

**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

November 9, 2020

**APPROVED: 12/1/20**

**AGENDA:** VARIANCE – Collin Torrey, 50 Lake St, Map/Lot #113-044  
VARIANCE – Randy & Wendy Smith, 115 Hall Rd, Map/Lot #223-059  
VARIANCE – Mark Sullivan, 979 W. Shore Rd, Map/Lot #101-002-002  
VARIANCE – Ned Gordon, 44 Towne Rd, Map/Lot #221-030

**ATTENDING:** Alan DeStefano (Chairman), Larry Denton, Melody Mansur

**ABSENT:** Ashley Dolloff (Alternate), Jackie Elliott (Alternate), Lorraine Bohmiller, Richard LaFlamme (Vice-Chair)

**OTHER:** Christina Goodwin (Land Use Manager), Applicants and members of the public

Mr. DeStefano stated that the Governor's Emergency Orders allow for meetings to be held both in-person and electronically due to the pandemic. Members of the Board and public are attending in-person, via video or via telephone conference. The meeting opened at 6:02 pm by roll-call vote 3-0.

Mr. DeStefano advised the applicants before the Board, that the Board is short staffed for tonight's meeting and although there is a quorum, all three (3) members would have to agree on the decision for an application or the application would be denied. Mr. DeStefano gave the applicants a choice to continue to another meeting with a full Board or continue with this meeting. All applicants chose to move forward with their cases.

**MINUTES OF OCTOBER 20, 2020:**

L. Denton made a motion, second by M. Mansur, to approve the minutes as written. The motion carried by roll-call vote 3-0.

**VARIANCE: RANDY AND WENDY SMITH, 115 Hall Road, Map/Lot #223-059**

Ms. Goodwin read the application, abutters notified, where the hearing was advertised, and stated that there were no phone calls or written messages received and no comments from Department Heads.

L. Denton made a MOTION, second by M. Mansur, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED by roll call vote 3-0.

Ms. Smith stated that they need the added height to fit equipment inside. The construction trailer holds their company equipment and would need to be unloaded every night in order to do otherwise. The garage workshop is 32' x 32'. Mr. Denton mentioned that there are no houses behind this property and Mr. DeStefano stated that the Board also must be sure that there is no living space above the as it is a detached garage.

The Variance criteria were reviewed:

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1. Not contrary to public interest – It will get the trailer off the road where it will not be seen. It will be approximately 250 feet from Hall Road.
2. Spirit of the Ordinance – The height is an increase from 20 feet to 25 feet and most folks won't even see it.
3. Substantial Justice – The garage and workshop are work related.
4. Value of surrounding properties are not diminished – It cannot be seen by most and there is a tree buffer to nearby properties.
5. Hardship – It is a wooded property and the garage will be 250 feet back. Their construction company needs the storage space.

Mr. Denton asked if the equipment is that high and was told that it is unless they unload the equipment every night and load it up again every morning. Mr. Denton asked, "So the business requires it?" and he was told that it does.

Mr. DeStefano asked for public input for the case and there was none. He then asked for any comments in opposition. Again, there was none. Mr. Smith added that he needs the space to also store tools. Mr. DeStefano asked if they can't go higher, what would prohibit the property owner from building a structure that would house the trailer and still meet the pitch of the roof, etc. The Smiths answered that a lower pitch wouldn't allow the snow to come off as easily and that they were trying to keep the workshop / garage in line with the rest of the buildings. With no further questions, the hearing was closed to the public.

L. Denton made a MOTION, second by M. Mansur, to ADDRESS THIS CASE AS ONE VOTE. The motion carried by roll-call vote 3-0.

L. Denton made a MOTION, second by M. Mansur, to APPROVE THE VARIANCE FOR RANDY AND WENDY SMITH. Mr. Denton mentioned again that they would have to unload the trailer to fit if left at the allowed height. Mr. DeStefano added that a 32' x 32' garage will need a higher pitch to the roof. Mr. Denton mentioned that storing equipment is a reasonable use and Ms. Mansur added that no abutters will be impacted. The motion carried by roll-call vote 3-0.

Mr. DeStefano explained the 30-day right to appeal.

#### **VARIANCE: MARK SULLIVAN, 979 West Shore Road, Map/Lot #101-002-002**

There was an e-mail request to withdraw the Variance application, that had been previously continued to tonight's meeting. The matter is now closed.

#### **VARIANCE: COLLIN TORREY, 50 Lake Street, Map/Lot #113-044**

Mr. Denton noted that he doesn't see the property lines and Ms. Goodwin stated that they are faint on the original, but they are there. She will fix them for next meeting.

L. Denton made a MOTION, second by M. Mansur, to CONTINUE THIS HEARING TO DECEMBER 1, 2020 AT 6:00PM. The motion carried by roll-call vote 3-0.

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#### **VARIANCE: NED GORDON, 44 Towne Road, Map/Lot #221-030**

Ms. Goodwin read the application, abutters notified, where the hearing was advertised and stated that there were no phone calls, messages, or Department Head comments received.

It was noted that this Variance is for an accessory structure greater than 20-foot height allowed.

L. Denton made a MOTION, second by M. Mansur, to ACCEPT THE APPLICATION AS COMPLETE. The motion carried by roll-call vote 3-0.

Mr. Gordon explained that he has 6.6 acres where a barn used to be but was torn down. Mr. Gordon has owned the property for 9 years and 2 days. He purchased a tractor and needs a place to store it. He wishes to build a traditional barn. The tractor takes 10 feet so needs a 12-foot ceiling. The barn is to be 30 ft x 20 ft with a shed roof on one side. He needs to be able to store 150 bales of hay, therefore needing a height of more than the 20 feet allowed. He wants to add a cupola on the top for attraction. There will be doors at either end so the tractor can just drive through. There is to be a bay for a tool shop and another for fertilizer, etc.

Mr. Denton stated that it is a beautiful spot. Mr. Gordon added that he has applied for State approval as it will be within the Shoreland Protection. Mr. DeStefano stated that the roof is to be 20 ft 10 in. It doesn't show a weathervane. Mr. Gordon stated that the Zoning Ordinance allows for buildings for agricultural use to be 35 feet high, but this is only part agricultural.

The Variance criteria were addressed:

1. Contrary to public interest – It is an added agricultural use and will support a pleasing view.
2. Spirit of the Ordinance – We encourage agricultural uses. A barn is an agricultural use.
3. Substantial justice – A barn at 20 feet is not practical. Right now, the man who mows must have a buyer on hand as there is no storage space. An alternative plan to this would be for two (2) buildings of 20 feet, which would be allowed.
4. Values of Surrounding properties – Their values would be enhanced.
5. Hardship – A barn has been characterized as an accessory building, just like a garage or shed. He needs a place to store his tractor and a barn will enhance the property better than dividing the property into house lots. This is similar to the Homestead.

Mr. DeStefano called for public comment for this case. Max Stamp, abutter, stated that it would infringe on Shoreland Protection, but he feels that it will add to the area. He stated that they share garden produce and he has no objection. Mr. DeStefano called for comments in opposition and there was none. Mr. Denton asked the height of the tractor roll bar and was told 9 feet. He then asked the size of the tractor and Mr. Gordon answered that it is a Newfound 2120. He will also store a rototiller, etc. Mr. Denton verified that it was to have 10-foot doors with hay storage above. With no further questions, the hearing was closed to the public.

L. Denton made a MOTION, second by M. Mansur, to ADDRESS THE VARIANCE AS ONE VOTE. The motion carried by roll-call vote 3-0.

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L. Denton made a MOTION, second by M. Mansur, to APPROVE THE VARIANCE FOR NED GORDON. Mr. Denton stated that he needs height for the roll bar and for hay. Mr. DeStefano felt that two (2) buildings would be worse. Mr. DeStefano added that this is a necessity for the land and Ms. Mansur agreed. He added that there is plenty of land and it does not impact anyone. He appreciates that Mr. Gordon has gone to the State for their approval. Mr. Denton thought that a barn in that location is better than in the middle of the property. The motion carried by roll-call vote 3-0.

**COMMUNICATIOONS:** None.

#### **OTHER BUSINESS:**

Ms. Mansur questioned why the last case had to come for a Variance and she read Zoning Ordinance 4.4 Building Height. This allows 35 feet for non-residential agricultural use and it excludes cupolas. A discussion followed over accessory buildings. Ms. Mansur asked if a barn is an accessory building. Ms. Goodwin stated that she was not aware that this was to be a non-residential agricultural building when Mr. Gordon came in. It was thought that this is a wide definition. Mr. DeStefano added that there is a difference for attached and unattached buildings. The Board then discussed the fact that they cannot address costs.

Ms. Goodwin stated that she sent the changes discussed for the by-laws to the Town Attorney and there have been some additional suggested changes. She recommends that the Board do them all at once. Mr. DeStefano asked that she e-mail them to all the members when she has them.

Ms. Goodwin explained that Denice DeStefano is now a consultant to take Tyler Simonds place through the end of the year. We are working on new job descriptions and are not ready to hire yet. It will probably be a Planning Technician not a Planner. Denice is working on procedures from the list of duties Jan Laferriere had written up and she is helping to create a training manual.

Ms. Goodwin added that the denied case from last month has decided to move the stairs around the corner and stay in compliance.

**NEXT MEETING:** The next Zoning Board meeting is December 1, 2020 at 6:00pm. We have an application for a garage of 24 feet in height that may be ready as well as the continued case for Collin Torrey.

With no other business, L. Denton made a motion, second by M. Mansur, to adjourn at 7:35pm. The motion carried by roll-call vote 3-0.

Respectfully submitted,  
Jan Laferriere,  
Land Use Administrative Assistant