

TOWN OF JAFFREY NEW HAMPSHIRE
BOARD OF ADJUSTMENT
Meeting Minutes
March 5, 2019

Present: Chairman Sawyer, Members Batchelder, Cournoyer, Durand, Tieger, Webber

Staff: Recording Secretary Newton, Code Enforcement Officer Deschenes

MEETING MINUTES APPROVAL

On a motion by Durand, seconded by Cournoyer the minutes for the **January 2, 2019** meeting were approved with changes. (5-0-0)

PUBLIC HEARING

Chairman Sawyer called the public hearing to order at 7:00 pm Notice of hearing for case No. ZBA 19-02 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

Prior to the presentation, Chairman Sawyer clarified that the Zoning Board can only make decisions based on Town ordinances. It is not the purview of the Board to oversee deed restrictions or covenants.

1. ZBA 19-02, Jeffrey Krouk Revocable Trust, Owner Aspen Environmental Consultants, Agent
481 Thorndike Pond Rd. Map 234 / Lots 16, Zone: Rural (without town water)

Presentation – Aaron Wechsler - Aspen Environmental, Agent

Mr. Wechsler gave an overview of the project. The property was purchased in April 2018. At that time a project manager was hired to begin the site work, most of which was started without the necessary permits.

The Building Inspector/ Code Enforcement Office was contacted for an electrical inspection at which time he discovered the additional unpermitted work. On September 21, 2018 BI/CEO Rob Deschenes mailed a Notice of Violation to Mr. Krouk, on October 25, 2018 Mr. Krouk was issued a Cease and Desist order. Upon receipt of the Cease and Desist order the project manager quit. At that time Mr. Wechsler was employed to obtain the necessary permits to continue work and to restore the site as directed by the BI/CEO and State of NH.

Betsy Winiecki, resident asked who is ultimately responsible for the unpermitted work that had been done. Mr. Wechsler stated in the State of NH the property owner is responsible. Mr. Krouk's assumption was that the project manager would obey the rules.

Mr. Wechsler immediately installed erosion controls and pulled material back from the edge of the lake to stabilize the site and avoid water quality issues. Required applications were submitted to the State including Subsurface, Wetland and Shoreland Bureaus. A restoration plan was submitted to DES. Disturbed areas will be restored and put back to their original grades and revegetated. The beach area will be returned to its original size and the additional sand removed.

Permit approvals have been received for the holding tank, Shoreland, Restoration, Wetland and by the Army Corps of Engineer.

Janet Grant, resident – how far is the front of the house from the pond. Mr. Wechsler responded approximately 39' – 40'

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Member Durand noted according to application he wants to rent the main house and use the cottage as an accessory dwelling unit. This would be a change in use for the property. The application shows two beaches, two sheds and an additional driveway. Mr. Wechsler clarified this is an existing seasonal cottage and the owner has not yet made the decision to rent the property. Chairman Sawyer reiterated the job of the ZBA is to ensure that people comply with zoning ordinances, they cannot enforce deed restrictions or covenants, i.e. changes in use.

Jim Potter, abutter – it seems obvious that the intent is to convert from a single-family to a two-family. This is a change in use.

Mark Winiecki, resident – perceives the violations as willful and flagrant.

Betsy Winiecki – are you able to restore vegetation to its original state. Mr. Wechsler stated many of the shrubs and saplings near the shoreline have just been trimmed and will regrow. There will be no exposed soil for erosion.

On a **motion** by Tieger, seconded by Webber to waive the reading of the notice. (5-0-0)

Variance – The applicant requests a Variance to permit a minor expansion of an existing non-conforming cottage (Land Use Code, Zoning Ordinance Section XX, 5.2(a).

Mr. Wechsler - the building closest to the water was an existing seasonal-use cottage located entirely within the wetland district. The bathroom located at the back corner of the structure, was expanded by 16 square feet and updated. There will be no changes in overall use. Member Durand asked how big the bathroom was before construction. Mr. Wechsler did not know what the interior looked like before.

Jim Potter – had been in the cottage, felt that the bathroom was serviceable before.

Betsy Winiecki – feels this expansion was a disruption to the neighborhood.

Jim Banghart, resident – believes this is an expansion of a non-conforming use.

Janet Grant, resident – the wetland application clearly states that there are two residences, a four-bedroom house and a one-bedroom seasonal cottage.

Member Webber asked is there a kitchen in the cottage. BI/CEO Deschenes believes there is a small kitchenette area.

Variance – The applicant requests a Variance to permit a replacement of an existing non-conforming holding tank in approximately the same location (Land Use Code, Zoning Ordinance Section XX, 5.2(a).

Mr. Wechsler - The original tank was basically a steel drum with a capacity of 50-60 gallons that provided no treatment or protection. The tank was rusted out and infiltrating into the ground. BI/CEO Deschenes shared a receipt from the septic hauler dated Sept. 2012 stating that the tank was rusted and needed to be replaced.

A new 1,000-gallon tank was installed by the project manager without a permit. The minimum holding tank allowed by the State is 2,000 gallons. The plan is to replace that tank with one that will meet State standards. There is no leach field. The holding tank has no outlet, only an inlet. The new tank has a high-water alarm. Mr. Krouk will be required to have a contract for pumping and provide quarterly receipts to the State. Member Tieger asked is the cottage being used seasonally or year-round. Mr. Wechsler stated seasonally. Without approval of this variance the cabin will be unusable.

Betsy Winiecki – feels that this will negatively impact the community.

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Jim Potter – feels the purpose of redoing the holding tank is for the change in use.

Ann Webb, resident – asked how far the cabin and holding tank are from the water. Mr. Wechsler responded 68' and added the State has given approval.

Janet Grant – is the holding tank underground, will there vegetation over it, and what are the measurements of the tank. Mr. Wechsler replied, 12' long x 8' wide, most tanks are about 4 – 4 1/2' deep. 6-8" of material over the tank.

Special Exception – The applicant requests a Special Exception to construct a perched beach with seasonal wooden steps and a walkway for access to the beach (Land Use Code, Zoning Ordinance Section XX, 6.1 & 6.2.

Mr. Wechsler – the definition of a perched beach is where the sand is entirely contained with a barrier that does not allow sand to wash away. This would be the States preferred choice. The proposed walkway to the beach is a structured walkway which alleviates erosion.

Carolyn Garretson – is a perched beach considered a "structure" because it is close to the shoreland.

Janet Grant – is there an existing beach at that location. Mr. Wechsler – the beach on the left is a new structure, additional sand was dumped on the original beach. Material was pulled back and a silt sock was added to keep sand in place.

Member Durand – are there other properties that have two beaches.

Jim Banghart – no other property on the pond has two beaches.

Jim Potter – a second beach clearly demonstrates that the intent is to create a second residence.

Betsy Winiecki – the existing beach has been expanded. This has a negative impact on the neighborhood as house will be rented and used for entertainment.

Mr. Wechsler - part of the restoration will be bringing the expanded beach back to its original size. The area has been bored to determine the original size.

Special Exception – The applicant requests a Special Exception for water and electric lines installed near the edge of the drive to serve the existing cottage (Land Use Code, Zoning Ordinance Section XX, 6.1.

Mr. Wechsler – water and electric lines were installed below-grade, the area will be covered up and revegetated. Water and electric installed should be adequate for seasonal use. The drilled well, located near the main house feeds both buildings on the property. The well radius is sized correctly according to State standards.

Jim Potter – was there existing water and electric to the cottage. BI/CEO Deschenes responded yes, the property record card states there was plumbing in the cottage and an old unsafe electric line ran down through the trees. Underground lines would be a safer alternative.

Jim Potter – was the wattage upgraded.

Betsy Winiecki – opposed, believes this is light pollution

Special Exception – The applicant requests a Special Exception to construct a walkway to an existing cottage (Land Use Code, Zoning Ordinance Section XX, 6.1.

Mr. Wechsler – the proposed walkway will provide a structured access path that will avoid wear and tear and reduce erosion. The walkway is not close to property lines and have no effect on neighbors.

Member Batchelder – what is the walkway made from – Mr. Wechsler responded gravel

Betsy Winiecki – opposed, because the walkway isn't rustic and is a detriment to the neighborhood.

Special Exception – The applicant requests a Special Exception to construct a turn-around/parking area at the end of the existing drive for access to the cottage (Land Use Code, Zoning Ordinance Section XX, 6.1.

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Mr. Wechsler – additional material was put down to firm-up the driveway area near the cottage, it extended almost to the beach. The material in the extended area will be removed. They are proposing a more structured access with a small retaining wall and an area that allows turn-around with parking for two vehicles.

Betsy Winiecki – opposed, this has already had an impact due to increased truck traffic when material was brought in. What used to be a walking path is now a driveway.

Jim Potter – this implies a change of use for the cottage, cars were not parked at the cottage in the past.

Member Batchelder – can you tell if this was a footpath or a driveway previously. Mr. Wechsler – it's difficult to determine if it was a path or driveway from the photos. A properly constructed driveway will shed water off the sides and keep runoff from channeling directly into the pond.

Special Exception – The applicant requests a Special Exception to install concrete anchoring pads for two seasonal docks (Land Use Code, Zoning Ordinance Section XX, 6.2.

Mr. Wechsler – the property had an existing 6 x 30 dock when purchased. They are proposing two docks with a total of four boat slips which meets State requirements for number of slips. They are requesting concrete anchoring pads to make putting boats in and out easier and to provide more stability. These pads are commonly used to anchor docks where there is a substantial bank area. The pads have been approved by the State but have not yet been constructed. Standard configuration for a dock is 6 x 30, Mr. Krouk has not mentioned bringing in motorized boats.

Betsy Winiecki – opposed, because they are requesting two docks each with two boat slips. The impact on the community would be enormous. Neighbors traditionally install docks by resting them on rocks so as not to impact the shoreline. These pads are not common on Thorndike Pond, does not want to become like Winnepesaukee.

Jim Potter – one dock is enough

Mark Winiecki – is there an impact to water quality or wildlife.

Carolyn Garretson – where is this parcel in relation to Whittemore the island.

Rick Brackett – land manager for Monadnock Conservancy, owner of Whittemore Island – the loon nesting occurs on the west end of the island, this area is buoyed off. Docks tend to be habitat for fish, they provide coverage. He views the docks as potential hunting grounds for loons. Therefore, building of the docks should not impact the nesting, however additional boat activity could be a problem if they identify the docks as a food source.

Mark Winiecki – the covenants of the Forest Ramp Association limit dock size.

Chairman Sawyer – asked if the Forest Ramp Association is active.

Jim Potter – was the President of the Forest Ramp Association until it dissolved last year. All of covenant were added to the deeds of the 16 properties, including this one, so the covenants live on.

Chairman Sawyer – the ZBA cannot enforce those covenants.

Jim Banghart – no properties have two docks and only one property has a concrete pad.

Special Exception – The applicant requests a Special Exception to allow the placement of two 10 x 12 storage sheds to store recreation equipment (Land Use Code, Zoning Ordinance Section XIX 4.2(b) & Section XX, 6.2

Mr. Wechsler – requesting two storage units on the property to store recreational materials out of site. No excavation or footings needed to build. The sheds will be placed on the ground.

Betsy Winiecki – opposed, believes the cottage was previously used for storage.

Jim Potter – opposed, because trees were cut down and they will be visible from the water. Mr. Wechsler noted the shed closest to the cottage will be within the tree line and will not be visible. What was trimmed back will be restored.

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Betsy Winiecki – can they replace the old trees. The lot is an open space now, it has clearly changed the landscape. Chairman Sawyer noted at one time, when the property was a boys camp, it was an open lot that has since grown in.

Patti Potter – how far back are the sheds from the water. What is the zoning ordinance set-back. Mr. Wechsler stated structures are at least 30' from the water. Jim Banghart – the State Shoreline Protection Act says they should be 75' from water. BI/CEO Deschenes clarified sheds that fall within the definition of an accessory building, under 200 sq. ft., may be located as close as 30' to the high-water mark.

Mr. Wechsler – within the waterfront buffer area you can cut vegetation if you keep 25 “points” per area. Openness is due to trimming, during summer months trees will provide screening.

Member Durand – why do they need two sheds. Mr. Wechsler – it would be more convenient to have the sheds closer to the docks.

Betsy Winiecki – it's clear that one shed would be for the tenant and for personal use. Janet Grant agrees.

Betsy Winiecki – property owner used to rent property across the pond, so he should have an idea of the preservation of the pond.

Marc Tieger – read letters from Samuel Hackler, Ed Surprenant and Andrew Krivak into the record.

Chairman Sawyer continued the hearing to the site visit.

Site Inspection was scheduled for Friday, April 5th at 3:00 pm.

OTHER BUSINESS - none

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

ADJOURNMENT

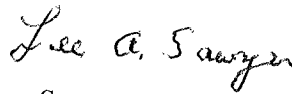
The meeting adjourned at 9:58 pm

Submitted:



Rebecca Newton
Recording Secretary

Attest:



Lee Sawyer
Chairman, Jaffrey ZBA