

November 18, 2004

Present: Edmund White, Bradford Sedito, Randolph Snook, Polly Roberts

Alternates: Mark Averill, Todd Catlin, Georgia Middlebrook

Guests: Jennifer Mitchell, Daryl Wright, Najma Kadosh, Dale and Marvin Meltzer, Richard Dutton, Press

Edmund White, Chairman called the meeting to order at 7:30pm and read the legal notice for tonight's meeting.

Mr. White began by stating that ZBA-0416, Request of Keith Jepsen & Kathleen Dore, 144 East Shore Road has been withdrawn.

PUBLIC HEARING

Mr. White seated regular members Bradford Sedito, Randolph Snook, Polly Roberts, Himself and alternate Mark Averill.

ZBA-0417 Request of Jennifer & Neil Mitchell, 18 Shinar Mountain Road, for a variance from Zoning Regulation 12.14.1 (generator location), to install a generator. Jennifer Mitchell and Daryl Wright came forward to represent this application. Mr. White began by informing members that since the November ZBA meeting when the Mitchell's were denied a variance for their generator there has been a lot line revision to the property which eliminated the need for a variance from the side yard setback. This lot line revision received Zoning approval on November 16, 2004. The Mitchell's are still requesting a variance to locate the generator more than 25 feet from the structure principally served. Ms. Mitchell use photographs to explain the sloping terrain around the house with what she estimates 15' - 16' between the dwelling and retaining walls on both sides of the house. She feels it would be very difficult to locate a generator and buried tank near the house. She is proposing to locate the generator up to 105' from the house next to the pool equipment which is served by an existing buried propane tank. With photos Ms. Mitchell explained that the generator would be installed behind a stone wall next to the existing pool equipment. She went on to explain that they have gifted the development rights to a back field to Steep Rock Association and their next step is to gift the development rights to what would be the remaining 3 or 4 "building lots" to Steep Rock in the future. Ms. Mitchell explained that she is home alone a lot and because Shinar Mountain Road is not highly populated they are the last to receive service. Daryl Wright, the contractor who will install the generator explained that the generator will be a 35kw measuring 4' long, 30" wide and 30" high he added that this is a moderate size generator for this house. Mr. Snook asked about the ZBA looking into changing the regulations. Mr. White answered that there has been conversation about changes in this regulations but the ZBA is bound by the present regulations. Mr. White asked if other options had been explored. Mr. Wright stated that the gas source is the main problem. The under ground tank that is already installed services the pool equipment and stove in house at this time. Mr. Snook confirmed that there is a line already to the house from the existing buried gas tank. Mr. Wright stated that it is inadequate to service a generator. Mr. Averill asked if any digging would need to be done from the existing buried tank to the proposed generator. Mr. Wright stated that he will use existing lines to the pool equipment. Mr. Snook asked if Mr. Clifford Woodruff had submitted any comments. Mr. Woodruff's certified mailings were sent but never picked up; the applicant had tried to notify him.

MOTION: to close ZBA-0417 Request of Jennifer & Neil Mitchell, 18 Shinar Mountain Road, for a variance from Zoning Regulation 12.14.1 (generator location), to install a generator was made by Ms. Roberts, seconded by Mr. Sedito by a 5-0 vote.

MEETING

Mr. Snook understands the rational in locating the generator near the pool equipment. He finds no hardship to grant the variance from the 25' regulation. Mr. Averill feels there is no other place to put the generator, all neighbors are far away, he has no problem with this application and added he can't find a real hardship either. Mr. Sedito also feels there is no better place, because of the existing underground tank and pool equipment, any other place would create more of a disturbance to the landscape, and no construction is needed in the desired location. He was opposed to the last application because it was too close to the property line. Ms. Roberts stated that she feels it is hard to show legal hardship for a generator, she understands the location. Mr. White stated that there should be a change in the regulations, the hardship issue is debatable.

MOTION: to approve ZBA-0417 Request of Jennifer & Neil Mitchell, 18 Shinar Mountain Road, for a variance from Zoning Regulation 12.14.1 (generator location), to install a generator was made by a 5-0 vote.

PUBLIC HEARING

Mr. White seated regular members Bradford Sedito, Randolph Snook, Polly Roberts, himself and alternate Georgia Middlebrook.

ZBA-0418 Request of Najma Kadosh, 147 Wykeham Road, for a variance from Zoning Regulation 11.6.1.c (front yard setback), additions to existing garage. Najma Kadosh was present to represent her application. Ms. Kadosh had a list of neighbors within 200' which were noticed but no proof of certified mailing; she will drop off the receipts for the certified mailings in the land use office tomorrow. The secretary had only received back 2 of the 5 cards. Members asked Ms. Kadosh to bring in photos of the existing house and garage. Mr. White encouraged members to do a drive by.

MOTION: to continue ZBA-0418 Request of Najma Kadosh, 147 Wykeham Road, for a variance from Zoning Regulation 11.6.1.c (front yard setback), additions to existing garage was made by Ms. Roberts, seconded by Mr. Snook by a 5-0 vote.

PUBLIC HEARING

Mr. White seated regular members Bradford Sedito, Randolph Snook, Polly Roberts, himself and alternate Todd Catlin.

ZBA-0419 Request of Dale and Marvin Meltzer, 19 Rabbit Hill Road, a petition for special exception for expansion of nonconforming dwelling. Dale and Marvin Meltzer were present to represent their application. Mr. White read the applicants letter requesting a special exception of 4' from the 50' front yard setback for additions to an existing dwelling. Mr. White confirmed that there was not a lot coverage issue. Mr. Meltzer began by stating that they bought this house 23+ years ago and now in their elder years need to have bathroom facilities on the ground floor. He went on to explain that the entire house is within the 50' front yard setback, the back wall of the house is 46' from the road. The existing dwelling is a small clapboard farmhouse; their proposed addition was adapted to save a large maple tree they have been working to preserve, as well as maintain the views and afternoon sunlight that already exist. The addition will not be seen from the road, is proportioned similar to the existing dwelling and is all one story. Mr. Meltzer went on to state that the addition of the new bedroom requires a new septic, they intend to live in the house most of the year. The roof pitch on the proposed addition is the same as the existing dwelling, New England barn style. Mr. Sedito questioned this application coming in under a "Special Exception". Members went over Sec. 17.5 Special Exceptions for Nonconforming

Structures. Mr. Meltzer stated that the other homes in the area are newer, he estimates 1970's, and their house was built around 1917. Ms. Roberts feels that Mr. Meltzer has done a nice job deferring to the original house. Mr. Sedito questions meeting all of the standards from Sec. 13.1.B. Members went through Sec. 13.1.B. Mr. Meltzer added that it was important that the house remain the same from the road, the proposed addition meanders around the vegetation. Mr. White asked for comments or questions from the public. Mr. Snook asked if the soil work had been done for the new septic, Mr. Meltzer answered that it had. There was continued discussion on the Special Exception Application as opposed to the Regular Variance Application. Mr. Catlin stated that he was not on ZBA for the discussion on the creation of a Special Exception, but felt the purpose was to deal with existing older buildings and feels this is a perfect example. Mr. White is comfortable with this application being a Special Exception. Mr. Sedito is having trouble with the historical/cultural portion of the Special Exception.

MOTION: to close ZBA-0419 Request of Dale and Marvin Meltzer, 19 Rabbit Hill Road, a petition for special exception for expansion of a nonconforming dwelling was made by Mr. Snook seconded by Mr. Catlin by a 5-0 vote.

MEETING

Mr. Sedito doesn't feel this application should be a Special Exception. He is uncomfortable would like a photo of the existing dwelling. Mr. Snook would approve this application, it's reasonable in scope, the additions make sense. Mr. Catlin agrees with Mr. Sedito that the members have not seen the existing house. Mr. White interjected that he drove by the house. Mr. Catlin continued that he feels this application fits the spirit of why the regulation was written. Mr. White has no problem with this Special Exception application. Mr. Sedito asked how you define historical or culturally significant. Ms. Roberts would approve this application, it's hard to pin down the definition of historic, these small farmhouses are valuable, and she is comfortable with the application. Mr. White is in favor of this application, the hardship cannot be pinned down, the proposed addition fits in with the topography, it's reasonable. The Zoning Board of Appeals, according to Sec. 17.5, has written the following justification for granting this Special Exception:

"The Zoning Board of Appeals granted Special Exception ZBA-0419 on 11/18/04 to Dale and Marvin Meltzer for an addition to their house at 19 Rabbit Hill Road.

This exception permits an addition to a nonconforming single family dwelling (approximately 100 years old) that would otherwise not be permitted per Section 11.6 of the Regulations regarding setbacks. Lot coverage is not an issue in this case. ZBA determined that granting this Special Exception supports the continued use of a single family dwelling with historical or cultural significance, according to the provisions of Section 13.17.3 as follows:

This addition requires minimal alteration of the original house, and continues use of the property for its original purpose. The distinguishing original qualities or character of the house are being preserved.

The house is being recognized as a product of its own time, and the planned addition defers to that, while differentiating from it. The contemporary design for the addition is placed behind the house (and slightly below original grade) so that the original house's aspect to the street is unchanged. Rooflines match the pitch of the existing house, and the addition will be clad in similar white clapboard, but its contemporary look clearly distinguishes it from the old structure.

ZBA felt that the overall design is compatible with the size, color, material, and character of the property and neighborhood, and that the new addition is being done in such a manner that if it were to be removed in the future, the essential form and integrity of the original structure would be unimpaired."

MOTION: to approve ZBA-0419 Request of Dale and Marvin Meltzer, 19 Rabbit Hill Road, granting a special exception for expansion of a nonconforming dwelling by a 4-1 vote.

Mr. White, Mr. Snook, Ms. Roberts and Mr. Catlin voted to approve.

Mr. Sedito voted to deny.

PUBLIC HEARING

Mr. White seated regular members Bradford Sedito, Randolph Snook, Polly Roberts, himself and alternate Georgia Middlebrook.

ZBA-0420 Request of Richard G. Dutton, 28 Sunny Ridge Road, for a variance from Zoning Regulations 12.14.1 & 12.14.3 (generator location), to install a generator. Mr. Dutton was present to represent his application. Mr. Dutton began by explaining that he does not have an A-2 survey, he has submitted portions of (2) maps labels A & B which show his property and the barn location where the proposed generator will be located. Mr. Dutton also had a framed property map prepared by Jody Rowlands showing his property and structures. Mr. Dutton will submit a copy of this map for the file. Mr. Dutton's property is within a Historical District, he feels that locating the generator inside the barn would be better for both the Historical District aspect and his closest neighbor Mr. Wallis. Mr. Dutton was originally going to place the generator outside the barn but has since moved it inside. The existing barn is a 2 1/2 bay garage which was build in 1979. Mr. Dutton located his well and septic on the maps for members. Mr. White noted that on map "B" there were iron pins located along the boundary line of the Dutton/Wallis properties. Mr. Dutton believes Mr. Wallis had Michael Alex do a survey of his property. Mr. White asked Mr. Dutton to have Mr. Alex identify the pins and do an exact measurement to the (2) north corners of his barn; this would locate the existing barn. Mr. Dutton agreed to do so. Mr. White asked for comments or questions from the public. It was noted for the record that (11) of the (11) certified mailing cards were returned and (7) of the adjoining property owners submitted documentation in favor of granting Mr. Dutton his variance.

MOTION: to close ZBA-0420 Request of Richard G. Dutton, 28 Sunny Ridge Road, for a variance from Zoning Regulations 12.14.1 & 12.14.3 (generator location), to install a generator was made by Mr. Sedito seconded by Ms. Roberts by a 5-0 vote.

MEETING

Ms. Roberts began by stated that she was fine with this application; the generator will be located inside an existing barn and will protect the neighbor better that enforcing the regulations. Ms. Middlebrook agreed and felt the proposed location was better for the Historical District also. Mr. Snook, Mr. Sedito and Mr. White were all OK with this application.

MOTION: to approve ZBA-0420 Request of Richard G. Dutton, 28 Sunny Ridge Road, for a variance from Zoning Regulations 12.14.1 & 12.14.3 (generator location), to install a generator by a 5-0 vote.

Consideration of the Minutes of October 21, 2004: Mr. Catlin noted that in the minutes of October 21st Ms. Middlebrook was incorrectly identified as a regular member and Mr. Snook was incorrectly identified as an alternate member. For the record Randolph Snook is a regular member and Georgia Middlebrook is an alternate member of the Zoning Board of Appeals.

MOTION: to accept the minutes of October 21, 2004 as amended was made by Mr. Sedito seconded by Mr. Snook by a 5-0 vote.

OTHER BUSINESS

Regarding **ZBA-0406, Request of Harold J. Wellings, 298 West Shore Road**, Janet M. Hill, Acting Clerk sent a letter to Mr. Wellings on November 12, 2004 requesting that he either comply with the approved variance or submit an application for additional variances.

Mr. White reported that he continues to research standards for noise, reasonable noise levels, to make changes in the generator regulations.

MOTION: to accept the proposed Zoning Board of Appeals 2005 Calendar of Meeting Dates as submitted was made by Ms. Roberts seconded by Mr. Sedito by a 5-0 vote.

The November 18, 2004 meeting of the Zoning Board of Appeals adjourned at 9:40pm.

Submitted subject to approval,
Pamela L. Osborne, Secretary