

TOWN OF OSSIPEE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
April 13, 2021

APPROVED

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

Call to Order: Roy Barron called the meeting to order at 7:00 p.m.

Members Present by Roll Call: Roy Barron – Vice Chairman, Daniel Fischbein, William “Bill” Grover, Dallas Emery and Rick Cousins, ZEO

Absent: Jim Rines and Doreen French – Alternate,

The Board welcomed Dallas Emery to the ZBA.

Meeting Minutes: Review to Approve Meeting Minutes of February 9, 2021

A **Motion** by Grover to approve the minutes of 02/09/2021. Fischbein seconded. No discussion. All voted in favor. **Motion passed.**

Election of Chairman: Barron called for nominations.

A **Motion** by Emery to nominate Bill Grover as Chairman. Fischbein seconded. With no further nominations. A unanimous vote was taken. William “Bill” Grover accepted the position. **Motion passed.**

Election of Vice-Chairman:

A **Motion** by Fischbein to nominate Roy Barron as Vice-Chairman. Emery seconded. With no further nominations. A unanimous vote was taken. Roy Barron accepted the position. **Motion passed.**

Appoint/Re-Appoint Alternate: Doreen French – Re-appointment has been moved to the May meeting when Doreen French returns.

New Business: Chairman Grover read the following case.

Case #21-2-V: Marc and Ruth Swensen c/o Swenson Family Trust of 7 Pocket Mountain Rd. Tax Map: 247 Lot: 007 is seeking a Variance from Article VI Section: 6.4.2 Side and Rear Setbacks (a) ***No structure is allowed in the required side setback area, the space from side lot line to side setback line as specified in Table 2; (Amended March 11, 1997)*** to build a 3 – Bay Garage for storage of vehicles with Breezeway Attachment as an addition to the single-family home.

Barron preferred if the Board could address questions with each criteria separately. Chairman Grover agreed.

Marc Swenson presented wanting to build a 3 – Bay Garage for storage of vehicles with Breezeway Attachment as an addition to the single-family home. Mr. Swenson noted due to the placement of the house the garage can only be built on the right-side of the property. The back right corner of the garage will extend 3-4 ft. over the setback resulting in the need for a variance. Barron asked Mr. Swenson to explain why the garage could only be constructed on the right side of the property. Mr. Swenson explained that due to the steep slope of the property this is the only location. Mr. Swenson presented more current photos which showed the steepness of the slopes, and the property markers of where the garage would be going. When the property was originally excavated for the house the property needed to be built up for where the current shed is located due to the steep slopes.

Chairman Grover read each criteria question, Marc Swenson read his answers and the Board posed their questions accordingly.

Vote by Criteria:

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

Barron questioned if this is the same boundary that had come before the Planning Board. Swenson noted it was on the other side.

2. The spirit of the ordinance is observed:

Mr. Swenson read a favorable letter from Mr. Robert & David Breen, whose properties he would be approaching. Questions were raised if the 4 ft over the setback was the foundation or the overhang. Mr. Swenson noted this would be for the foundation, but he's allowed up to 16 inches for the overhang.

Emery questioned where the water drip edge from the roof is going to impact. Mr. Swenson did acknowledge they will need some form of a drip edge and to divert the runoff.

Grover raised a question concerning setback distance from the 4 ft. right back corner of the garage to the neighbor's house. Swenson noted the distance from the 4 ft. back corner to the boundary line will be approximately 21 ft. and from the boundary line to the neighbor's house is approximately 40 ft. with the total distance between the house and the garage is at least 60 ft.

3. Substantial justice is done:

Chairman Grover and Vice-Chairman Barron informed the Applicant (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.

Chairman Grover and Vice-Chairman Barron informed the Applicant of “The voting procedure for a variance utilizes the five criteria set forth in RSA 674:33, I, and all criteria need to pass in order for the variance to be granted. Each criteria needs at least 3 votes to pass, and all 5 criteria must pass in order for a variance to be granted. As required by SB 339 – Voting by Zoning Board of Adjustments: The Bill amends RSA 674:33, III.”

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

Barron stated he thought Mr. Swenson did a good job explaining his response to the question. Rick Cousins, ZEO visited the location and spoke positive of the Swenson's in keeping up the appearance of the neighborhood.

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:

Chairman Grover explained the job of the ZBA and the effect on the Town and proceeded to explain the meaning of “Hardship”. *“Unnecessary hardship exists 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.”*

Discussion ensued over what is specifically the issue with this property that the garage and breezeway can not be built on the left side of the house verses infringing on the setbacks on the right side. Suggestions were made of redirecting the driveway, but this would affect the well system. Rick Cousins, ZEO commented aside from the well being on the left front side the property, the property slopes down the hill, thus creating the hardship.

Chairman Grover Open public input but with no public in attendance Chairman Grover closed public input.

Chairman Grover called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

Vote by Criteria:

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

Emery – Yes Fischbein – Yes Grover – Yes Barron – Yes

2. The spirit of the ordinance is observed:

Emery – Yes Fischbein – Yes Grover – Yes Barron – Yes

Barron commented because the neighbor is in agreement with the proposed plan.

3. Substantial justice is done:

Emery – Yes Fischbein – Yes Grover – Yes Barron – Yes

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

Emery – Yes Fischbein – Yes Grover – Yes Barron – Yes

Barron is in agreement because the property values will go up to pay more in taxes.

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:

Emery – Yes Fischbein – Yes Grover – Yes Barron – Yes

Barron is in agreement since Rick Cousins has verified the slopes.

(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:

(i) No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property because:

ai) Emery – Yes Fischbein – Yes Grover – Yes Barron – Yes

AND

(ii) The proposed use is a reasonable one because:

(aii) Emery – Yes Fischbein – Yes Grover – Yes Barron – Yes

A **Motion** by Fischbein for **Case #21-2-V: Marc and Ruth Swensen c/o Swenson Family Trust of 7 Pocket Mountain Rd. Tax Map: 247 Lot: 007 is Granted** a Variance from Article VI Section: 6.4.2 Side and Rear Setbacks (a) No structure is allowed in the required side setback area, the space from side lot line to side setback line as specified in Table 2; (Amended March 11, 1997) to build a 3 – Bay Garage for storage of vehicles with Breezeway Attachment as an addition to the single-family home. Emery seconded. No discussion. A unanimous vote was taken. Chairman Grover announced the **motion passed**. The Variance has been granted and there is a 30-day appeal period.

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.

Mr. Swenson suggested to the Board on rewording the criteria's to simplify it meaning to make it more understandable. Discussion ensued.

Budget Report: 01/01/2021 – 03/31/2021 and Revised budget report

The revised budget was explained to the Board and the revised budget was reviewed with no questions.

A **Motion** by Barron to send a letter to Ed MacDonald thanking him for his service. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion passed.**

Information Material:

- Floodplain Management Bulletin: Variance and the National Flood Insurance Program
- Office of Strategic Initiative: ZBA Handbook
- NH Planning & Zoning Land Use Regulations 2020-2021
- Lakes Region Community Developers: Invitations to the 2nd Annual Lakes Region Housing & Economy Snapshot Event on April 15th and is VIRTUAL.

Discussion ensued over utilizing electronic means for searching RSA's, Zoning Ordinances and Educational training.

Any Other Business Which May Come Before This Meeting: None heard.

Adjournment:

A **Motion** by Fischbein to adjourn the meeting. Barron seconded. No discussion. A unanimous vote was taken. **Motion passed.** The meeting adjourned at 8:04p.m.

Next Meeting:

Regularly scheduled meeting will be on **May 11, 2021 @ 7:00 pm**

Minutes were approved by majority vote of the Board:

_____	_____	Or	_____	_____
William Grover, Chairman	Date		Roy Barron, Vice Chair <i>(In the absence of the Chairman)</i>	Date