

BRISTOL
ZONING BOARD OF ADJUSTMENT
June 5, 2018

APPROVED:
6/26/16 __jrl_____

AGENDA: 18VAR02 VARIANCE: GERALD BRADFORD, Shore Drive, #111-037
18APP01 APPEAL FROM ADMINISTRATIVE DECISION: DOWEY, FREEMAN, HUOT, &
PINKNEY (abutters), Wulamat & Batten Roads, #103-032

ATTENDING: Richard LaFlamme (Vice Chairman), Lorraine Bohmiller, Larry Denton

ABSENT: Alan DeStefano (Chairman, conflict), Ashley Dolloff (conflict)

OTHER: Christina Goodwin (Land Use Manager, applicants, public)

The meeting opened at 6:03p.m. with a quorum.

MINUTES OF MAY 1, 2018:

L. Bohmiller made a motion, second by L. Denton, to approve the minutes as read. The motion carried.

18VAR02 VARIANCE: GERALD BRADFORD/MATT GREENWOOD (Representative)

Mr. LaFlamme explained that with only 3 members present, all 3 must agree or the application is automatically denied. The applicant wished to go on. Ms. Laferriere read the application, the list of abutters notified, and where the application was advertised. She added that there was no written correspondence, telephone calls or Dept. Head comments received. The Board looked over the application and the photos that were submitted.

Mr. Greenwood stated that this plan is less non-conforming than the previous plan but because of the setback lines, they cannot do anything that will not impact setbacks.

Mr. Denton made a motion, second by L. Bohmiller, to ACCEPT THE APPLICATION AS COMPLETE. The motion carried.

Mr. Greenwood stated that the plan is to improve the bathroom so that it is more functional, allow for a little storage, and to screen an area to eliminate black flies in May or June. There is a 4' x 12' front porch but would be hard to egress if you had seating. Having the back addition would allow Mr. Bradford a place that is useable and is quieter.

The criteria was gone over:

1. NOT CONTRARY TO PUBLIC INTEREST: This plan will not impact abutting property. It will increase property value while remaining a seasonal property.

BRADFORD VARIANCE, CRITERIA continued:

2. SPIRIT OF THE ORDINANCE WOULD BE OBSERVED: The property is such that they cannot meet the setbacks. The lot was designed before Zoning.
3. GRANTING WILL GIVE SUBSTANTIAL JUSTICE: This will allow for better use of the property and will have less noise.
4. NO DIMINUTION OF VALUE TO SURROUNDING PROPERTIES: This plan should not affect surrounding properties. It will increase the value of the existing cottage and enhance the use of the back yard.
5. UNNECESSARY HARDSHIP: The size and shape of the property is a hardship. It is very difficult to design within the setbacks. The plan is reasonable, creates no problem with the abutters and increases the value and use. The only other option would be to go up and, due to age, Mr. Bradford wishes to keep it one floor. The property will remain seasonal.

Mr. Denton asked what the previous plan submitted was and the admin. Assistant presented the plan copy. Mr. LaFlamme asked about the photo that showed the back of the cottage with something boarded up. It was explained that Mr. Bradford had received a demolition permit and took the old tiny bathroom out.

Marie Labrie, abutter, agreed with the plan and asked why it was denied previously. She was told that hardship was not met at that time. Ron St. Cyr, abutter, had no issue with the plan. The public portion of the hearing was then closed.

The Board then deliberated using the 5 criteria:

1. Mr. Denton felt that they have made an effort to ask for the least variance. He then made a motion, second by L. Bohmiller, to agree that this criterion was met. The motion carried.
2. It was felt that there was only so much that the applicant could do. L. Denton made a motion, second by L. Bohmiller, to agree that this criterion has been met. The motion carried.
3. The lot size is the problem. L. Denton made a motion, second by L. Bohmiller, to agree to this criterion. The motion carried.
4. There is no impact on values. L. Denton made a motion, second by L. Bohmiller, to agree that this criterion has been met. The motion carried.
5. Mr. Denton asked when the property was purchased and was told in 1981. There was no zoning then. The situation is a hardship. L. Denton made a motion, second by L. Bohmiller, to agree that hardship has been met.

L. Bohmiller made a MOTION, second by L. Denton, to APPROVE THE VARIANCE FOR GERALD BRADFORD. The motion CARRIED. The Notice of Decision was signed and Mr. LaFlamme explained the 30-day appeal time.

18APP01 APPEAL FROM ADMINISTRATIVE DECISION: ATTORNEY MARK BOUDION FOR DOWEY, FREEMAN, HUOT, AND PINKNEY

Mr. LaFlamme explained again about only having 3 members and the applicants agreed to continue. Mr. Denton made a MOTION to go into non-public session in regard to RSA 91-A3, II(e).

Roll Call: Larry Denton – yes, Lorraine Bohmiller – yes, Richard LaFlamme – yes.

ABUTTERS APPEAL continued:

At this time (6:55p.m.), the room was cleared. Christina Goodwin, Land Use Manager, took the minutes for the non-public portion.

Mr. LaFlamme called the public back in session. R. LaFlamme made a MOTION, second by L. Denton, to SEAL THE NON-PUBLIC PORTION OF THE 6/5/18 ZBA MINUTES.

Roll Call: L. Denton – yes, L. Bohmiller – yes, R. LaFlamme – yes.

The Admin. Assistant read the Application, where it was advertised and who was notified. She stated that there were no phone messages or written responses received and no Dept. Head comments. Mr. LaFlamme stated that this case is only about the storage issue only.

Attorney Boudoin stated that he is the representative for the Appeal. The plan for Turner cottages is for Two 20' x 30' buildings. Originally, they were asked for boat storage which requires a Special Exception in the Lake District. There was some confusion and then the plan was amended to being garages. There have been numerous hearings on this case and this issue was never resolved. In condition #10 of the final approval it states that all boat storage is to be inside. The Planning Board did not require a Special Exception. Atty. Boudoin's clients are contesting the relief of Special Exception. They feel that this is required by the Zoning Ordinance.

Mr. Denton directed attention to page 2 of the original plan in which it asks for Garage/Boat storage. Atty. Boudoin stated that there are 7 garages on the property already and the intent of the new buildings is for boat storage. Again, Mr. Denton mentioned boat storage and garages. Ms. Bohmiller asked how many in the abutting Camelot Acres have boats in their garages without having gone through Special Exception. Following much discussion they felt that maybe only 1 had a boat at home.

Ann McGovern, 45 King Arthur Lane, stated that there are only about 10 units in a large area (Camelot Acres) and there is 10 to be built in this small area. She feels it is unsafe. Paul Bemis, 69 Castle Lane, feels they should store their boats in the marina which is just a little ways away. Deborah Richards, Turner Cottages, stated that she has seen 1 boat under a cover in a yard.

Atty. Boudoin stated that this is a new facility. If Special Exception for Boat Storage is only intended to be Commercial, he feels that the scope of the property requires it to be treated as Commercial. Ms. Goodwin stated that, in her 10 years employed by the town, it had always been Commercial Boat Storage to need Special Exception. Jan Laferriere backed that up by saying the same for her 23+ years working with the Planning Board.

Ellen Rawlings, President of Camelot Acres Association, stated that Turner's originally asked for Boat Storage. There was an extensive decision and the plan was amended to garages and to eliminate a proposed 3rd building at a later date. She added that the Planning Board Vice-Chairman, Clay Dingman, stated that they had 7 garages and why not add just 3. There was continued discussion with no resolution. Again, Mr. Denton mentioned that the paperwork says Boat storage/garage. Atty. Boudoin asked the specific use. Mr. Denton asked the size of the doors and was told they are 10' x 5'.

APPEAL continued:

Ms. Richards stated that she has a garage under her unit and can't even get her car into it. She added that some wanted additional storage and some to bring their boats inside. Mr. Denton asked if each unit will get one section and Ms. Richards answered yes. Ms. Bohmiller asked how many have boats and Ms. Richards answered that there are 7.

Ms. Rawlings stated that the Planning Board would not allow them to go through the Turner property to get to the new buildings as there is a wetland in the middle. However, they were clearly intended for boat storage. Mike of 75 Lancelot, stated that the Board is not seeing the problem with boat storage and is not seeing the importance of the description in the Zoning Ordinance. Mr. Denton said that it seems to be dependent on whether it is commercial or residential. Mike mentioned that he stores his boat in the marina at the end of the road. This plan is not consistent with the neighborhood. Mr. LaFlamme stated that the Board deals with all sides and must cover all bases in order to interpret.

Ms. Richards stated that this has been going on for over a year and they have been very open that they are garages. Everyone has that right. Nancy Dowey, abutter, stated her concern that these seem to be industrial grade garages instead of the trees she has viewed in the past. Also, that there is not a convenient way to get to them. Thomas Arnold, abutter, said that he will be looking out from his bedroom and will see them. He added that it will be a significant loss of value for his home. The intent was for boats and this is a good distance from their residences. Ms. McGovern agreed that it was for boat storage.

Ms. Rawlings mentioned that one condition is that all of the outside boat storage is to be removed. The outside boat storage was never permitted and no screening was put in place. All of the debris was placed there as well. They never got a Special Exception for that boat storage. Ms. Richards stated that this is not an area for 10 boats; some store their boats elsewhere. They did put in screening but the plants died. The debris has been cleaned up. All of their efforts have gone unnoticed by the abutters.

Atty. Boudoin read allowed the Lake District allowed boat storage use by Special Exception and the boat storage definition from the Zoning Ordinance. He feels that a Special Exception is what is needed or to ask the applicant to remove boat storage from the garages.

With no other comments from the public, Mr. LaFlamme closed the public portion of the hearing.

Ms. Bohmiller stated that she feels this is ambiguous. She agrees that the definition has not changed since 1990, when boat storage was an allowed use, but feels that the use by Special Exception refers to commercial as others in that category are commercial.

With that said, a MOTION was made to GO INTO NON-PUBLIC AGAIN, SITING THE SAME RSA was made and seconded. Roll call vote: Lorraine Bohmiller – yes, Larry Denton – yes, Richard LaFlamme – yes. Ms. Goodwin again took those minutes.

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ZBA Minutes
6/5/18

APPEAL continued:

Upon returning and Mr. LaFlamme opened the public hearing again, a MOTION was made to SEAL THE NON-PUBLIC MINUTES. Roll call: L. Bohmiller – yes, L. Denton – yes, R. LaFlamme – yes. Mr. LaFlamme thanked the public for hanging in.

The Board then continued deliberations. Mr. Denton felt that this is hard. It centers around boats and storage of boats. He feels that he does not have a complete understanding. Mr. LaFlamme felt that it is hard to interpret but the Ordinance is in place. This is one of the harder cases that the Board has dealt with. Ms. Bohmiller feels that Article III, 3.2F is clear for commercial uses. Mr. Denton then pointed to the definition and Ms. Goodwin again explained that this is a 1990 definition which was permitted. Now it shows by Special Exception. She has noted that there is no boat storage mentioned in any other district except the Lake District. A discussion followed and the Board felt that this is ambiguous and would like to continue the hearing while Ms. Goodwin and the Land Use team research the intent further.

L. Denton made a MOTION, second by L. Bohmiller, to CONTINUE THE APPEAL HEARING TO JUNE 26, 2018, AT 6:00P.M. IN THIS ROOM. THE PURPOSE TO BE FOR FURTHER DELIBERATION. The motion CARRIED.

Atty. Boudoin asked to allow questions by the public. Tom Arnold said there will be one of three outcomes: the Zoning Ordinance clearly defines, it doesn't, or it is clear as mud. Ms. Goodwin stated that she will have all that she has found out by June 21 and will send the information to Turners, the two attorneys, and to the Board.

COMMUNICATIONS: None.

OTHER – Next meeting: The Board was asked to consider the July meeting date as the scheduled July 3rd is the 4th of July activities. Ms. Goodwin suggested July 5 or July 10 and asked that the Board let the Land Use office know as soon as possible.

With no other business before the Board, L. Denton made a motion, second by L. Bohmiller, to adjourn at 8:15p.m. The motion carried.

Respectfully submitted,
Jan Laferriere,
Land Use Admin. Assistant