

**TOWN OF OSSIPPEE**  
**ZONING BOARD OF ADJUSTMENTS**  
Meeting Minutes  
September 10, 2019

Minutes were recorded by and summarized by Laura Nash, Board Secretary. Revisions to these minutes are noted in ***bold/italic*** type.

**Call to Order:** Ralph Wurster called the meeting to order at 7:00 p.m.

**Members Present by Roll Call:** Ralph Wurster, , Roy Barron, and Alternate - Daniel Fischbein and Steve McConarty, ZEO.

**Absent:** Ed MacDonald, Jim Rines, Shawn Marcotte and Sandra “Sam” Martin

Wurster raised Alternate-Fischbein to voting status in place of Ed ***MacDonald***.

**Meeting Minutes:** Review to Approve Meeting Minutes of 08/13/2019.

A **Motion** by Barron to approve the minutes of August 13, 2019 as amended. Discussion: Fischbein noted his question to McConkey regarding option #3 driveway “***and questioned if this is the reason why Jill Kennard is selling his house***”, Fischbein seconded All voted to approve as amended. **Motion passed.**

**Financial:** The Board agreed to review financials after hearing the cases.

- Budget Report: 08/01/2019 – 08/31/2019
- Revenue Report: 01/01/2019 to present
- 2020 - 2021 Proposed Budget Worksheet

**Unfinished Business:**

- **Case #18-17-V: William & Patricia Crockan** – (Submitted revised plans on 08/26/2019) 18 Frost Rd. Tax Map: 066 Lot: 048 was Granted a Variance from Article 6.4.1.A– Front Setback Requirements to construct an addition and deck to an existing, non-conforming structure. And Granted a Special Exception from Article 23.3.2 for Making an Existing Non-Conforming Structure More Non-Conforming to construct an addition and deck to an existing, non-conforming structure.
  1. Pending Wetlands Permit Approval – Septic Design
  2. All corners pinned on new construction
  3. All Federal, State and Local Regulations and Ordinances shall be followed

Mark and Jacob McConkey presented as the representing agents. Mark gave a brief description of the prior approval to expand the home. M. McConkey noted they proceeded with obtaining NHDES Shoreland and Septic approvals. When applying for the building permit, the Zoning Officer had questions. M. McConkey explained how homeowners, who set out to do an addition, live near water, and it’s increasing the value of the home by more than 50%, are finding out they have to bring the whole house up to code with FEMA standards, that the ***Towns*** have adopted into their regulations. So, instead of adding additions, homeowners are opting to demo the existing home and rebuild.

M. McConkey noted going forward with applications, ***homeowners should be*** advised to build new. Since the design of the home has changed and Zoning Officer had questions, it was advised they come before the ZBA for an update on the plans. McConarty noted the difference of the prior approval to current design of adding a second floor. Prior plans did not show a second floor so, McConkey has supplied new plans showing a second story. The septic was replaced to remove a dry well and pipe from the sitting in the water.

The Board proceed to review the revised plans, and discussed expansion of a non-conforming structure, which would require a Special Exception. Prior approval was for a variance and a special exception, and they are building on the existing footprint. Discussion included adding a second story, septic improvements, new construction and meeting FEMA standards, and prior discussion of an addition versus building new.

McConarty recommended acknowledging the design change and adding it to the prior variance and special exceptions approvals. Wurster questioned if this **required** notifying the abutters. It was determined it did not because this is an update of the plans previously approved and it is not changing the **footprint**. **The** Board agreed, since they **had** previously granted a Variance and a Special Exception.

Wurster closed the public meeting and proceeded to Board discussion.

Barron felt the change in the plans is derived from having to meet FEMA standards and it was not feasible or cost effective to do the addition because of exceeding the value of the home by more than 50%. Fischbein was in favor because of the new septic system and getting the old system out of Ossipee Lake. Wurster asked McConarty, who recommended accepting the plans as an “as built.”

A **Motion** by Wurster **that in Case #18-17-V: William & Patricia Crockan** – 18 Frost Rd. Tax Map: 066 Lot: 048, representing agents Mark and Jacob McConkey, **the** Board accepts the plans dated 08/16/2019 as presented with the second-floor addition and allow the Zoning Enforcement Officer to grant a building permit for such structure **that** includes all previous conditions as set forth on the granted Variance and Special Exception.

1. Pending Wetlands Permit Approval – Septic Design
2. All corners pinned on new construction
3. All Federal, State and Local Regulations and Ordinances shall be followed

Barron seconded. No further discussion. A roll call vote was taken.

Fischbein – Yes      Barron – Yes      Wurster – Yes      **Motion passed.**

### **New Business:**

### **PUBLIC HEARING**

Wurster informed the applicant of his right to a full 5-member Board. In accordance with the following RSA:

***The Chairman addressed the Applicant (under RSA 674:33) – noting since there is not a full 5-member board, with no alternates to serve. The applicant has the option of postponing the hearing until all members are present. If the applicant chooses to proceed with the hearing, he/she should be advised that a 3- or 4-member board will not be grounds for an appeal hearing in the event the application is denied.***

Wurster asked if the applicant wished to continue, Jonathan Kemper replied, yes, he wished to continue.

Jonathan Kemper presented his case to the board.

Wurster briefly explained the rules of procedures and the process of presenting their case before the board.

- **Case #19-12-V: Jonathan Kemper**— of 21 Pleasure Land Glade Rd. Tax Map: 044 Lot: 005 is requesting Variance from Article 6.4.2 (A) – Side Setback Requirements to build a 24 ft x 28 ft. long 2 – car garage to park cars in a protected area along with auxiliary storage of machines and landscape equipment.

Jonathan Kemper presented his case before the board. Kemper showed a picture to the Board of the layout of his property and the reasoning for placing the garage in the location. Kemper is asking to place the garage 9 ft. from left side setback. The garage cannot be placed to the rear of the property because of the septic system and the 40 ft. slope makes it too steep on the remaining property. Kemper explained that the garage roof line is being designed to allow for a future addition of the kitchen, when time and money allow. They are looking to add heat to the second story of the garage for a playroom.

Barron questioned if the Board could approve all the additions Kemper is looking build, under this variance application or does he have to return for each addition. Wurster explained the Board can only **rule on** what he's applying for on this application to construct. The property lines are marked by pins and ribbons around 2003 or 2004.

Kemper read the 5 criteria.

Wurster explained the process to Kemper.

Board discussion over the steep of the slope and how it's not suitable for construction.

**A Motion** by Barron **Case #19-12-V: Jonathan Kemper**— of 21 Pleasure Land Glade Rd. Tax Map: 044 Lot: 005 to grant a request for a Variance from Article 6.4.2 (A) – Side Setback Requirements to build a garage that will be no less than 9 ft. from the side setback.

Discussion: Fischbein questioned the size of the garage due to conflicting paperwork. It was clarified the garage requesting will be 24 ft. X 34 ft. not 24 ft. X 28 ft. McConarty wanted to clarify which dimension is listed on the denial letter. It was confirmed the denial letter stated 24 ft. X 28 ft. was listed but McConarty is agreeable a 24 ft. X 34 ft. garage and wanted it recognized.

With the following conditions:

1. Garage will be 24 ft. X 34 ft.
2. Garage will be no **more** than 9 ft. from the side setback
3. All Federal, State and Local Regulations shall be followed.

Fischbein seconded. Wurster moved to vote on the criteria.

**Vote by Criteria:**

1. **The variance will not be contrary to the public interest:**

Barron asked if other neighbors received a variance to construct a garage. Kemper replied, yes.

Fischbein – Yes      Barron – Yes      Wurster – Yes

2. **The spirit of the ordinance is observed:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

3. **Substantial justice is done:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

4. **The values of surrounding properties will not be diminished:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the “Special Conditions” of this property that distinguish it from other properties in the area are as follows:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

- (B) Owing to the special conditions, set forth above, 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 because:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

Chairman Wurster announced the **Motion for variance is approved.** And noted the following,

*Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.*

**Case #19-13-V & Case #19-11-SE: Paul & Lynn Evans** – of 80 Deer Cove Rd. Tax Map: 044 Lot: 003 Sub: 002 is requesting a Variance from Article 6.4.1 (A) – Front Setback Requirements and Article 23.3.2 Expanding of a Non-Conforming Structure by lifting the roof line to add dormers, enclose existing deck area, while staying within the existing foot print.

Wurster informed Paul Evans of his right to a full board...

*The Chairman addressed the Applicant/s (under RSA 674:33) – noting since there is not a full 5-member board, with no additional alternates to serve. The applicant has the option of postponing the hearing until all members are present. If the applicant chooses to proceed with the hearing, he/she should be advised that a 3- or 4-member board will not be grounds for an appeal hearing in the event the application is denied.*

Wurster asked if the applicant wished to continue. Paul Evans stated he wished to proceed.

- **Case #19-13-V: Paul & Lynn Evans** – of 80 Deer Cove Rd. Tax Map: 044 Lot: 003 Sub: 002 is requesting a Variance from Article 6.4.1 (A) – Front Setback Requirements to enclose the front porch for additional living space and add a new front deck and front entrance 29 ft. from the front setback.

Wurster asked Paul Evans before he presented his case, that he's here asking for a variance from the front setback but there were no dimensions outlined on his drawings. After discussion it was determined the total dimension is 29 ft. from the setbacks. Evans demonstrated via his drawings the actual layout and dimensions for the dormers on both sides of the roof for more living space and closets. Enclose the front porch for additional living space and add a new front deck and front entrance.

Paul Evans read the 5 criteria. Evans noted he has received approval from the association, NHDES septic approval and shoreland approval. There will be no additional living space.

Public Input: none heard

*In the Board discussion **there** was general **consensus that they had** no issues with the proposed project **or** improvement on the septic, especially being on the water. Zoning Officer is in favor of the project.*

A **Motion** by Fischbein for **Case #19-13-V: Paul & Lynn Evans** – of 80 Deer Cove Rd. Tax Map: 044 Lot: 003 Sub: 002 to Grant a Variance from Article 6.4.1 (A) – Front Setback Requirements to enclose the front porch for additional living space and add a new front deck and front entrance that will not be less than 29 ft. from the front setback. Barron seconded.

#### **Vote by Criteria:**

1. **The variance will not be contrary to the public interest:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

2. **The spirit of the ordinance is observed:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

3. **Substantial justice is done:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

4. **The values of surrounding properties will not be diminished:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the “Special Conditions” of this property that distinguish it from other properties in the area are as follows:**

Fischbein – Yes      Barron – Yes      Wurster – Yes

(ai) Fischbein – Yes      Barron – Yes      Wurster – Yes

(aia) Fischbein – Yes      Barron – Yes      Wurster – Yes

Chairman Wurster announced the **Motion for variance is approved.**

*Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.*

- **Case #19-11-SE: Paul & Lynn Evans** – of 80 Deer Cove Rd. Tax Map: 044 Lot: 003 Sub: 002 is requesting a Special Exception from Article 23.3.2 Expanding of a Non-Conforming Structure by lifting the roof line to add dormers, enclose existing deck area, while staying within the existing foot print.

Paul Evans read through the 8 criteria.

Public Input: none heard

Wurster closed public input. Board discussion: no objections from the Board

A **Motion** by Fischbein for **Case #19-11-SE: Paul & Lynn Evans** – of 80 Deer Cove Rd. Tax Map: 044 Lot: 003 Sub: 002 to grant a Special Exception from Article 23.3.2 Expanding of a Non-Conforming Structure by lifting the roof line to add dormers, enclose existing deck area, while staying within the existing foot print. With the following conditions:

1. The center line (ridge) height is not to exceed 24 ft. 6 in.
2. The top fascia height is not to exceed 16 ft. 6 in.
3. Association restrictions
4. All Federal, State and Local Regulations shall be followed.

Barron seconded. Discussion – McConarty was concerned about the height on the rear of the home. Evans explained it won't be affected and will not exceed 24 ft. 6 in.

**Vote by Criteria:**

1. **The use is permitted by Special Exception under Table 1 (Article 34 of the Ossipee Zoning Ordinance), or elsewhere in the Ordinance (for example, see Article 6.2)**

Fischbein – Yes      Barron – Yes      Wurster – Yes

2. **The use is so designed, located and proposed to be operated that the public health, safety, welfare, and convenience will be protected.**

Fischbein – Yes      Barron – Yes      Wurster – Yes

3. **The specific site is appropriate for the proposed use or structure.**

Fischbein – Yes    Barron – Yes    Wurster – Yes

4. **No factual evidence is found that the property values in the district will be reduced, due to incompatible land use, by such use.**

Fischbein – Yes    Barron – Yes    Wurster – Yes

5. **Adequate and appropriate facilities and parking will be provided for the proper operation of the proposed use or structure, as required by the Ordinance.** There is a common driveway.

Fischbein – Yes    Barron – Yes    Wurster – Yes

6. **There will be no undue nuisance or serious hazard to pedestrian or vehicular traffic.**

Fischbein – Yes    Barron – Yes    Wurster – Yes

7. **The proposed use shall not violate the provisions of Article IV and V of the Ordinance.**

Fischbein – Yes    Barron – Yes    Wurster – Yes

8. **There is no valid objection from the abutters based on demonstrable fact.**

Fischbein – Yes    Barron – Yes    Wurster – Yes

Chairman Wurster announced the **motion passed**. The Special Exception has been granted and there is a 30-day appeal period, as follows:

***Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.***

**Financial:**

- Budget Report: 08/01/2019 – 08/31/2019: The Board reviewed the budget report and is at expectation except for advertising and postage.
- Revenue Report: 01/01/2019 to present: The Board agreed to send another letter to applicants with a balance on their application fees.
- 2020 - 2021 Proposed Budget Worksheet: The Board discussed and compared each line item against the August budget report to determine any adjustments for the 2020-2021 proposed budget.

A **Motion** by Barron to increase postage by \$200.00, thus adjust the postage line item from \$1,500.00 to \$1,700.00 for the 2020-2021 proposed budget. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion passed.**

A **Motion** by Wurster to approve the Zoning Board of Adjustment 2020 – 2021 Proposed Budget at \$17,753.00 pending final adjustments of secretary's salary and benefits. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion passed.**

**Notices:** N/A

**Any Other Business Which May Come Before This Meeting:**

None heard.

**Adjournment:**

**A Motion** by Barron to adjourn the meeting. Fischbein seconded. No discussion. All voted in favor, **Motion passed.** The meeting adjourned at 8:30 p.m.

**Next Meeting:** **October 8, 2019 @ 7:00 pm**

**Minutes were approved by majority vote of the Board:**

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**Ralph Wurster, Chairman**

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**Date**

Or

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**Ed MacDonald, Vice Chairman**

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**Date**

*(In the absence of the Chairman)*