



**Stratham Zoning Board of Adjustment
Meeting Minutes
March 27, 2018
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM**

Members Present: Arol Charbonneau, Chairman
Chris Brett, Full Time Member
Deidre Lawrence, Full Time Member
Tana Ream, Alternate

Members Absent: Bruno Federico, Board of Selectman Representative
Garrett Dolan, Full Time Member
Phil Caparso, Full Time Member

Staff Present: Mark Morong, Building and Zoning Official

1) Call to Order/Roll Call

Chairman took roll call and explained the procedure of the hearing to the applicants.

2) Approval of Minutes

a. July 11, 2017

Mr. Brett made a motion to approve the minutes from July 11, 2017 as submitted. Mr. Charbonneau seconded the motion. Motion carried unanimously.

3) Public Hearing(s)

- a. Case #637: Thomas & Tracy Abbott, 33 Squamscott, Stratham, NH 03885 for the property located at 33 Squamscott Road, Stratham, NH, Tax Map 21, Lot 99.** This is a public hearing whereby the applicant is requesting a Variance through Section 17.8.3 of the Stratham Zoning Ordinance for relief from Section 4.1 requiring that setbacks meet the requirements of Table 4.2 of the Stratham Zoning Ordinance.

Ms. Lawrence questioned the zone of this property and what the setback the applicant is looking for since it is not noted on the application. Mr. Morong stated R/A zone and the setback for R/A is 30 ft. frontage. Ms. Lawrence stated there is no plan, which is required, for this application which shows a measured distance from the proposed construction to the public right of way. Mr. Morong stated he purposely did not put distances to the right of way because different roads have different right of ways and sometimes the right of way doesn't run down the middle of the road. Ms. Lawrence requested the distance in the application. Mr. Morong confirmed there are distances in the application.

Tracy Abbott, 33 Squamscott Road, went over the board presentation the applicant made for the meeting regarding the site. Mr. Morong took a picture of the presentation board to add into the record.

Mr. Brett made a motion to accept the application of Case #637 for property located at 33 Squamscott Road, Stratham, NH, Tax Map 21 Lot 99 including the picture submitted this evening. Ms. Lawrence seconded the motion. Motion carried unanimously.

Mr. Brett made a motion to open the public hearing. Ms. Lawrence seconded the motion. Motion carried unanimously.

Ted Abbott, 33 Squamscott Road, explained he and his family have lived in the house for almost 21 years. When Mr. Abbott moved into the home they had some trouble with the roof, in the past couple of years the shingles have become brittle and caused leaks on the existing part of the house. A sunken living room addition, which was put on before they bought the house, collects a lot of snow and has caused issues. The applicant has tried to make repairs over the years to correct the situation but nothing remedies the problems. The problems caused from this roof rotted the existing porch which had to be removed due to becoming a danger and rotting the side of the house. Mr. Abbott stated they are asking for relief to cover the new porch so any snow that builds up will not be ice melted from the existing heat loss and it will shed more water away from the house. The 9 ft. being requested will shed more water towards Squamscott Road and not back toward the house. Mr. Abbott explained they would like to extend the roof pitch out further and make the roof line one pitch, which would extend approximately 5 ft. into the 30 ft. setback. The property has been measured, which hasn't been completed by a surveyor, and the results are approximately 59 1/2 ft. to where the porch will be. The State of NH DOT stated, when the driveway was redone 9/2/2015, that 25 ft. from the centerline plus the town's 30 ft. puts the dimension at 55 ft. Ms. Lawrence asked if the setback is 30 ft. is the issue from the centerline of the road. Mr. Morong stated the setback is from the right of way. Mr. Charbonneau questioned how old the house is. Ms. Abbott stated the house was built in 1968. Mr. Abbott stated the existing porch was demolished in January because it became a hazard. Mr. Charbonneau asked if the existing porch extended into the setback. Mr. Abbott stated the existing porch was 4 ft. which was right at the setback and did not have a roof. Ms. Abbott stated that side of the house gets no sun so ice dams build up which caused ceiling damage in two rooms in the house. Ms. Lawrence stated 4.2, frontage requirement in the R/A district is 30 ft. with a footnote that mentions lots that abut Rt. 33 and Rt. 108. Mr. Morong confirmed this does not apply to Rt. 33 and Rt. 108. Mr. Abbott explained the porch will start at the driveway and extend the length of the house.

Mr. Brett made a motion to close the public hearing. Ms. Lawrence seconded the motion. Motion carried unanimously.

Mr. Charbonneau read the criteria and the board discussed:

No variance shall be granted unless all of the following conditions are met:

i. The variance will not be contrary to the public interest.

Mr. Brett stated this will not be contrary to public interest since it is an issue of a setback from a road, not an abutting property. The fact there is a fence along the road is not going to be contrary to the public interest. Mr. Charbonneau stated this will not have any negative impact or be contrary to the public interest. Ms. Lawrence questioned if there is any public safety concern. Mr. Morong stated higher density usually has smaller setbacks and he believes this setback is in keeping with the rural character than a safety issue. Ms. Lawrence does not believe this will be contrary to public interest.

ii. The spirit of the ordinance is observed.

Mr. Charbonneau and Mr. Brett stated the i and ii are related and the spirit of the ordinance was to preserve the character. Mr. Charbonneau stated 5 ft. makes a big difference as far as rural versus non-rural character of the road, especially since there is currently a fence in the front. Ms. Lawrence agreed and stated the ordinance is designed to promote concerns regarding not only safety and orderly development of land, but also aesthetic characteristics which is promoted here.

iii. Substantial justice is done.

Ms. Lawrence stated substantial justice is done because it allows the applicant to improve the situation regarding the entrance/egress from their house, improves the aesthetics, and doesn't harm public interest. Mr. Brett agreed and stated this will help the applicant address the snow load on the roof, the leaks, and the foundation of the house. Mr. Charbonneau agreed.

iv. The values of surrounding properties are not diminished.

Mr. Brett stated this will have the opposite effect and will improve the look of the house. Ms. Lawrence stated there is no evidence in the record that property values of the surrounding residences will be diminished. Mr. Charbonneau agreed.

vi. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

1. For purposes of this subparagraph, "unnecessary hardship: means that, owing to special conditions of the property that distinguish it from other properties in the area.

- 140 a. No fair and substantial relationship exists between the general public purposes of
141 the ordinance provision and the specific application of that provision to the
142 property, and
143
144 b. The proposed use is a reasonable one.
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146 Mr. Charbonneau stated the use is a reasonable one and a relationship exists between the
147 purpose of the ordinance and should be applied to this property and determined whether
148 it's a hardship that over-rules that factor.
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- 150 2. If the criteria in subparagraph 1. Are not established, an unnecessary hardship will be
151 deemed to exist if, and only if, owing to special conditions of the property that
152 distinguish it from other properties in the area, the property cannot be reasonably used
153 in strict conformance with the ordinance, and a variance is therefore necessary to
154 enable a reasonable use of it.
155
156 3. The definition of "unnecessary hardship" set forth in this section shall apply whether
157 the provision of the ordinance from which a variance is sought is a restriction on
158 use, a dimensional or other limitation on a permitted use, or any other requirement of
159 the ordinance.
160

161 Mr. Charbonneau stated the applicant made the case there is an unnecessary hardship given
162 the damage being caused to the interior and exterior of their house as result of the leakage
163 of the ice dams. Ms. Lawrence stated given the current structure roof situation where they
164 have to follow the line creates a hardship. Mr. Brett stated there is a special condition, the
165 roof situation which needs to be dealt with.
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167 Mr. Brett made a motion to GRANT Case #637 to Thomas and Tracy Abbott, 33 Squamscott
168 Road, Stratham, NH, for the property located at 33 Squamscott Road, Tax Map 21 Lot 99 for the
169 variance request for relief from Section 4.1 of the Stratham Zoning Ordinance. Mr. Charbonneau
170 seconded the motion. Motion carried unanimously.
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172 Mr. Charbonneau explained to the applicant there is a 30-day period for any appeals so any work
173 performed before that 30-day period the applicant is doing so at their own risk.
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175 Ms. Lawrence made a motion to adjourn at 7:40 pm. Mr. Charbonneau seconded the motion.
176 Motion carried unanimously.