

**TOWN OF OSS�PEE**  
**ZONING BOARD OF ADJUSTMENT**  
Meeting Minutes  
**March 14, 2023**

Minutes have been recorded by and summarized by Laura Nash, Boards & Commissions Secretary and are deleted once the written minutes are board approved; any amendments to the minutes are noted in ***bold & italic*** type.

**Call to Order:** Roy Barron called the meeting to order at 7:00 p.m. and requested all cellphones to be silenced.

**Pledge of Allegiance:** was recited by all in attendance.

**Roll Call:** Roy Barron, Daniel Fischbein, Jim Rines, and Dallas Emery,

**Absent:** Daniel Karl and Jonathan Smith, (Zoning Officer)

**Meeting Minutes:**

- Review to Approve Meeting Minutes of November 8, 2022

A **Motion** by Emery to approve the minutes of November 8, 2022, as submitted. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion passed.**

**Financial:**

- ZBA 2022 Year-end Expenditure Report
- ZBA 2022 Year-end Case Revenue Report

The Board reviewed both the Year-end Expenditure and Year-end Case Revenue reports and were pleased with staying within budget with no changes to the 2023 budget year.

**New Business:**

- **Case #23-02-V:** Brandon Greene & Jessica Badger of 50 Deer Cove Rd. Tax Map: 044 Lot: 085 is seeking a Variance from the front (40 ft.), side (25 ft.) and rear (25 ft.) setbacks requirements per table 2 per Zoning Ordinance Article: 6.4.1 (a) front setback area/proposed NE corner 29 ft./NW corner 31ft. Article: 6.4.2 (a) side setback area/ proposed NW corner 15 ft. 3in., and Article: 6.4.2 (b) rear setback area/ proposed SE corner 32 ft. 6in./SW corner 34 ft.

Brandon Greene presented his plan and explained why he thinks it meets the five criterias. Brandon Greene explained he bought the property eight months ago. He had an architect design the garage within the buildable footprint encompassed in the 100 ft. X 100 ft. boundaries and leaving some area for setbacks.

He started excavation but stopped because he could not find the center boundary markers between his lot and the abutting lot. So, he had his property surveyed and realized the property is in a trapezoid shape. So, in order to have the house square to the road, and add the well and septic, he was no longer able to meet the setbacks.

Barron asked Mr. Greene if he new at the time of purchase the property was a trapezoid shape. The property was not presented to him, he found it on the Town's GIS mapping but did not realize the extent of the trapezoidal shape.

Rines requested to speak. Chairman Barron consented.

Rines noted the shows a 3-door garage of about 33 ft. wide but the driveway is only 12 ft. wide X 40 ft. long. But due to concerns of backing out onto Deer Cove Rd. Rines suggested he should have a wider driveway so he's not backing out onto Deer Cove Rd. creating a dangerous situation. But Rines noted there is an ordinance of not having more than 25% lot coverage and with a 33 ft. wide garage he may getting close to exceeding the 25% lot coverage depending on if he plans to gravel or pave the driveway.

Rines noted the septic design shows a smaller structure that fits the zoning envelope and questioned why Mr. Greene's design exceeds the zoning envelope. Brandon Greene does not believe that David Clough drew the septic design to scale. Rines describe the design for the garage and two bedroom living space above it but it was much smaller and fit within the setbacks. Rines questioned what changed between 2021, when the design fit within the setbacks without a need for a variance to 2023 needing 3 - variances.

Barron questioned if Brandon Greene was aware of the limitations of the lot prior to buying it. Brandon Greene confirmed he did and designed the house to fit within the mathematical footprint not realizing the trapezoidal shape would give him this much disadvantage.

Fischbein inquired what the garage would be used for because the plan is showing (2) 9ft. doors and (1) 10 ft. door. Brandon Greene stated it's to house his 25 ft. pontoon boat with a tongue and trailer and including the stick out of the outboard motor.

Rines suggested moving the structure back a few feet to meet the setbacks, thus eliminating one of variances needed at this time. The shed, which belongs to Sarah Smith & Shane Mambro of 52 Deer Cove Rd. will be moved back onto their own property, thus making room for Brandon Greene's proposed well.

Sarah Smith of 52 Deer Cove Rd. acknowledged the shed belonged to her.

Rines commented he thinks the building could be smaller since the septic design showed a smaller structure within the setbacks and by moving it back Brandon Greene could possibly eliminate the need for one variance. Rines commented he still has concerns of exceeding the 25% lot coverage. Rines suggested continuing the case to allow for a redesign and show on the plans where the driveway will be located to allow for backing out onto Deer Cove Rd.

General consensus from the Board was to continue the case for a redesign. Barron noted: ***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.***

Brandon Greene asked specifically what the Board would like to see on the plans. Rines stated the driveway needs to be on the plan.

Barron noted the Board received two letters from abutter's, who are in opposition to the project. Board members reviewed the letters.

Emery questioned if the map and lot numbers are correct on the plan. Brandon Greene stated he got those off the GIS mapping from the Town's website.

Barron called for public input.

Sarah Smith and Shane Mambro spoke in opposition. They had concerns with Brandon Greene adding a garage in a single-family neighborhood, decreasing property values and having small lots.

Barron asked the Board members if there is a restriction of adding a garage in this area. Fischbein commented no and no restrictions within the Bluff's either. Nash inquired if this was within the association. Fischbein and Barron both said it's not in the association.

Rines explained how by adding an apartment on the second floor it satisfies the dwelling requirements for having a structure on a lot.

Nash asked the Chairman if she could make a statement on Sarah Smith's behalf. Chairman Barron approved. Nash commented that Sarah Smith had been into the office earlier in the day to ask questions, review maps of her property. Nash commented she could tell that Sarah is very nervous right now, but she is forgetting a couple of important questions she had which deal with the proximity of her septic/leach field and driveway to the proposed structure.

A lengthy discussion ensued between the Board and Sarah Smith reviewing plat plans to determine the proximity of her well, septic and driveway to the proposed structure of Brandon Greene. The secretary retrieved the file for 52 Deer Cove Rd. to review a plan.

Barron suggested that Brandon Greene and Sarah Smith discuss together the location of the well, septic and driveways and come to an agreement.

The Board suggested a continuance while Rines requested to see more details on the plans. The Board suggested several options for Brandon Greene to include on his plan, as follows:

- Smaller Structure within setbacks
- Moving structure back to alleviate at least one variance being requested.
- Driveway added to plan
- Mark edge of travel way from driveway
- Sarah Smith's well, septic and driveway added to plans
- Neighbor's driveway
- Topography added to plan
- Copy of Driveway Permit
- Calculate 25% Lot coverage

Brandon Greene inquired if the only to get this project approved is to make it smaller.

Rines explained in order to be granted a variance you have to satisfy all (5) of statutory criteria's, (3) three affirmative votes with (1) one no vote when there is a (4) four member Board and (2) two no votes when there is a (5) five member Board. If the variance is denied, you cannot come back and ask for the same thing again. The project would have to change substantially for the Board to consider your subsequent application even statutorily. So, it's always advisable to request a continuance to allow for adjustments to be made.

Brandon Greene requested to see the letter from the abutters in opposition to his project.

Emery stated his concern is the opposition from all his direct abutters. Brandon Greene commented he had a building permit and could have just gone with building his garage. Barron advised not to because if the Zoning Officer found out after the fact, sent you to the ZBA for a variance and the ZBA denied your application, you would have to tear down the structure and remove it. So that's something you never want to do. Rines noted the building permit would have been issued based on the material submitted with the building application and if it was not built to specifications, the building permit would be null and void.

Discussion ensued over the neighbors oppositions. Brandon Greene clarified the information the Board is requesting to see on the plans.

Barron asked Brandon Greene if he is requesting a continuance to the April 11, 2023. Brandon Greene confirmed he would like to continue until the April 11, 2023 meeting.

A **Motion** by Rines to Approve a Continue until the next ZBA meeting to be held on April 11, 2023- 7:00 pm at the Freight House for **Case #23-02-V: Brandon Greene & Jessica Badger of 50 Deer Cove Rd. Tax Map: 044 Lot: 085 request a Variances.** Emery seconded. No discussion. A unanimous vote was taken. **Motion passed.**

**Old Business:** N/A

**Notices:** The Board acknowledged receipt of the documents and will review the changes.

- Law Enforcement Records under Right-to-know Law
- **HB 1661:** Webinar Slides handout
- **Planning & Zoning:** Training Webinar Slides handout
- **Planning & Zoning Handbook** – 2022
- **Federal and State Planning and Zoning Case Law for New Hampshire Local Officials** - 2022

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

**Next Meeting:** April 11, 2023 @ 7:00 pm at the Freight House

**Adjournment:**

A Motion by Rines to adjourn the meeting. Emery seconded. No discussion. A unanimous vote was taken. Motion passed. The meeting adjourned at 8:00 p.m.

Minutes were approved by majority vote of the Board:

|                      |       |    |   |       |
|----------------------|-------|----|---|-------|
| _____                | _____ | Or | _____                                   | _____ |
| Roy Barron, Chairman | Date  |    | Daniel Fischbein, Vice Chair            | Date  |
|                      |       |    | <i>(In the absence of the Chairman)</i> |       |