

# ZONING BOARD OF ADJUSTMENT

11 Main Street, Hampstead, New Hampshire 03841-2033

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## Minutes January 3, 2024

A meeting of the Zoning Board of Adjustment was held on Wednesday, January 3, 2024, at the Hampstead Town Hall, 11 Main Street, Hampstead, NH. This meeting was broadcast live on HCTV 16.

**PRESENT:** Hank Riehl (Chairman), Proc Wentworth, Karen Hanides, alternate Kevin Hastings, and Chief Building Official, Kris Emerson.

Chairman Riehl gave an overview of the two hearings that were on the agenda and informed those present that there was only a four-person board this evening and stated that three affirmative votes would be needed for any motion to pass. Chairman Riehl gave the applicants an option of deferring the hearing until the next meeting. Both applicants agreed to move forward with a four-person board and signed the waiver forms for the record. Chairman Riehl announced that K. Hastings would be a voting member in place of R. Clark at this evening's meeting.

### **1. Map 8A Parcel 7 aka 7 Orcutt Drive – Special Exception**

Property owner Larry Trahan was present to make his case for a Special Exception to the terms of Article 1 Section 2:1B.2 to permit construction of a 12x18 foot roof over an existing deck. Trahan stated there is an existing deck and he is looking to put a roof over the deck. Trahan said he previously had an awning where he is now proposing a roof with the roof-line joining the existing sun porch.

Shawn Raposa, 4 Orcutt Drive, assisted his father-in-law by explaining the proposal. Raposa reiterated the proposal is for a roof over the existing deck, it will not be closed in, and it will not extend beyond the house. Raposa added the house is situated approximately 50-feet from the lake at the highest point. The new roof will be tied into the existing gutter system.

Chairman Riehl reviewed the plan showing the down spout on the existing gutter system, he commented that he could not see where the down spout connected into the gutter system. Trahan approached the board and showed them a photo. Raposa stated the down spout discharges into soil.

Riehl asked how close to the shoreline the deck was and Raposa thinks it is approximately 40-50 feet from the shoreline. Riehl commented that the existing deck was added and approved in 2002.

Emerson suggested mitigation for the additional run-off. Hastings commented, the downspout could discharge into a dry well. Emerson stated they should consult an engineer to design something that could adequately handle the drainage. Riehl stated the board could add a condition to the approval.

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Raposa suggested that a line trench could be used instead of adding another dry well to the property. Emerson again suggested they hire someone to design a system. Riehl doesn't feel the current down spout and run-off could be mitigated. Raposa explained the roof pitches. Hastings commented that there are different speeds of run-off. Hanides stated she would like something to mitigate the run-off. Emerson commented that standards have changed in the past 20 years since the sun porch was approved.

Trahan asked about a drip trench line. Riehl stated he does not want to tell the applicant how to mitigate the run-off rather he prefers that an engineer give them options. Hastings suggested having a licensed professional advise the applicant.

Hanides stated she wished there was a plot plan showing how close the deck is to the shoreline. Soucy advised the Chairman that there was a plan in the 2002 file showing the dimensions on the lot and shared that with the board for review. It was noted that the deck is approximately 66 feet from the shoreline.

Chairman Riehl asked for public comment and there was none. Riehl advised the applicant that once the board deliberates the decision is final and asked the applicant if they wish to proceed. Trahan asked for a continuance to the 2/7/2024 public hearing.

**MOTION: P. Wentworth made a motion to continue the request for a Special Exception for property located at Map 8A Parcel 7 aka 7 Orcutt Drive to the 2/7/2024 public hearing.**

**SECOND: K. Hanides**

**VOTE: 4-0**

## **2. Map 4 Parcel 66 aka 104 Eagle Road – Special Exception and Variance**

The request is for a Special Exception to the terms of Article 1 Section 2:1B to permit the alternation or enlargement of a structure on a non-conforming lot and a for a Variance to the terms of Article III-3 Section 4D.2 to permit a left side setback of 11.99 feet. Steve Okun and Katia Samuelson from Dube Plus Construction were present to represent the property owners. Okun stated they would like to take down the 1930 home and build something new.

Chairman Riehl explained the Special Exception would be to build on the same footprint, if Variance is granted a new footprint would be allowed. Riehl explained the difference between the Special Exception and Variance and asked if the variance failed would they be ok with just the special exception. Riehl stated typically the board would hear the variance first, in this case, they need relief for a side setback to accommodate the new proposed house location. Okun agreed to discuss the variance criteria first.

Okun stated the 94-year-old home is close to the property line and at some point, an addition was added that is over the right-side property line. Okun stated the roof is deteriorating and the home is currently seasonal, they want to build a year-round home.

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Okun stated they wish to enlarge the structure by going up to a story and a half per the zoning. The existing dwelling is 35 feet wide, and they are narrowing it to 30 feet wide and added the structure will be further away from the lake. Okun stated there is a shed on the property and they would like to keep it. Okun stated the proposed house location is more balanced on the property. Okun stated the shed is slightly over the property line.

Riehl reminded the board they are looking at the side set back and relieving the encroachment on the right side. Riehl stated the proposed structure is more centered on the lot.

Riel asked Emerson as a matter of procedure why only one variance for a side setback and not two variances, one for each side. Emerson responded that there is a vested footprint on the other side setback. Riehl commented that the house falls into the Special Exception and the Variance is for relief of setbacks, the left side is going from 16 feet to 12 feet per Emerson.

Riehl asked the board if they had any questions and there were none. Chairman Riehl asked for public comment.

Susan Gallant – 102 Eagle Road – stated the homes are as close to each other as it is, there is no buffer between the homes and she takes exception to the request.

Okun stated they are moving the house location 4 feet closer and not 8 feet.

Gallant stated the existing structure is 20-feet from the line and they are moving it closer.

Chairman Riehl stated the board has a plan with different numbers than Gallant is quoting, he is referencing a certified plan. Riehl added they are looking for relief for 4 feet. Hanides asked about the rear set back and Emerson explained there is an existing footprint.

Okun added that they are proposing a septic system for the new house.

Chairman Riehl reiterated the fact that there was a four-person board and asked if they still wished to proceed. Okun stated yes to proceeding with deliberations.

Hanides commented that the proposal is further from the lake and side-lines of the property, she feels this is a better situation for the lot and the lake. Hastings commented they are improving two setbacks and feels the house more centralized. Wentworth agreed with Hastings. Riehl stated they are small tight lots; the proposed footprint is an improved more logical use.

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**MOTION: K. Hanides made a motion to approve the request for a variance to the terms of Article III-3 Section 4D.2 to permit a left side setback of 11.99 feet for property located at Map 4 Parcel 66 aka 104 Eagle Road per the plot plan submitted.**

**SECOND: P. Wentworth**

Chairman Riehl asked the representatives of Dube Plus Construction to review the variance criteria.

Katia Samuelson had a document prepared which outlined the five variance criteria and provided the board members with a copy for their review. Samuelson read the document into the record.

#1 The variance is not contrary to the public interest: The new home will increase property values as well as create safer conditions bringing the home to current building code. The new home includes a State approved septic system and a new Artesian well. The new home will also be further from the lake and pulled back onto the property away from the lot line where the existing home is currently over by 7 feet. Note/ examples of safer: wiring, smoke detectors, no rot or deteriorating of framing.

#2 The spirit of the ordinance is observed: The proposed home will not negatively impact the character of the neighborhood as the lot will continue to contain a single-family residential home. Note: the home was over the left (as viewed from lake) lot line. The new placement has made the left side more conforming by 8.7 feet and is now more appropriately centered on the lot.

#3 Substantial justice is done: The proposed new home will replace the existing approximately 94-year-old cottage. The new home will fit the look and style of the many new homes on the street that have all enhanced the neighborhood. This new home does not present harm to the general public. There are no issues with reducing the view to the lake for abutters.

#4 The values of surrounding properties are not diminished: The value of surrounding properties will benefit as a result of upgrading this property with the new proposed home.

#5 The literal enforcement of the ordinance would result in unnecessary hardship because: The 30-foot setback for the sides of the home would not be possible for a home of any width on this property. The existing home is 35 feet wide and is built over the right property line (as seen from the road) by .7 feet. We feel that the proposed 30-foot-wide home (narrowing width by 5 feet) and our placement of the new house (pulled further away from the lake and the right sideline) is the most reasonable placement with regard to current zoning requirements.

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**VOTE: 4-0**

**MOTION: K. Hanides made a motion to approve a Special Exception to the terms of Article I Section 2:1 B to permit the alteration or enlargement of a structure on a non-conforming lot for property located at Map 4 Parcel 66 aka 104 Eagle Road per the plan submitted.**

**SECOND: K. Hastings**

**VOTE: 4-0**

3. Review/Approve November Minutes

**MOTION: P. Wentworth made a motion to approve the 11/1/2023 minutes as presented.**

**SECOND: K. Hanides**

**VOTE: 4-0**

4. Election of Officers – deferred to February 7, 2024 meeting

5. Chairman Hank Riehl – resignation

**MOTION: K. Hanides made a motion to appoint K. Hastings as a full-time member to replace H. Riehl for the remainder of his term.**

**SECOND: P. Wentworth**

**VOTE: 3-0**

6. Interest in Alternate Position – deferred to February 7, 2024 meeting

7. Adjourn

**MOTION: K. Hanides made a motion to adjourn at 8:20 P.M.**

**SECOND: K. Hastings**

**VOTE: 3-0**

Minutes prepared by Debbie Soucy