

DRAFT

PUBLIC HEARING & BUSINESS MEETING

A. CALL TO ORDER: The Chairman called the meeting to order at 7:05 p.m.

B. ROLL CALL

Members: John DeLeire, Chairman; S. Bryant, Vice Chairman; Larry Job; Mark Call

Non-Members: Mark Sikorski, Building Inspector; Laura Jordan, Town Secretary

Alternative Members: Patricia Young; Alex Dittami

Not Present: Scott Almeda, Member

4 members are available and 2 alternates present. The Chairman designated A. Dittami as a voting member for tonight's meeting.

C. REORGANIZATION OF THE BOARD

1. Nomination of Chairman:

MOTION: To nominate John DeLeire as Chairman of the Board.

MOTION: S. Bryant

SECOND: M. Call

UNANIMOUS

2. Nomination of Vice Chairman:

MOTION: To nominate Steve Bryant as Vice Chairman of the Board.

MOTION: M. Call

SECOND: L. Job

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D. PUBLIC HEARINGS:

Case # 20-01: Application from **Gregory & Nancy Earls**, Map 4, Lot 33-1, for property located at 2 Sanborn Road for a variance to the terms of Article III, Section 7.7.1 and asks that said terms be waived to permit construction of in-ground pool in Zone A.

PRESENTATION: Greg and Nancy Sanborn were present. Greg Earls represented himself for the presentation. He provided an updated plan and narrative, that reflected new measurements of 24'x42' pool and pad. The site is trapezoidal in shape and the narrow end is closet to the house. The proposed location encroaches upon the 50-foot yard setback. It is possible to place a pool on the property and follow the regulations without exception, unfortunately the allowed location is not ideal for multiple reasons.

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On the proposed plan, one end of the pad would be 31 feet from the lot line, the other end 21 feet from the lot line, and the pool 40 feet from street. If the pool is placed farther down, it would be visible from Route 88. The spirit of the ordinance is to allow sufficient space between neighbors and limit visibility. Earls feels that making it closest to the house actually reduces visibility. To the north, there is a large row of trees on the narrowest part of the lot that blocks visibility. Further, the neighbors have plantings and Mr. Earls has Rose of Sharon plantings. The Earls previously contacted the primary abutter from the West, Michelle O'Brien of 4 Sanborn Road, who finds the proposed location acceptable. Mr. Earls presented a letter from M. O'Brien confirming this. The proposed location does not interrupt air, light or sight lines for the abutters.

Additionally, the other possible location, near the shed, is where the tree line starts. There is one particularly mature tree that he does not want to remove. Safety-wise, the pool then would not be visible from the house. Also, at the proposed location there currently exists a fence that would surround the pool and satisfy pool safety fencing regulations.

DISCUSSION:

The Board inquired to, in particular, how his case met item #5 of the 5 criteria for a variance.

Five Requirements for Granting a Variance (1/1/10)

1. The variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. Substantial justice is done;
4. The values of surrounding properties are not diminished; and
5. Literal enforcement of the provision of the ordinance would result in an unnecessary hardship.

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

G. Earls answered regarding the fifth criteria that the area is visible to 88 and more to Linden, closer to south wooded land. 42% of his land is wooded. Only time house is visible if lights are on at night.

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J. DeLeire asked the Building Inspector his perspective on this. He commented that the backyard already has chain-link fence, and placing the pool inside the bounds of the fence covers the swimming pool requirements for a safety barrier. He also agrees that it is safer to have the pool in sight of the house for security and monitoring. The only true downside is that it ends up too close to the property line. Additionally, that set back is particularly flat and will still allow fire truck access. He feels the greater good is being done by putting it in the yard where it belongs and the neighbors do not have an issue.

M. Call commented that if the pool is farther south, it will impose upon some mature trees that he feels would be a shame to take down for a pool. P. Young countered that trees alone in the past have not been sufficient basis to qualify for a hardship.

A. Dittami asked if at the backside bordering Exeter Road there will be plantings, and G. Earls replied that there are already Roses of Sharon and the abutters' plantings.

M. Call wanted to clarify the dimensions of the pool. 24'x42' is the pad dimensions, and the pool is planned to be 16x26.

Chairman J. DeLeire closed the Public Comment and Public Hearing at 7:16 p.m. J. DeLeire stated that at this time Alternate non-voting member P. Young will no longer participate.

MOTION: To approve the application from **Gregory & Nancy Earls**, Map 4 Lot 33-1 for property located at 2 Sanborn Road, for a variance to the terms of Article III, Section 7.7.1 permitting construction of in-ground pool in Zone A.

MOTION: A. Dittami

SECOND: S. Bryant

DISCUSSION ON MOTION:

The Chairman commented that lot is shaped irregularly, which helps the Board justify a variance because this property needs to be treated differently than regular shaped lots. There may be another place the pool could go, but it might create safety issues. Neighbor next door supports it, which helps. If the neighbor opposed than plan, it would make it hard to justify it. In light of everything presented, he feels it is going in the right direction.

Alternate A. Dittami requested an added condition that the minimum setback that he has in the application be maintained, and the area between the pool and lot line no other structures except fence be allowed. No chairs no backyard kitchens are to be placed in the pad area. It is important that fire trucks fit and to maintain the visual illusion of the setback.

VOTE: UNANIMOUS

E. REVIEW AND APPROVAL OF PREVIOUS 9/26/2019 MEETING MINUTES

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MOTION: To approve the September 26, 2019 meeting minutes as written.

MOTION: S. Bryant

SECOND: M. Call

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F. OTHER BUSINESS: No other business was discussed.

G. COMMUNICATIONS TO BOARD MEMBERS

The Board reviewed documentation regarding the proposed New Hampshire House Bill HB 1629-FN, and the postponed conference date. Additionally, the Board reviewed the member directory to update contact information and names.

DISCUSSION: A. Dittami informed the Zoning Board of Adjustment that he was approached by the Planning Board Chair to consider inter-membership of the two Boards.

H. ADJOURNMENT

MOTION: To adjourn the meeting at 7:37 p.m.

MOTION: J. DeLeire

SECOND: S. Bryant

UNANIMOUS

The next meeting of the Zoning Board of Adjustment is scheduled for Thursday, June 25, 2020