possible safety hazard and will also be razed.

In regards to the third test, substantial justice will be done because the general public and neighborhood should not be affected at all by the new build. The two closest abutters to the proposed home are family members and have no objections.

In regards to the fourth test, the value of the surrounding properties will not be diminished, but instead their value will increase because the current house is an inferior one to the rest.

Finally, in regards to the fifth test, there will be no hardship to the general public from the new structure, and the applicant is not looking to move the structure any closer to the water. The current home has a crawl space and a dilapidated, unsafe out-building that houses rodents and impacts the neighbors well-being.

Discussion:

In response to a question from Charlie Vars, Trevor McFarland stated that the current garage will be razed and used as a level area to park cars.

In response to a question from Charlie Vars, Trevor McFarland stated that the current home is approximately 1,160ft².

Charlie Vars noted that the new structure aims to be about 1,479ft². This appears to be a dramatic increase. He also noted that there will be a substantial increase to the roof, from 496ft² to 754ft². This is approximately one quarter larger. *[Note: see minutes from January 21, 2020, Lines 89-90, expressing the correct square footage of the existing and proposed (minus the deck and porches) structures.]*

Trevor McFarland noted that the new foundation will be raised a bit, so that no water enters the basement. The proposed structure will also have dormers that will increase the square footage.

The Board discussed the current distance from the structure to the lot lines. Charlie Vars noted that it appears the proposed structure will also reduce the distance to the lot lines substantially. He also noted that the two plans presented to the Board are inconsistent with each other.

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In response to a question from Charlie Vars, Trevor McFarland explained that the deck depth will be 8ft in the front and 6ft, with covered porches, on the sides.

Doug Kirkwood noted that the deck is approximately 32ft from the edge of the house to the opposite end of the deck.

In response to questions from Charlie Vars, Trevor McFarland stated that there is a dug well on the property and a fairly new septic tank in place.

Jamie Ramsay stated that the proposed porches seem to expand the footprint of the building, but that the footprint of the house itself will be substantially the same as the existing structure.

In response to a question from Charlie Vars, Trevor McFarland noted that the porches will be on piers and posts. He also explained that the existing roof is pitched towards the pond, but that the new roof will pitch away from it.

The Board discussed a photograph and information presented by the applicant that was introduced to the Board and should now be included in the record.

In response to a question from Tim Kachmar, Trevor McFarland explained that the area behind the house is ledge.

In response to a question from Jamie Ramsay, Trevor McFarland stated that he believes the existing structure was built in the 1930s.

**Jamie Ramsay moved to enter deliberations. Charlie Vars seconded.
All in favor.**

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

Jamie Ramsay noted that there are no dissenting abutters here to speak to the case.

Danielle Pray stated that the staff report notes that this application covers a request for a variance on the side and rear setbacks, but that there may also be a variance needed for a front setback and to have the structure within the 100ft wetland buffer.

Doug Kirkwood stated that this wetland setback should be grandfathered in, unless substantial.

Jamie Ramsay stated that the proposed deck decreases the distance of the structure to the pond by about 8ft, from about 24ft to 16ft.

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In response to a question from Doug Kirkwood, Nic Strong, Community Development Director, stated that the proposed deck is attached to the new house and so it is considered part of the structure. In the wetland district all development is subject to buffers. The issue is that this lot and structure are non-conforming, but that the new build will not be in the exact same footprint as the existing one. In order for the structure to be within the 100ft buffer this application will need another variance request.

In response to a question from Doug Kirkwood, Nic Strong explained that the structure could be grandfathered in if there was no increase in non-compliance, but there are increases so the applicant will also need to request a variance for the wetland buffer. The entire proposed structure will be within the 100ft wetland buffer.

The Board discussed their options in regards to this case as presented without the additionally needed variance requests.

Trevor McFarland noted that the road is not a private road, but an easement to the other properties that use it to access their homes.

Charlie Vars stated that proposed structure would have fit into the sideline setbacks from 40 years ago. He is not sure that the deck should be included as part of the structure. He explained that the applicant cannot move the structure away from the pond by 8ft due to the location of the road.

Nic Strong noted that a “structure” is defined in the ordinance and has broad language that would consider a deck to be part of the structure.

Jamie Ramsay noted that there is also no clear view of the setbacks from the abutting properties to the pond. This information would be helpful.

In response to a question from Doug Kirkwood, Trevor McFarland stated that the current structure does not have a foundation and sits on stones. The proposed structure would have a raised concrete foundation.

Danielle Pray stated that the front setback also will be decreasing, but it is not clear by how much.

Trevor McFarland noted that the proposed structure will be moving about 5ft closer to the road.

In response to a question from Jamie Ramsay, Trevor McFarland explained that the deeded easement goes across all of the properties along the road.

In response to a question from Charlie Vars, Trevor McFarland stated that there will be a walk-out from the proposed house on the pond side.

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Doug Kirkwood noted that the Meridian Land Services plans did not have a stamp. He also noted that it is very confusing to be presented with two plans that do not agree.

In response to a question from Charlie Vars, Trevor McFarland's father explained that he suggested that the plan be drawn up by Meridian, even though Fieldstone had done work on the septic layout in the past.

Tim Kachmar suggested that the applicant look through Section 4.11, Wetland and Watershed Conservation District, specifically paragraph F2, and also Section 4.4 D1 for the front setback.

Trevor McFarland questioned if a variance could be granted conditionally, as he needs the approval in order to get financing and begin to have the modular home built.

The Board members discussed potentially approving the side setback variance, if the applicant removed the decks from the plans. He could come back with a new application for the decks at a future date.

Nic Strong noted that the 100ft buffer encompasses the entire structure; the whole structure is within the buffer and, therefore, removing the decks would not prevent the house from needing the wetland buffer variance.

Charlie Vars noted that he's not sure how a modified application would be granted an approval due to the fact that this structure will still be considered to be within the 100ft wetland buffer.

Danielle Pray noted that the Board needs to follow the law.

Tim Kachmar stated that no one on the Board wants to deny the application, as it would be a hardship to the applicant. He suggested the applicant be sure to include the wetland variance setback information in an updated application, in order to proceed without piecemealing the application.

The Board discussed that there is a deadline of 30 days prior to the next meeting in order to submit an application.

In response to a question from Charlie Vars, Nic Strong noted that, if the applicant requests to table the application in order to submit a further variance application and have them reviewed at the same time, there will need to be additional notice and subsequent fees to go with the new application.

The Board noted the need for setback measurements from the property lines and pond to the existing structure as well as the proposed, and also information on the setbacks of abutting structures to the pond.

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Danielle Pray moved to table PZ12021-111219 to the January 21, 2020 meeting to allow the applicant to obtain more information and that a new application for relief from Section 4.11 shall be submitted. Tim Kachmar seconded.

All in favor.

Jamie Ramsay moved to exit deliberations. Tim Kachmar seconded.

All in favor.

OTHER BUSINESS:

1. Minutes: November 19, 2019

Jamie Ramsay moved to approve the minutes of November 19, 2019, as submitted.

Tim Kachmar seconded.

All in favor.

2. No Show Policy

Danielle Pray presented the Board with her adjustments to the draft policy and the Board agreed to review the changes and discuss them at their next meeting.

Danielle Pray also suggested the Board consider putting their policies and procedures on the town website.

Tim Kachmar moved to adjourn at 9:04 p.m. Danielle Pray seconded.

All in favor.

Respectfully submitted,
Kristan Patenaude

Minutes approved as amended: January 21, 2020