

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
MARCH 12, 2015**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Todd Crowley, Vice Chair; Carol Amick, Clerk; Jeffrey Dearing; Kay Hamilton; Arthur Smith; Robert Kalantari

ABSENT: Michelle Puntillo

Mr. Crowley stated that he would be Acting Chair during the first hearing, as Mr. Colasante would be late. He read the emergency evacuation notice, and the Zoning Board of Appeals (ZBA) members and assistant introduced themselves.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #020-15 – Sean Pickett, at 5 Meadowbrook Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to replace shed in the same non-conforming location.

Cynthia Sherman, the representative for the applicant, introduced herself and Mr. Pickett. She stated that the proposal before the Board involved replacing an existing shed – one that had been in place since 1975 – with a new prefabricated shed in the same location; because of the location of the current shed, which was directly adjacent to the house, a Special Permit was required. She stated that the footprint of the new shed would be almost identical to the old one, so the nonconformity would not increase. She added that the land behind the house was steeply sloped and there were many trees there as well, so there would be a significant expense involved in grading an area to place a shed in a conforming location.

Mr. Colasante asked what documentation the applicant had of the sloping behind the house. Ms. Sherman provided photographs of the lot. Mr. Colasante said that it was very difficult to see much of a slope because of the snow and the angle of the photographs.

There was discussion about the shape and topography of the lot. Mr. Pickett pointed out that the area behind the house was very wooded, making it difficult to place a shed there.

Mr. Kalantari said that he had trouble thinking that a new shed in the same location would be *substantially* more detrimental to the neighborhood. Ms. Sherman noted that the proposed shed would stay in the same location that it has been in since 1975 but would look new and attractive, so in her opinion it would actually help the neighborhood.

Mr. Crowley said he was more concerned about the requirement that the Special Permit meet the intent and purpose of the Bylaw rather than it being injurious to the neighborhood.

Mr. Dearing said that this was a Special Permit application, so in his opinion, all the Board had to rule on was whether this new shed would be significantly more detrimental to the neighborhood and in keeping with the intent and purpose of the Bylaw.

Mr. Crowley said that the intent of the Bylaw was to place accessory structures behind the dwelling, so it seemed counterintuitive to him to allow a shed at the front when it could be placed behind. Ms. Sherman said that the shape of the lot prevented the applicant from putting the shed behind the house, as it was steeply sloped. Ms. Amick said she wished there were some evidence of that, either in the form of better photographs or a topography map.

Mr. Crowley pointed out that he recently graded his property in order to place a shed within the proper setbacks and locate it behind the house, and he didn't feel that it was a huge expense.

Mr. Smith suggested that perhaps the shed could simply be attached to the house, which would then make it part of the primary dwelling and eliminate the setback issue.

Ms. Sherman said she would have to look into whether or not attaching the shed was an option.

Mr. Dearing said that a site visit might be wise in this case, as it would allow the Board members to see the slope and topography of the lot for themselves. Ms. Amick agreed.

Mr. Crowley opened the meeting to the public.

With no comments or questions from those in attendance, Mr. Crowley closed the public hearing.

DELIBERATIONS:

The Board talked at length about Section 7.1.2 of the Zoning Bylaw, which reads: "*A nonconforming structure or use may be changed, extended or altered, provided that in each case the Board grants a Special Permit and concludes that such change, extension or alteration is in harmony with the purpose and intent of this Bylaw and will not be substantially more detrimental or injurious to the neighborhood in which it is to take place than the existing nonconforming structure or use.*"

Mr. Kalantari said that he was surprised that the Code Enforcement Director advertised this application under not only Section 7.1.2 of the Zoning Bylaw but also 7.1.4, because Section 7.1.4 references "A single or two family dwelling" and not accessory structures such as sheds. The Board members agreed that Section 7.1.2 was more applicable for this application.

Ms. Amick said that the Zoning Bylaw specifically stated the provision that sheds and other accessory structures should be located behind the house, because the townspeople, in adopting the bylaws, felt that the back yard was a more appropriate place for such structures; she said she agreed with Mr. Crowley that there was now an opportunity to correct a non-conformity and put the new shed behind the house.

Mr. Crowley took a straw poll to determine how the Board would vote on this application. He said he would have difficulty approving the application as currently presented. Ms. Amick agreed, stating that she could probably vote either way but was torn because she didn't feel that granting the application would meet the intent of the Bylaw. Mr. Dearing said that, given the fact that the shed was classified as a pre-existing non-conforming structure, he would support it. Ms. Hamilton said she might support it with great reservation. Mr. Smith said that he would abstain. Mr. Kalantari said that he would support the application.

Mr. Crowley said that the result of the vote still seemed unsure. He suggested that the applicant ask for a continuation to allow for a site visit. Ms. Sherman agreed to a continuation, noting that it would also give her time to look into the option of attaching the shed to the primary dwelling.

Mr. Crowley called for a motion to continue the hearing.

MOTION:

Ms. Amick moved to continue Sean Pickett, at 5 Meadowbrook Road, seeking a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to replace shed in the same non-conforming location to April 9, 2015 at 7:30 PM.

Mr. Dearing seconded the motion.

Voting in favor: Crowley, Amick, Dearing, Hamilton, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #021-15 – Jacob Dionne, at 9 Hemlock Lane, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to erect shed within front yard setback.

Mr. Dionne introduced himself and stated that he was proposing a prefabricated shed on his property, but due to the topography of the lot, it was impossible to locate the shed 10 feet behind the rearmost point of the house, as the Bylaw dictated. He said that the lot was carved into a hill and the slope directly behind the house was extremely steep. He

said that he had talked to several landscapers and excavators, and the average cost to excavate and grade that area for a shed was approximately \$20,000.

Mr. Colasante asked whether the shed would be placed 10 feet in from the side property line. Mr. Dionne said that it would.

Mr. Kalantari noted that the GIS plan showing the shed did not contain the shed dimensions. Mr. Dionne said that the proposed shed was 10' x 14'.

Mr. Colasante asked whether it would be possible to place the shed 35 feet from the front property line. Mr. Dionne said that would not be a problem, as he could do that without much grading.

Mr. Colasante opened the hearing to the public. With no comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante stated that this was a Special Permit application, and in order for the Board to grant the application, it had to determine that the request was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the Bylaw. He said that, due to the conditions of the lot and the location of the house in relation to the steep slope, he felt comfortable supporting the application.

Mr. Crowley agreed, stating that he felt comfortable granting the Special Permit with the condition that the shed be placed 35 feet from the front property line. The other Board members also agreed.

MOTION:

Ms. Amick moved to grant a Special Permit to Jacob Dionne, at 9 Hemlock Lane, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to erect shed within front yard setback, substantially as shown on Exhibit 1 (GIS plot plan); Exhibit 2 (shed specifications), and Exhibit 3 (topography map), and subject to the following three conditions:

- 1) Shed size shall be 10'x14';
- 2) Front setback shall be 35 feet;
- 3) The side lot setback shall be a minimum of 10 feet.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Crowley, Amick, Dearing, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, barring any appeals, the applicants may apply for a Building Permit.

Mr. Dionne thanked the Board members for their time.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #017-15 – CONTINUATION – Red Heat Tavern, LLC, at 150 Great Road, seeks a Special Use Permit per Table I: Use Regulations and per Section 4.5.7 of the Zoning Bylaw to construct new restaurant.

Mr. Colasante stated that Red Heat Tavern had written a letter to the Board requesting a continuation to the March 26 meeting date. He called for a motion to continue the hearing.

MOTION:

Ms. Amick moved to continue Red Heat Tavern, LLC, at 150 Great Road, seeking a Special Use Permit per Table I: Use Regulations and per Section 4.5.7 of the Zoning Bylaw to construct new restaurant to March 26, 2015 at 7:30 PM.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Crowley, Amick, Dearing, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

BUSINESS MEETING:

February 26 Minutes

Moved to approve minutes of the February 26 meeting, as amended.

Mr. Crowlely seconded the motion.

Voting in favor: Colasante, Crowley, Amick, Dearing, Hamilton, and Kalantari

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

