

TOWN OF AMHERST
Zoning Board of Adjustment

December 17, 2019

APPROVED as AMENDED

1 In attendance: Doug Kirkwood – Chair, Jamie Ramsay – Secretary/Treasurer, Charlie Vars,
2 Danielle Pray, and Tim Kachmar – Alternate.
3 Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Minute
4 Taker.

5
6 Doug Kirkwood called the meeting to order at 7:03 pm. He explained the ZBA’s process and
7 introduced the Board and staff members.
8

9 BUSINESS:

10
11 **2. CASE #: PZ12045-111519 – VARIANCE**

12 **EAM Amherst Holdings, LLC (Owner & Applicant) – 317 Route 101, PIN #: 008-**
13 **072-000 – Request for relief from Article IV, Section 4.3 to allow for a self-storage**
14 **facility. Zoned Residential Rural.**

15
16 *Tim Kachmar sat for Rob Rowe.*

17
18 Andrew Prolman, Esq., stated that he had asked the applicants of the first agenda item if they
19 would allow him to go first. They had no objections. He is requesting additional time for this
20 application to improve the plan, continue engineering work, and to continue to work with the
21 neighbors.
22

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

25
26 **Charlie Vars moved to table consideration of the second agenda item to the**
27 **February 18, 2020, Zoning Board of Adjustment meeting. Tim Kachmar seconded.**
28 **All in favor.**

29
30 **Jamie Ramsay moved to exit deliberations. Charlie Vars seconded.**
31 **All in favor.**

32
33 **1. CASE #: PZ12021–111219 – VARIANCE**

34 **Amanda Zerola & Trevor McFarland (Owners & Applicants) – 6 Damon Pond, PIN**
35 **#: 010-050-000 – Request for relief from Article IV, Section 4.4, Paragraph D2 to**
36 **demo existing property and build a new modular home +/- 1,167 square feet. Zoned**
37 **Northern Transitional.**

38
39 Jamie Ramsay read and opened the case.

40
41 Trevor McFarland explained that he and his wife would like to demolish their current home and
42 rebuild a modular home in its place. They would also like to put on a deck to the new home. The
43 current home is irregularly shaped. It is also a seasonal home and they would like to make it a
44 year-round residence.

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45 Trevor McFarland addressed the five tests.

46

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

51

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

56

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

60

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

63

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

68

69 **Discussion:**

70

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

73

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

76

77 Charlie Vars noted that the new structure aims to be about 1,479ft². This appears to be a dramatic
78 increase. He also noted that there will be a substantial increase to the roof, from 496ft² to 754ft².
79 This is approximately one quarter larger. *[Note: see minutes from January 21, 2020, Lines 89-
80 90, expressing the correct square footage of the existing and proposed (minus the deck and
81 porches) structures.]*

82

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

85

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

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

92

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

95

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

98

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

101

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

105

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

108

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

111

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

114

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

117

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

121

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

123

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

127

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

129

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

132

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

139
140 In response to a question from Doug Kirkwood, Nic Strong explained that the structure could be
141 grandfathered in if there was no increase in non-compliance, but there are increases so the
142 applicant will also need to request a variance for the wetland buffer. The entire proposed
143 structure will be within the 100ft wetland buffer.

144
145 The Board discussed their options in regards to this case as presented without the additionally
146 needed variance requests.

147
148 Trevor McFarland noted that the road is not a private road, but an easement to the other
149 properties that use it to access their homes.

150
151 Charlie Vars stated that proposed structure would have fit into the sideline setbacks from 40
152 years ago. He is not sure that the deck should be included as part of the structure. He explained
153 that the applicant cannot move the structure away from the pond by 8ft due to the location of the
154 road.

155
156 Nic Strong noted that a “structure” is defined in the ordinance and has broad language that would
157 consider a deck to be part of the structure.

158
159 Jamie Ramsay noted that there is also no clear view of the setbacks from the abutting properties
160 to the pond. This information would be helpful.

161
162 In response to a question from Doug Kirkwood, Trevor McFarland stated that the current
163 structure does not have a foundation and sits on stones. The proposed structure would have a
164 raised concrete foundation.

165
166 Danielle Pray stated that the front setback also will be decreasing, but it is not clear by how
167 much.

168
169 Trevor McFarland noted that the proposed structure will be moving about 5ft closer to the road.

170
171 In response to a question from Jamie Ramsay, Trevor McFarland explained that the deeded
172 easement goes across all of the properties along the road.

173
174 In response to a question from Charlie Vars, Trevor McFarland stated that there will be a walk-
175 out from the proposed house on the pond side.

176

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

179

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

183

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

186

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

189

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

193

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

197

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

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

201

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

206

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

209

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

214

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

218

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219 **Danielle Pray moved to table PZ12021–111219 to the January 21, 2020 meeting to**
220 **allow the applicant to obtain more information and that a new application for relief**
221 **from Section 4.11 shall be submitted. Tim Kachmar seconded.**
222 **All in favor.**

223
224 **Jamie Ramsay moved to exit deliberations. Tim Kachmar seconded.**
225 **All in favor.**

226
227 OTHER BUSINESS:

228
229 **1. Minutes: November 19, 2019**

230
231 **Jamie Ramsay moved to approve the minutes of November 19, 2019, as submitted.**
232 **Tim Kachmar seconded.**
233 **All in favor.**

234
235 **2. No Show Policy**

236
237 Danielle Pray presented the Board with her adjustments to the draft policy and the Board agreed
238 to review the changes and discuss them at their next meeting.

239
240 Danielle Pray also suggested the Board consider putting their policies and procedures on the
241 town website.

242
243 **Tim Kachmar moved to adjourn at 9:04 p.m. Danielle Pray seconded.**
244 **All in favor.**

245
246
247
248
249
250
251 Respectfully submitted,
252 Kristan Patenaude

253
254 Minutes approved as amended: January 21, 2020