

**TOWN OF JAFFREY NEW HAMPSHIRE  
ZONING BOARD OF ADJUSTMENT  
Minutes  
May 4, 2021**

**Present:** Chairman Lee Sawyer, Members Walter Batchelder, Marc Tieger, Erlene Brayall, Carl Jevne, (alt) *will vote*, Judy Lucero (alt) and David Jeffries (alt).

**Absent:** Phil Cournoyer

**Staff:** Jo Anne Carr (via Zoom), Code Enforcement/Building Inspector Rob Deschenes, Recording Secretary Newton, Fire Chief David Chamberlain

**Via Zoom:** Elizabeth Webster, Trisha Layfield, Janet Grant, Tony Rizzitano

**MEETING MINUTES APPROVAL**

On a **motion** by Batchelder, seconded by Jevne the minutes of April 6, 2021 were approved as presented (5-0-0)

On a **motion** by Tieger, seconded by Jevne the minutes of April 9, 2021 were approved as presented (5-0-0)

**PUBLIC HEARING**

Chairman Sawyer called the public hearing to order at 6:03 pm. Notice of hearing for cases No. ZBA 21-08, ZBA 21-09, ZBA 21-10, ZBA 21-11, ZBA 21-12, ZBA 21-13 as advertised in the *Monadnock Ledger* copies were posted in the Town Office building, the Library and the town website; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen; and notice of hearing was sent by certified mail to all abutters whose names were provided by the applicant.

**PUBLIC HEARING NEW ITEMS**

*M Tieger recused himself, David Jeffries will vote*

1. ZBA 21-08, Marc & Sharon Tieger, Owners – 18 Bradley Ct  
Map 238 Lot 161.1 Zone: Res A (with town water)

Variance – The applicant requests a variance to allow a 12' x 12' deck within the setback (Land Use Code, Zoning Ordinance Section VI, 6.1, VII, 7.2.3)

Presentation: Marc Tieger

Mr. Tieger is requesting a variance to construct a 12' x 12' deck over an existing flagstone patio which is within the 30-foot setback to the north (Busher). The proposed deck would maintain the same footprint as the patio which is nine feet from the property line. The applicant shared photos of the property showing the view from each side.

The proposed deck would not be visible to the public or abutters due to significant vegetation. This lot is the only house lot on Bradley Court on filled land. Aside from a very small area, the land slopes steeply to the east rendering most of the lot useless. The addition of the deck would not reduce the value of neighboring properties.

D Jeffries asked will you be keeping the staircase as shown in the photos? Mr. Tieger responded no.

Otto Busher, abutter stated that he has no issue with the application.

On a **motion** by Brayall, seconded by Jeffries the Board waived the site visit. (5-0-0)

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**Chairman Sawyer closed the public hearing**

2. ZBA 21-09, Jay & Patricia Layfield, Owners – 56 Stratton Rd  
Map 239 Lot 169 Zone: Res B (with town water)

Variance – The applicant requests a variance to allow an 8' x 12' deck within the setback (Land Use Code, Zoning Ordinance Section VI, 6.1)

Presentation: Jay & Patricia Layfield

Mr. & Mrs. Layfield are requesting a variance to construct an 8' x 12' deck within the setback to replace an old deck that was in disrepair. The property cannot be used in strict conformance with the ordinance as the lot is 60 feet wide making it impossible to construct a deck anywhere on the lot outside of the 30-foot setbacks. The back yard is fenced therefore the deck would not be visible to abutters. The reconstructed deck would be an improvement to the home and would not diminish property values of surrounding homes.

W Batchelder asked what would the setbacks be? After measuring the property, it was determined that the completed deck would be 17 feet to the Pratt property to the south and 28 feet to the church property to the north.

C Jevne asked what were the dimensions of the old deck? Mrs. Layfield responded 6' x 8'.

No abutters spoke for or against.

On a **motion** by Tieger, seconded by Batchelder the Board waived the site visit. (5-0-0)

**Chairman Sawyer closed the public hearing**

3. ZBA 21-10, John Farrington, Owner – 8 Brook St  
Map 244 Lot 77 Zone: Res B (with town water)

Variance – The applicant requests a variance to allow a 10' x 12' shed within the setback (Land Use Code, Zoning Ordinance Section V, 5.7 & VI, 6.1)

Presentation: John Farrington & Sherry Oglesby

The applicant is requesting a variance to construct a 10' x 12' shed next to the driveway with a 10-12-foot setback from the road.

The neighborhood was built pre-zoning so many of the homes in the area have buildings/sheds near the road and/or property lines. Strict conformance with the ordinance would put the shed in the middle of the yard.

E Brayall asked will plowing be an issue? Mr. Farrington responded no.

W Batchelder asked for clarification of the location of the driveway. Mr. Farrington provided a sketch.

Mark Franks, abutter submitted a letter in support of the proposal.

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On a **motion** by Jevne, seconded by Batchelder the Board waived the site visit. (5-0-0)

**Chairman Sawyer closed the public hearing.**

4. ZBA 21-11, Darren & Bernadette DeWees, Owners – 31 First Tavern Rd  
Map 229 Lot 14.3 Zone: Mountain Zone (with town water)

Variance – The applicant requests a variance to allow an above ground pool with attached deck within the setback (Land Use Code, Zoning Ordinance Section V, 5.7 & VI, 6.1)

Presentation: Darren DeWees

Mr. DeWees is requesting a variance for an above ground pool with deck measuring 19'10" x 34'. The pool and deck are located in the back yard, the closest abutter has a 6 ½' fence. The upper deck of the pool has a locking gate.

The back yard contains the leach field, a large boulder and ledge. In addition, the property is surrounded by wetland. The only area in which to locate the pool is within the side setback. The pool would not diminish the values of the surrounding homes.

L Sawyer asked how much relief are you asking for? Mr. DeWees responded 13 feet from one side. L Sawyer asked was the plan to have an inground pool? Mr. DeWees responded no.

No abutters spoke for or against.

On a **motion** by Tieger, seconded by Jevne the Board waived the site visit. (5-0-0)

**Chairman Sawyer closed the public hearing.**

5. ZBA 21-12, Com2 Media LLC, Owner – 90 River St  
Map 239 Lot 38 Zone: General Business (with town water)

Variance – The applicant requests a variance to allow reconstruction of a nonconforming building with increased cubic content (Land Use Code, Zoning Ordinance Section VI, 6.1, VII, 7.2.1)

*Marc Tieger recused himself, Judy Lucero will vote*

Presentation: Rob Cummings

Mr. Cummings is proposing to tear down the old Pomponio Machine Shop building and replace it with a duplex which is an allowed use in the General Business zone. The footprint of the building would be reduced, but the cubic content would be increased by adding a second floor.

The reconstruction of this non-conforming building would eliminate a dilapidated structure and provide much-needed housing and increase property values. The building currently extends to the edge of two property boundaries. The proposed duplex would be moved seven feet away from the Langevin property to the west making it less non-conforming. The lot is surrounded by residential buildings, both multifamily and single family. The proposed structure would be in harmony with the neighborhood.

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The size of the lot makes it nonconforming. If the setbacks were applied as written, the result would be a zero-foot building envelope creating a hardship.

L Sawyer asked how far would the building be from the rear boundary? Mr. Cummings responded roughly seven feet from west boundary, 10 feet from the north/Gilmore Pond Rd side. Setbacks on the south side of the lot will be met.

W Batchelder noted according to the plan presented it appears that the 8' x 10' patios would extend to the western property line. Mr. Cummings responded the patios will not be built.

W Batchelder addressed several questions presented by Norm Langevin in a letter to the Board.

- Where will the parking be? Mr. Cummings responded on the south side of the lot. There is roughly 80 feet of road frontage for parking with room for six parking spaces.
- Will there be a privacy fence? Mr. Cummings responded that he is not sure at this time.
- What is the plan for drainage? Mr. Cummings responded gutters will be installed. Runoff from the shed roof of the old building only went to the rear of the lot. The proposed building has a gabled roof that pitches runoff forward and back and is smaller than that of the old building.
- How will you build the structure without encroaching on the Langevin property? Mr. Cummings responded he does not think that would be an issue. He would speak to Mr. Langevin if it became a problem.

E Brayall asked if any contamination clean-up was done on the site? Mr. Cummings replied yes. A phase II environmental study was done which included six test wells and five test pits. A small amount of lead was found, but the State considered that background contamination. He was not required to remove any soil.

Norm Langevin, speaking on behalf of his mother Jacqueline Langevin, abutter, stated that they are not completely opposed to the project but they want to make sure to protect their property. He noted that constructing a duplex would be a change of use, from a machine shop, to a residential use. His concerns include:

- Protecting his property if damage is done during construction
- Privacy, as this building will be used as rental units
- Liability issues
- Drainage
- Snow clearing from his lot

L Sawyer asked if installing a privacy fence would be an option. Mr. Cummings responded possibly, however, fencing is not something that is regulated by the Board. Rob Deschenes noted that this is a 2-family which is an allowed use in that zone. The application does not need to go to the Planning Board for review.

Tony Rizzitano, abutter, addressed his concerns.

- Runoff – the property in question is at the crest of the hill, runoff flows downhill onto his property. He is concerned with runoff turning to ice on his property. He did not see the driveway depicted on the plans.
- Fence between properties - he asked how far the fence between the properties would go. Will it block the view of traffic while entering and exiting.
- Underground sewer lines – he asked if the sewer line locations had been checked. He believes there is a sewer line from his house to Rte 202.
- Wells – he noted that some wells were uncovered when the site was checked and one of the wells is leaking. Will it be repaired or will the drainage be addressed?
- Snow removal – how would snow removal be handled. There had been issues in past with Mr. Pomponio.

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Mr. Cummings responded that he was not aware that there was an issue with snow removal or the leaking well. Once construction begins the wellhead will be pulled out and filled in. He doesn't know where the sewer lines come through the property, it was not identified by Dig Safe. There is no excavation or construction taking place at the south end of the lot so the location of the sewer lines shouldn't be an issue. They haven't yet decided to replace the fence at the front of the lot. If they did, it would not go any further than the existing fence.

C Jevne asked will the parking area be paved? Mr. Cummings said yes. Mr. Rizzitano asked is there a setback for the asphalt parking lot? R Deschenes responded no.

N Langevin noted that there is very little lawn area, except for the setback area behind the duplex. Where would the children play and what would keep them from trespassing onto his mother's property? Mr. Cummings responded that the ordinance does not speak to where children play.

Elizabeth Webster, resident, has noticed an issue with ponding at the intersection of Gilmore Pond Rd and River St./Rte 202. N Langevin believes that the ponding is due to runoff from the hill. David Chamberlain noted that there are two catch basins there, one on each side of the road.

**Chairman Sawyer continued the hearing to the Site Walk on Monday, May 10 at 1:00 pm**

6. ZBA 21-13, Monadnock LLC, Owner, Aspen Environmental, Agent  
463 Thorndike Pond Rd, Map 234 Lot 15 Zone: Rural (without town water)

**Special Exception #1** – The applicant requests a special exception to allow construction of a 12' x 15.5' patio within the Wetlands Conservation District (Land Use Code, Zoning Ordinance Section XX, 20.6.2)

**Variance #1** – The applicant requests a variance to allow construction of a 12' x 15.5' porous paver patio within the 75-foot shoreland setback without maintaining the existing vegetated buffer. (Land Use Code, Zoning Ordinance Section XIX, 19.4.2(b) )

**Special Exception #2** – The applicant requests a special exception to allow construction of a 25' x 35' patio within the Wetlands Conservation District (Land Use Code, Zoning Ordinance Section XX, 20.6.2)

**Variance #2** – The applicant requests a variance to allow construction of a 25' x 35' porous paver patio within the 75-foot shoreland setback without maintaining the existing vegetated buffer. (Land Use Code, Zoning Ordinance Section XIX, 19.4.2(b) )

**Special Exception #3** – The applicant requests a special exception to allow construction of a 20' x 31' perched beach within the Wetlands Conservation District (Land Use Code, Zoning Ordinance Section XX, 20.6.2)

**Variance #3** – The applicant requests a variance to allow construction of a 20' x 31' perched beach within the 75-foot shoreland setback without maintaining the existing vegetated buffer. (Land Use Code, Zoning Ordinance Section XIX, 19.4.2(b) )

**Special Exception #4** – The applicant requests a special exception to allow construction of a storage shed within the Wetlands Conservation District (Land Use Code, Zoning Ordinance Section XX, 20.6.2)

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**Variance #4** – The applicant requests a variance to allow construction of a storage shed within the 75-foot shoreland setback without maintaining the existing vegetated buffer. (Land Use Code, Zoning Ordinance Section XIX, 19.4.2(b) )

Presentation: Attorney Maria Dolder and Aaron Wechsler, Aspen Environmental

Attorney Dolder gave a brief history of the parcel which was once a large summer camp. The preexisting buildings were constructed on the property in 1945 and 1960 and include a house, cottage, cabin, washhouse, garage, sheds, pump house, etc. In addition, there is concrete on the shore, rebar in the pond and remnants of a docking system. This is a shared family-owned property that could have as many as 25 people if the entire family were to visit at the same time.

The accessory structures being proposed include a perched beach, two porous patio pavers and the replacement of an existing shed. Each would require a variance to allow construction within the 75-foot shoreland setback without maintaining the existing vegetated buffer and a special exception to allow construction within the Wetlands Conservation District.

The property had an existing beach that has been allowed to grow up over the years. The plan is to reclaim the conventional beach by constructing a perched beach as required by the State of NH. A perched beach requires a structure, such as a retaining wall, that is set back from the water to contain the sand. It provides protection between the body of water and the sand so that during a rain event the sand does not go into the water. In addition, the proposed structure was designed to provide drainage and filtration of storm water even though that is not required by the State.

The proposal of these accessory structures will not alter the essential characteristics of the neighborhood nor will it effect the safety or health and welfare of neighboring properties. The 8.4-acre property is residential in nature. None of the four structures would be visible to or have any impact on neighbors. In addition, abutting properties have similar waterfront features.

Only minimal trees and overgrowth, most of which is new growth, would need to be removed in the unused beach area to create the perched beach. There is 499 feet of water frontage and 82% of the natural buffer would be maintained. The proposed storage shed is larger than the existing one, however, it will not be any closer to the water.

This unique property was designed as a summer camp and is now used as a residential property/family compound. The conventional beach was let go. The property is very steep going down to the water making it difficult to place the perched beach and retaining walls. Additional drainage is proposed to reduce runoff to the lake. Currently this waterfront property is lacking waterfront features such as a patio, dock and beach that neighboring properties have.

W Batchelder asked how much larger is the new shed? A Wechsler responded the current shed is 117 sf, the proposed shed will be 240 sf. The shed would be reoriented with the shorter side facing the water but will maintain the same setback. It cannot be located further up the hill because of the steep slope.

A Wechsler added current design standards do not allow buildings to be constructed at the water's edge or beaches to slope towards the water. The patio must have a -1% slope away from the water. Retaining walls are required in order to meet State standards.

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M Tieger asked how deep is the water off the existing dock? A Wechsler responded that it is one foot deep five feet from the edge of the water, dropping off after that. A standard dock is 30' long, they are proposing a longer one to meet depth requirements. The State determines how many boat slips are permitted based on frontage.

Elizabeth Webster, Conservation Commission, stated that she appreciates the negative slope of the patios and the retention of 82% of the vegetated border, which is more than what is required. Her only concern is the pathway that runs straight down the hill. A Weschler responded the wood framed pathway is constructed using woodchips with geotextile fabric and drainage underneath to control the runoff to the lake. Level areas are created using retaining walls at irregular intervals along the path.

Janet Grant, resident, asked how far is the dock from Whittemore island? A Weschler confirmed that the dock will not be a navigational hazard as per State guidelines. In addition, the Natural Heritage Bureau conducted a review and felt this project would not impact protected species in the area.

**Chairman Sawyer continued the hearing to the Site Walk on Monday, May 10 at 1:45 pm**

**DECISIONS**

1. ZBA 21-08, Marc & Sharon Tieger, Owners – 18 Bradley Ct  
Map 238 Lot 161.1 Zone: Res A (with town water)

Variance – The applicant requests a variance to allow a 12' x 12' deck within the setback (Land Use Code, Zoning Ordinance Section VI, 6.1, VII, 7.2.3)

On a **motion** by Batchelder, seconded by Jevne the request for a variance to allow a 12' x 12' deck nine feet from the northern property line was granted as presented and per testimony given. (5-0-0)

2. ZBA 21-09, Jay & Patricia Layfield, Owners – 56 Stratton Rd  
Map 239 Lot 169 Zone: Res B (with town water)

Variance – The applicant requests a variance to allow an 8' x 12' deck within the setback (Land Use Code, Zoning Ordinance Section VI, 6.1)

On a **motion** by Tieger, seconded by Batchelder, the request for a variance to allow an 8' x 12' deck 17 feet from the southern property line and 28 feet from the northern property line was granted as presented and per testimony given. (5-0-0)

3. ZBA 21-10, John Farrington, Owner – 8 Brook St  
Map 244 Lot 77 Zone: Res B (with town water)

Variance – The applicant requests a variance to allow a 10' x 12' shed within the setback (Land Use Code, Zoning Ordinance Section V, 5.7 & VI, 6.1)

On **motion** by Tieger, seconded by Batchelder the request for a variance to allow a 10' x 12' shed ten feet from the front property line was granted as presented, per testimony given and sketch submitted. (5-0-0)  
The sketch is signed by the owner and dated May 4, 2021.

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4. ZBA 21-11, Darren & Bernadette DeWees, Owners – 31 First Tavern Rd  
Map 229 Lot 14.3 Zone: Mountain Zone (with town water)

Variance – The applicant requests a variance to allow an above ground pool with an attached deck within the setback (Land Use Code, Zoning Ordinance Section V, 5.7 & VI, 6.1)

On a **motion** by Batchelder, seconded by Jevne the request for a variance to allow an above ground pool with attached deck 17.6 feet from the west side setback was granted as presented, per testimony given and sketch submitted dated May 4, 2021. (5-0-0)

*Decisions of the Zoning Board of Adjustment are subject to a 30-day appeal period for rehearing.*

**OTHER**

Appointments

- Lee Sawyer accepted the nomination for Board Chair.
- Marc Tieger accepted the nomination for Vice Chair.
- Judy Lucero and David Jeffries have been appointed as alternates for 3-year terms.

Marc Tieger read a letter of thanks to Andy Webber for his many years of service to the ZBA.

**ADJOURNMENT**

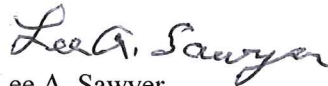
The meeting adjourned at 8:41 pm

Submitted:



Rebecca Newton  
Recording Secretary

Attest:



Lee A. Sawyer  
Chairman, Jaffrey ZBA