

**PUBLIC HEARING & BUSINESS MEETING  
DRAFT**

**CALL TO ORDER:** The Chairman called the meeting to order at 7:03 p.m.

**ROLL CALL**

**Members:** J. DeLeire, Chairman; L. Job, Member; M. Call, Member.

**Alternate Member(s):** A. Dittami, P. Young.

**Non-Members:** M. Sikorski, Building Inspector; L. Jordan, Town Secretary.

**Not Present:** S. Bryant, Vice Chair; S. Almeida, Member.

Three members are available and two alternates present. The Chairman designated A. Dittami and P. Young as voting members for this hearing.

**PUBLIC HEARING**

**Case #20-03:** Application from **Steven Jackson and Christina Jackson** for the following variances to the terms of:

1. Article III, Section 6.3, and asks that said terms be waived to permit the increase of the size of a non-conforming building.
2. Article III, Section 7.7.2 and asks that said terms be waived to permit a new addition to be built with sideline setback to be 20 feet versus required 25 feet.
3. Article III, Section 8.5.2 and asks that said terms be waived to permit a new addition to be built 35 feet from the wetlands versus the required 50 feet with the present home being 39 feet from the wetlands as well as a portion of the proposed deck, in Zone A, at property located at 10 Oak Drive (Map 2, Lot 30).

Attorney Mary Ganz and Henry Boyd of Millennium Engineering presented for the Jacksons.

M. Ganz spoke in detail to the five criteria for approval for each of the three variances requested:

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.
5. Literal enforcement of the provision of the ordinance would result in an unnecessary hardship.

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**Article III, Section 7.7.2**

The current side setback is 4.3 feet less than the new proposed site plan, specifically 24.3 feet vs. a proposed 20 feet. M. Ganz handed out a letter in support from the abutters to the Board. This variance will not be contrary to the Public Interest because the setback is minimal and the current plan already encroaches and is “grandfathered”. It will not change character of the neighborhood nor reduce property values. The new design will be better designed and more aesthetically pleasing.

This Non-Conforming Lot is covered in wetlands topography. The Jacksons have a growing family and denying a small addition would result in an additional hardship for a unique property which requires variance to utilize. The new design is more efficient, modern and decreases environmental impact. This home was constructed in 1972 and was built before current building and site plan code. The wetlands location makes it impractical to add the addition at any other location. The Building inspector feels that it is good project which improves the neighborhood and building.

**Article III, Section 8.5.2**

The Jackson’s home is not located on prime wetlands, and the addition will not affect any public health issues or the character of the neighborhood. The small addition proposed will only slightly encroach more than the existing structure does and will be better designed. It will include some attractive features that will likely increase property values and certainly make the ranch-style home more attractive. Since this home was built originally before current zoning ordinance, adjacent to the wetlands, it already encroaches. Four feet closer will not imperil the integrity of the wetlands ecosystem. In fact, the new design will add stormwater mitigation when previously there was none, and despite encroaching four more feet into the buffer, will be better for the health of the wetland and drainage.

**Article III, Section 6.3**

This variance was suggested by the Building Inspector as a “catch-all” for the application. Currently, the structure is 32 feet from wetland and the applicants are requesting to be four feet closer. These are not prime wetlands and are previously disturbed. M. Ganz presented similar arguments for substantial justice, surrounding values, etc. as with the previous two Articles.

H. Boyd of Millennium Engineering created the site plan and revised it in early August based on the Building Inspector recommendations at application submission. The current plan shows what is existing and what is proposed. The new site plan has a total sealed surface of 11.3% and the Town average is 30%. The Jacksons hired wetlands scientist Mark West. No matter what location, due to the unique landscape, any addition will require variance relief.

Phelps Fullerton, the contractor for the additions, spoke to the remodeling options for expanding the livable square footage of the home. This current plan has the least environmental impact for the site and will maintain one story ranch profile, expanding on the existing kitchen side of the house. An attractive portico entry will be included at the front, which adds architectural street appeal.

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The Building Inspector asked P. Fullerton to describe the addition that is being removed and replaced. The current addition is on pressure wood posts with no heated basement below. This will be replaced with a full foundation underneath it and heated basement space. P. Fullerton does not know what kind of soils are there, but feels it seems like the material was brought in for home construction. A. Dittami asked about the posts/stilts, to which S. Jackson replied he did not believe they are structurally compromised but absolutely not up to 2020 standards.

P. Young asked what part of the area on the property around the home is currently mowed/groomed. S. Jackson answered that the entire front is maintained lawn as well as the side and back of the house until the wetlands and follows that line.

The Jacksons have consulted the Conservation Commission regarding the storm run-off changes. There is no current stormwater mitigation in place and the new plan will add this. Additionally, Mrs. Jackson stated that no basement flooding has occurred in the three years they have lived there. Mark Call inquired about including stormwater runoff on the plan, but the Building Inspector told the Board that would be part of building permits in the future.

L. Job wished to clarify a detail. The current setback is seven feet, and if this plan adds an additional four feet, it will be an 11-foot variance. H. Boyd spoke again to all of the setbacks, etc. and specific footage. The plan would decrease the abutter setback from 25 to 20 feet, and the neighbor does not object to this. Additionally, the wetland side would encroach an additional four feet. The structure is already inside of the wetland buffer.

**PUBLIC COMMENT**

The Chair opened the meeting to Public Comment.

Mary Ann Hill, Conservation Commission, clarified that the addition is not further toward the wetland buffer, it will be further inside of the buffer. Additionally, the soils, according to the 1994 Rockingham Commission soil survey, are various sands with bedrock six feet below the surface. The Conservation Commission is concerned about site disturbance while putting in the foundation, plant removal and the opening for invasive species to take root, particularly Japanese Knotweed and Asian Bittersweet. She asked if any trees will be removed and additionally would like, as soon as practical, for native species to be planted to prevent the establishment of invasive species. A. Dittami said this is irrelevant to the variances because no matter what, this species can come, and P. Young additionally pointed out that if the yard is properly maintained these will not take hold.

H. Boyd does not anticipate having to cut any trees, and stated they have a very comprehensive plan in place for stormwater mitigation, erosion control and any tree removal. He is confident it will be a very benign project. A. Dittami asked the Building Inspector to ask for a more detailed plan with all the mitigations. Due to the proximity to the wetlands, he feels this is necessary.

The Chair reminded M. A. Hill that the Zoning Board of Adjustment does not have the authority to manage plantings nor address invasive species. In response, she stated the Conservation Commission would like to offer direction to the homeowners on plantings and be involved in the stormwater

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mitigation plan and will advise as to types of native species to plant. The Chair stated that would be reasonable.

The Secretary inquired as if there were any remote public comments submitted through Cisco Webex, and there were none. The Chairman closed public comment.

The Board opened discussion on the three variances at hand and the five criteria.

P. Young feels that adding mitigation of runoff is an improvement, even if it encroaches five feet closer to the wetlands, especially considering there is not any mitigation at the moment.

The Chair complimented M. Ganz on her presentation of the three variances and justification for relief. He stated that it is a unique lot due the current setbacks, significant amount of non-prime wetlands, and the house being in an awkward location for basic additions. Additionally, this home built in 1972 was already encroaching on the buffer zone and this project requires a miniscule additional encroachment. It will improve the house and the neighborhood. The Chair is in favor of granting the variance.

The Chair asked the Board to deliberate. A. Dittami felt that the Chair articulated points on this case very well. The Board did not have any objections or further concerns.

**MOTION:** To consider all three variances as a package, and address the criteria as it addresses as a package, and the vote will address all three.

**MOTION: A. Dittami**

**SECOND: J. DeLeire**

**UNAMIOUS**

**MOTION:** To approve the three Variances presented by Attorney Mary Ganz relating to the application from **Steven Jackson and Christina Jackson** for the following variances to the terms of:

1. Article III, Section 6.3, and asks that said terms be waived to permit the increase of the size of a non-conforming building.
2. Article III, Section 7.7.2 and asks that said terms be waived to permit a new addition to be built with sideline setback to be 20 feet versus required 25 feet.
3. Article III, Section 8.5.2 and asks that said terms be waived to permit a new addition to be built 35 feet from the wetlands versus the required 50 feet with the present home being 39 feet from the wetlands as well as a portion of the proposed deck, in Zone A, at property located at 10 Oak Drive (Map 2, Lot 30).

**MOTION: J. DeLeire**

**SECOND: P. Young**

**UNANIMOUS**

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**REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES (7/23/2020)**

The Board reviewed the previous meeting minutes from July 23, 2020.

**MOTION:** To approve the minutes as written.

**MOTION:** A. Dittami

**SECOND:** J. DeLeire

**UNANIMOUS**

**OTHER BUSINESS**

A. Dittami told the Board that the Town Administrator informed him of new information available through the New Hampshire Office of Strategic Initiatives, which has put out a new booklet available at [nh.gov/osi](http://nh.gov/osi). This booklet contains rules and uniform procedures for New Hampshire Zoning Boards. It addresses many nuances of zoning that have recently come up. A. Dittami wants to write a synopsis about it and review suggested rules and decide to adopt them or not at the next meeting.

Additionally, a new law has passed that directs any appealed decisions to a special Zoning Ordinance state board instead of the judiciary. This board will provide oversight, but local boards could lose control and may need to change current practice. A. Dittami will gather information and the Town Secretary will add this to the packet and the agenda for the next meeting.

**COMMUNICATIONS TO BOARD MEMBERS**

No communications were made to board members at this time.

**ADJOURNMENT**

**MOTION:** To adjourn the meeting at 7:59 p.m.

**MOTION:** J. DeLeire

**SECOND:** A. Dittami

**UNANIMOUS**

*The next meeting of the Zoning Board of Adjustment is scheduled for Thursday, September 24, 2020*