



TOWN OF WAKEFIELD, NEW HAMPSHIRE
LAND USE DEPARTMENT

2 HIGH STREET
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MINUTES OF THE ZONING BOARD OF ADJUSTMENT MEETING
18 December 2017

Approved: 3/19/2018

MEMBERS		ALTERNATES		OTHERS	
John Napekoski, Chairman	S H	Doug Stewart	H	Nathan Fogg, Land Use Clerk & Code Enforcement Officer	
Don Stewart	S H	Judi DesRoches	S H	Rick Sager, Town Counsel	
George Frothingham	S H				
John Crowell				Site Walk Public Hearing	S H
Steve Brown					

Also present were: Donna Martin videographer, Richard Berthold, Chuck Robbins, Bridget Passariello, Dick DesRoches

SITE WALKS

1. Chair J Napekoski called the site walk to order. R Berthold showed the group where he began building an accessory structure before he realized he required a building permit.

CALL TO ORDER

2. Chair J Napekoski called the meeting to order at 7:00 pm following the pledge of allegiance. J Napekoski called for Doug Stewart and Judi DesRoches, alternates, to sit in place of absent members.

PUBLIC HEARING

3. J Napekoski reviewed the application for completeness and questioned whether the notice was placed in the newspaper. Confirmation was obtained via telephone.
4. **Variance Application** submitted by Richard Berthold for property located at 8 Spruce Drive, Tax Map 204, Lot 27. The applicant is requesting a variance from the Wakefield Zoning Ordinance, Article 3, Table 2 minimum shoreline setback to allow a shed beside their house.

The ZBA conducted a **Site Walk on Saturday, December 16 2017.**

Motion: To accept the Variance Application of Richard Berthold as complete.
Made by: George Frothingham
Seconded by: Judi DesRoches
Discussion: None
Vote: 5-0

5. Mr. Berthold explained his plan to construct a 12x16' shed, approximately 16' from the high water mark. It would include drip-line trenches on either side. Placement was chosen to keep the trees in place and conform to a natural look.
6. Mr. Berthold does not believe construction of the shed would adversely affect surrounding property values. Rather it is consistent with surrounding properties as most have similar storage sheds. It will be constructed in a similar style to the existing home on the property, so will not look out of place.
7. Mr. Berthold does not believe that the public interest is a factor in this instance.
8. Mr. Berthold is not sure how to answer the question of substantial justice; however the structure would be consistent with other properties in the cove area.
9. Mr. Berthold stated that the use is not contrary to the spirit of the ordinance. The intent was not to remove trees. In addition, he plans to include drip-line trenches, although they are not necessarily required due to the imperviousness of the lot.
10. With respect to creating an unnecessary hardship, the Board members observed during the site walk ,moving the partially built shed would be extremely difficult. Mr. Berthold again referred to his goal of not removing any trees. In addition, the building would provide functional storage.
11. Mr. Berthold advised J DesRoches that no trees were removed for construction of the shed; however, several trees close to the house were removed after other trees had fallen too close for comfort.
12. Don Stewart questioned the current degree of completeness of the shed. R Berthold stated that it needs sheathing, roofing, siding and a door--about 85%.
13. J Napekoski asked whether anyone present wished to speak in favor of the applicant. No response.
14. J Napekoski asked whether anyone present wished to speak against the application. Chuck Robbins noted that he has spent much money on properties and much time at various Town meetings. According to Mr. Robbins, in 2015 72% of the Town's tax base

came from the first 250' of shorelines. It took a long time but is important to have a protection officer for the Town. He reviewed the history of the Town adopting regulations to protect our shoreline. The rules are clear that someone who can meet the setbacks must apply for a permit prior to commencing construction. We all must follow the rules. If this variance is granted, others will follow suit. In that case, perhaps we should consider a warrant article to eliminate the zoning ordinance. C Robbins expressed strongly his opinion that we must protect our shoreline. We can't keep over-ruling what the voters say they want. It is important to support the budget for the shoreland compliance officer.

15. Don Stewart read aloud a letter received from Mark & Martha Fellowes, Tax Map 204, Lots 10 & 28 (attached). The writers object to the variance, noting this is the second incident of construction without a permit on the subject property, and believe adherence to local and state regulations to be essential.

J Napekoski closed the public input session at 7:19 p.m. and stated it is time to review the criteria.

16. The first criteria: Proposed use will not diminish surrounding property values.

Motion:	Application meets Criteria #1
Made by:	George Frothingham
Seconded by:	Don Stewart
Discussion:	None
Vote:	5-0

17. Second criteria: Proposed use is not contrary to public interest. J DesRoches referred to structure not meeting 30' set back, which regulation preserves our shoreline. Therefore, it is contrary to public interest. If we don't protect our shoreline, our property values will decrease. G Frothingham agrees, noting R Berthold made a mistake in not applying for a building permit prior to beginning construction. If R Berthold had done so, and still needed to apply for a variance, he personally may have agreed that the present location is the best. R Berthold noted that if the structure were moved back 15', no permit would have been required and no drip-line trenches would have been installed, which would have been more detrimental to the lake. Doug Stewart noted that had R Berthold come to the ZBA having applied for a building permit, he would have had to prove that this location is the only location for the structure on the property.

Motion:	Application meets Criteria #2
Made by:	George Frothingham
Seconded by:	Don Stewart
Discussion:	None
Vote:	2-3

18. Third criteria: Substantial justice would be served in granting variance. Don Stewart noted that there are other storage buildings nearby, but that might not actually be substantial justice. Discussion of guidance in handbook.

Motion: Application does not meet Criteria #3
Made by: Doug Stewart
Seconded by: John Napekoski
Discussion: None
Vote: 4-1

19. Fourth criteria: Proposed use is not contrary to the spirit of the ordinance. Don Stewart referred to ordinance being in part to protect our lakes and assessed value.

Motion: Proposed use is contrary to the spirit of the ordinance.
Made by: Don Stewart
Seconded by: Judi DesRoches
Discussion: None
Vote: 5-0

20. Fifth criteria: Granting variance would result in unnecessary hardship.

Motion: Literal enforcement of the ordinance would result in unnecessary hardship.
Made by: Don Stewart
Seconded by: George Frothingham
Discussion: None
Vote: 5--0

21. **Motion:** To deny application.
Made by: Doug Stewart
Seconded by: Don Stewart
Discussion: None
Vote: 5-0

J Napekoski referred to 30-day appeal process. R. Berthold noted he will not be able to get a crane on the property at this time.

Condition: Structure must be moved or removed by July 1. Completing the roof in order to protect building materials is acceptable. R Berthold should work with Code Enforcement to ensure all regulations are adhered to.

ADJOURNMENT

MOTION: To adjourn the meeting at 7:47 pm.
Made by: Don Stewart
Seconded by: George Frothingham
Discussion: None
Vote: 5-0

Respectfully submitted,
Toni Bodah
(transcribed from Clearview Community TV recording)