



TOWN OF WAKEFIELD NEW HAMPSHIRE
 ZONING BOARD OF ADJUSTMENT
 DECEMBER 14, 2023
 Approved

Don Stewart Chairman via Zoom	✓	Annie Robbins Alternate		
George Frothingham, Vice Chairman		Graham Baker Alternate	Town Counsel Tim Sullivan	✓
John Crowell		Tristen Plummer Alternate	Site Walk	
Judi DesRoches	✓		Public Hearing	✓
Robert Baxter	✓			

Others present: Dave Silcocks, Ken Fifield, Monette Cotreau, Brian Murphy, Doug Stewart, Margaret Baird, Attorney Springer, Attorney Bedard and Michelle Keating from Clearview TV. Tom Dube, Bob Benson, Lenore Mckinley, John Janocha via Zoom

Pledge of Allegiance & Call the meeting to order

Mr. Stewart called the meeting to order at 7:00 and led those present in the pledge.

Seat Alternates as necessary

None.

Motion for Rehearing

Submitted by Whittier Communications, Inc., through its attorneys, Ransmeier & Spellman, P.C., for property owned by Province Line Associates, LLC located at Tax Map 9-113, 4870 Province Lake Road. The applicant was granted a request for the ZBA to rehear its decision of September 14, 2023 in which it denied Whittier’s appeals of the Planning Board’s decision of October 6, 2022 approving Vertex Tower Assets, LLC’s site plan application to construct a personal wireless cell tower within four miles of an existing tower owned by Whittier Communications. The Applicant alleges that the Planning Board erred when it interpreted Zoning Ordinance Article 24 Section E.5 and Section F.

Motion for Rehearing

Submitted by Whittier Communications, Inc., through its attorneys, Ransmeier & Spellman, P.C., for property owned by Savannahwood LLC located at Tax Map 92-34 on Province Lake Road. The applicant was granted a request for the ZBA to rehear its decision of September 14, 2023 in which it denied Whittier’s appeals of the Planning Board’s decision of October 6, 2022 approving Vertex Tower Assets, LLC’s site plan application to construct a personal wireless cell

tower within four miles of an existing tower owned by Whittier Communications. The Applicant alleges that the Planning Board erred when it interpreted Zoning Ordinance Article 24 Section E.5 and Section F.

Mr. Stewart stated that tonight there are only three members of the ZBA present due to illness, any vote will require the concurrence of all three members of the board. He asked if the applicant wished to proceed with only three members of the board present or it would have to be rescheduled. The applicant did not wish to be heard without a full Board. The applicant agreed on January 11th at 7:00 for the rehearing's.

Mr. Stewart and Mrs. DesRoches attended site walks for all three properties listed below on Saturday December 9th.

Variance Application

Submitted by Dube Plus Construction for property owned by Laurie M. Murphey Revocable Trust, located at 21 Fay Way, TM 81-8, a 0.243-acre lot, located in the Residential II Pine River Pond Zone. The applicants are seeking relief from Wakefield Zoning Ordinance, Article 3, Table 2, Minimum Setbacks, in order to expand the existing deck.

Mr. Stewart said that the application is administratively complete, the fees have been paid, abutters notified and the notice has run.

Mr. Stewart explained the procedure to Mr. Murphy. Mr. Murphy chose to proceed with three members present. He said he was requesting a variance from Article 3 Table 2, minimum setback in order to expand his deck and add usable space. The deck would be four feet wide and fifteen feet long. They will be eliminating two steps. A code compliant railing will be added to the new deck and the existing deck. The main stairs from the deck to the water will remain in the same place. No trees or bushes will be impacted. He had pictures and drawings of the expansion.

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to accept the application. (Vote 3-0)

Mr. Murphy responded to the following:

Criteria 1

Would the proposed use diminish surrounding property values or not?

This is an improvement because it makes the space usable and would not be visible to his neighbors.

Criteria 2

Granting the variance will not be contrary to the public interest.

This would square off the existing deck.

Criteria 3

Granting a variance would do substantial justice.

This will provide more deck space to enjoy the lake. The space will become useful as opposed to a primary walkway.

Criteria 4

The use is not contrary to the spirit of the ordinance.

It will not encroach on the lake anymore than the deck already exists.

Criteria 5

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship
The house and deck exist within the 50' waterfront buffer so there is very little they can do.
Mr. Stewart opened up the Public Hearing at 7:13 Seeing no comment, Mr. Stewart closed the
Public Hearing at 7:13.

The Board voted on the five criteria.

Criteria 1

Would the proposed use diminish surrounding property values or not?

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to use the applicants submission and approve criteria 1 (Vote 3-0)

Criteria 2

Granting the variance will not be contrary to the public interest.

Mr. Stewart made a motion, seconded by Mr. Baxter, to use the applicants submission and approve criteria 2.

Criteria 3

Granting a variance would do substantial justice.

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to use the applicants submission and approve criteria 3. (Vote 3-0)

Criteria 4

The use is not contrary to the spirit of the ordinance.

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to use the applicants submission and approve criteria 4. (Vote 3-0)

Criteria 5

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

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to use the applicants submission and approve 5.

(Vote 3-0)

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to relay to the applicant that his variance has been granted. (Vote 3-0)

Variance Application

Submitted by Margaret Baird for property located at 111 Heath Rd, TM 190-013, a .24-acre lot, located in the Agricultural (Salmon Falls River) Zone. The applicant is seeking relief from Wakefield Zoning Ordinance, Article 3, Sections 2, Minimum setbacks in order to construct a front porch.

Mrs. Baird chose to proceed with the three Board members present.

Ms. Baird said she would like to add a front porch to her house which exceeds the set back.

Ms. Baird responded to the following:

Criteria 1

Would the proposed use diminish surrounding property values or not?

The proposed use will not diminish the value of surrounding properties and will increase the value of the applicants property

Criteria 2

Granting the variance will not be contrary to the public interest.

It would not alter the essential character of the neighborhood. It will not cause harm to the general public.

Criteria 3

Granting a variance would do substantial justice.

This will increase the enjoyment of the property and likely increase property values.

Criteria 4

The use is not contrary to the spirit of the ordinance.

It would not alter the character of the neighborhood or cause any harm to the general health.

Criteria 5

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

It would not cause any dangerous hazards. The proposed use is reasonable.

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to accept the application as presented. (Vote 3-0)

Mr. Stewart opened up the Public Hearing at 7:31 Seeing no comment Mr. Stewart closed the Public Hearing at 7:31.

Criteria 1

Would the proposed use diminish surrounding property values or not?

Mr. Stewart made a motion, seconded by Mr. Baxter, that the surrounding properties will not be diminished. (Vote 3-0)

Criteria 2

Granting the variance will not be contrary to the public interest.

Mr. Stewart made a motion, seconded by Mrs. DesRoches, that the applicant has met the criteria for condition 2. (Vote 3-0)

Criteria 3

Granting a variance would do substantial justice.

Mr. Stewart made a motion, seconded by Mrs. DesRoches, that the Applicant has met criteria 3, substantial justice. (Vote 3-0)

Criteria 4

The use is not contrary to the spirit of the ordinance.

Mr. Stewart made a motion, seconded by Mr. Baxter, the applicant has met the 4th criteria. (Vote 3-0)

Criteria 5

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

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to grant approval for criteria 5. (Vote 3-0)

Mr. Stewart made a motion, seconded by Mrs. DesRoches, that the variance has been granted. (Vote 3-0)

Variance Application

Submitted by Monette Cotreau for property located at 668 Brackett Rd, TM 195-46, a .46-acre lot, located in the Residential II (Lovell Lake) Zone. The applicant is seeking relief from Wakefield Zoning Ordinance, Article 15, Sections A-F, Performance Standards for Areas Within the Residential II Shorefront District in order to re-build a previously existing boathouse and repair or replace the existing dug-in concrete basin.

Ms. Cotreau chose to proceed with three Board members present.

Mr. Stewart said that the application is administratively correct, fees have been paid, abutters notified and the notice has run.

Mr. Stewart made a motion, seconded by Mrs. DeRoches, to accept the application (Vote 3-0)

Ms. Cotreau told the Board that she was proposing to rebuild the previous existing boathouse which was 12' x 22'. She would also like to replace the existing dug in concrete basin. It averages 4' to 6' tall along the slope with a 2' wide concrete foundation. She said she has a NH wetlands non specific permit that expires June 10, 2026. She said this has been a multi-year project. She said she did know that she needed a building permit.

The boathouse was compromised and pieces of it were hanging down into the lake after it was hit by a tree so she had it demolished, not realizing that she needed a demo permit also. She said she was denied the building permit because the structure was no longer there. Mr. Stewart said on the site walk he and Mrs. DesRoches were shown the deterioration of the foundation. Ms. Cotreau said the foundation has to be done during drawdown. The boathouse is well within her property.

Ms. Cotreau read the following:

Criteria 1

The proposed use would not diminish surrounding property values because:

The rebuilding of the previous boathouse in the same size and configuration, as well as repair/replace the dug-in basin, would add value to the property. The previous structure was in a compromised state with rotted rafters and created a safety hazard and eyesore to the community,

Criteria 2

Granting the variance would do substantial justice because: It will allow the applicant to rebuild a previous legal boathouse over a dug-in basin on the same footprint. it will not impede the views or access to the lake for the abutters. The project will meet the requirements of Wakefield Zoning Ordinance Article 15, Sections A through F.

Criteria 3

Granting the variance would do substantial justice because: It will allow the applicant to replace a docking structure in the same location, with the same surface area and same number of boat slips and is no more impacting to the environment or abutting properties than the original structure.

Criteria 4

The use is not contrary to the spirit of the ordinance because: The project was started to protect the health and safety of the. Construction will be completed during lake drawdown. The temporary impact for access and construction will be 440 sq. ft. and within 5 feet of the structure's footprint. No additional boat slips will be provided because of the project. No area will be made suitable as a dwelling. No material will be dredged from areas that were flowed over by public waters prior to the dug-in basin being constructed. There will be no increase in the exterior dimensions of boathouse structure.

Criteria 5

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because: The property's unique setting of a boathouse, of which only a concrete basin remains, creates a safety hazard to the lake and community. Pieces of the concrete have broken, and blocks have begun to dislodge. It would create a hardship for the lake to have unnecessary debris in the lake and a hardship for the applicant if the property cannot be used as it was initially intended with a proper boathouse and docking facility.

Mr. Stewart opened up the Public Hearing at 7:31 Seeing no comment Mr. Stewart closed the Public Hearing at 7:31.

Criteria 1

Would the proposed use diminish surrounding property values or not?

Mr. Stewart made a motion, seconded by Mrs. DesRoches, that the surrounding properties will not be diminished. (Vote 3-0)

Criteria 2

Granting the variance will not be contrary to the public interest.

Mr. Stewart made a motion, seconded by Mr. Baxter, that the applicants has met the criteria for condition 2. (Vote 3-0)

Criteria 3

Granting a variance would do substantial justice.

Mr. Stewart made a motion, seconded by Mrs. DesRoches, that the Applicant has met criteria 3. (Vote 3-0)

Criteria 4

The use is not contrary to the spirit of the ordinance.

Mr. Stewart made a motion, seconded by Mrs. DesRoches, that th applicant has met the 4th criteria. (Vote 3-0)

Criteria 5

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

Mr. Stewart made a motion, seconded by Mrs. DesRoches, that the applicant met criteria 5. (Vote 3-0)

Mr. Stewart made a motion, seconded by Mrs. DesRoches, that the variance has been granted. (Vote 3-0)

Board Business

Correspondence

Mr. Stewart said the Board had received correspondence on December 6th inviting the Board to a hearing on December 6th from the Effingham ZBA about a proposed gas station on Route 25.

Approval of Minutes

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to approve the minutes of November 9, 2023. (Vote 3-0)

Set Next Meeting Date

Second Thursday in January. In addition to the 2 rehearing's there are 2 variance applications for January 11th

Adjournment

Mr. Stewart made a motion, seconded by Mrs. DesRoches, to adjourn the meeting at 8:00 (Vote 3-0)

Respectfully submitted for approval at the next ZBA meeting,

Priscilla Colbath, ZBA Secretary