

HAMPSTEAD BOARD OF ADJUSTMENT MINUTES

MARCH 8, 2023

DRAFT
SELECT.

Members present: Hank Riehl, Randy Clark, Karen Hanides and alternate Jaye Dimando. Proc Wentworth participated remotely. Also present was Chief Building Official, Kris Emerson.

A copy of the Posting Notice and abutters' notice are a part of these minutes.

The chairman explained that member, Proc Wentworth, was ill at home and was not able to attend. He would be watching the live broadcast and would phone in to ask questions, comment on discussions and cast his vote – thus creating a full five-member board.

HEARINGS – the first item on the agenda was a rehearing for Mary Margaret Burke. The hearing for a request to construct an addition at 29 Ells Rd., Map 8A Parcel 8, had been continued from November, December 2022 and February 2023. Hank explained that the applicant had submitted a new application and plan to the Building Inspector today. The addition will be in the same footprint but will be built up instead of out. The new application request would be heard in April. Ms. Burke asked to withdraw the application before the board. Board members unanimously accepted her request to withdraw without prejudice.

There was a request from **John & Andrea Peters** for a Special Exception to permit a 600 square ft. detached garage at 31 Shore Drive, Map 8B Parcel 59. The request had been continued from November and December 2022 and February 2023. Karen made a motion to permit Proc to participate by phone. Jaye seconded the motion and members voted unanimously to allow him to attend by phone.

Attorney Bernard Campbell introduced himself as counsel for the Peters. He agreed to Proc participating remotely. He said there is a shed on the property now which will be removed and replaced with a 600 square foot garage. He said the driveway will be pavers – porous materials for 1000 ft. so it would not increase the impervious surface. He addressed the requirements for a Special Exception. He said there would be no threat to the health and general welfare of the community and would not change the character of the neighborhood. He said the existing shed is encroaching on lot lines

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The proposed garage will meet all setbacks. It will be set further back. He said there are lots of structures in small spaces in the area. He said the garage would improve the parking for the street.

Att. Campbell said there was a site visit which found there was no reason not to have the building there.

Jaye said that removing the shed and pavement will drop the surface from 950 square ft. to 600 square feet.

Att. Campbell told the board that the applicant has agreed to have gutters and downspouts installed.

COMMENTS FROM ABUTTERS –

Abutter, **Jason Houle**, 6 Shore Dr., presented the board with a petition which he said was signed by the majority of abutters Dec. 2022 stating the request was contrary to the public interest. He questioned the posting of the request as a Special Exception. He said this is not an alteration or enlargement of an existing structure. He cited water damage and contamination to the lake. He said it was detrimental to the environment, adding there are already issues in the area and this could disturb the water table and potentially contaminate wells. When asked what evidence he had that it could contaminate wells, Mr. Houle said it would be negligent of the board to determine they don't handle that part of the ordinance so we're going to ignore the impending risk because it's "not our problem". He added "common sense". He said it will hurt the neighborhood and is not within the spirit and intent of the ordinance. He said the applicants could add onto the shed instead of constructing a new garage.

Tim Lovell, representing the Conservation Commission, said there was a site walk and consequent report November 20, 2022, that determined that no structure should be built on either lot. He said the upper lot drains onto the Houle lot. He said he could care less about the culvert. Jaye said she had walked the lot and discovered a drain that goes under Matthews Dr. She said she heard rushing water.

Mr. Houle said he knew about the culvert but that it had been there prior to him owning the property. He said he pumps into the culvert. He said there's a giant stream that goes through the lots. He said the proposal will be impacting the neighboring properties. He said he would redirect the culvert.

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Hank asked if the water is coming down Shore Dr. don't we have a problem with the Road Agent? Do we disallow someone use of their property because we have a Road Agent who can't properly dispose of runoff?

Mr. Houle said the risks outweigh the reward.

Donald Shedd, 48 Shore Dr. said he has lived there 42 years and no Road Agent has been able to fix the Shore Drive drainage. He said in the Spring all the houses get flooded. He said every new building makes it worse.

Dan Perry, builder for the project, said he is familiar with the area. He said they have put in preventative measures. He said runoff will not affect any of the lots. He said this is not affecting the water table. He cited hay bales, a ditch in the back and a pervious driveway. He said this is a good use of the land.

Chris Murray, 29 Shore Dr., lives next door to the proposed garage. She said any digging will cause erosion. She cited the environmental impact study that she has requested four times to be included in the minutes. She said drainage should be in place before any construction.

Lloyd Blackadar, 30 Shore Dr., lives across the street. He said he gets water in his basement in any bad rainstorm. He said his well is less than 75 ft. from the construction.

Jaye said when she moved in there was a lot of water in her basement but the problem was fixed by putting in drains. She said Jon (Road Agent) fixed the culvert by her house.

Hank said the garage will put rainwater into a drywell. Mr. Houle questioned Special Exception. He said they are not enlarging or altering a building.

Karen said she can't figure out why it's being considered a Special Exception. She read from the State Statutes. She said it should be a variance and that this could be setting a precedent. Kris asked what would be varied? He said it was non-conforming before zoning. Randy said it is a whole new building that will meet all setbacks.

Att. Campbell reviewed a copy of the petition that was submitted. He noted that Karen's daughter was listed and asked Karen if she should be recused. Karen told him that was not necessary. Att. Campbell said there is an existing use of the property. He read Kris's letter which determined the

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request should be heard as a Special Exception. He said the garage would have no running water, or material disposal. There should be zero impact on any wells, he said. He said some comments from abutters are unsubstantiated. He said this request is very modest and the swales will address runoff. He said the abutter orchestrated the neighborhood. He said the owners are entitled to some small use of their property and they are removing impervious pavement.

Chris Murray said it was unfair to say the abutter orchestrated the neighborhood. She said she was very concerned about drainage and that is a very valid concern for the health and welfare of the lake and surrounding area.

Discussion – Proc said he had no questions. Karen said it should be a variance. Kris said the lot existed prior to zoning so they have had use of the property and the shed and the driveway were there. He said the owners want to continue the use and the proposed garage will meet setbacks. Randy said this is a bigger structure on a sloped area and is not in the Spirit and Intent of the ordinance. Jaye said they are removing 950 square feet of impervious surface and putting in a permeable driveway. She added that anyone who uses fertilizers is harming the lake. She said she never saw water going uphill and many of the abutters live above where the garage will be. She said she's not worried about the lake when the drainage will be corrected. Hank said there's no more water now than before with snow and rain and doesn't see what the difference will be. He said the trade is reasonable and he is in favor.

The Vote - Randy made a motion to permit construction of a 600 square ft. detached garage per plan with gutters and downspouts leading into a drywell. The existing shed and paved driveway will be removed and a permeable driveway will be put in. Karen seconded the motion, Jaye, Proc and Hank voted in favor; Randy and Karen voted opposed. The motion passed 3-2.

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JUDITH MOSONYI 11/88

The request was for a Special Exception for a home occupation – gluten-free bakery at 17 Buttrick Road. The applicant said she is already in business making and selling dairy-free, sugar-free and gluten-free products. She said she started the business because her son has celiac disease and back then there were not many options for baked goods for people with allergies or other health issues. She has a celiac safe household. She does her own shopping and is working under the Homestead Act. She has no storefront. She takes orders for her products and customers come to the house to pick them up. She said the only traffic is when those people come to her house. She said it won't impact the neighborhood. Asked if she wanted a sign, the applicant said she would like to display a flag with her logo – Blackbird Bakery. Hank asked about outdoor sales. She said she might have them twice a month.

COMMENTS FROM ABUTTERS

Robin French, 22 Buttrick Rd., said that when there are outdoor sales there are cars on both sides of the street and on her lawn. She's worried that others on the street might want to do the same and it's a residential neighborhood.

Douglas Currie, 11 Buttrick Road said with cars parked on both sides of the road it isn't safe - not just on sale days but on any days the business is open

Kari Kenney, 21 Buttrick Rd., said there are no more cars than at a yard sale. She has no issue with it and has no problem with the baking in the house.

Melissa Hastings, 34 Ells Road, said she is a customer and approves of the business. She said the number of cars shows the need for the gluten-free bakery. The applicant said she is willing the number of times she has outdoor sales.

DISCUSSION – Randy said the applicant has found a need but neighbors' issues need to be taken into account. Jaye said she didn't think the board could regulate the in-home business. Hank said the board supports home businesses but the sales are troublesome. He said they have to address the traffic. He suggested maybe three outdoor sales a year by permit. The applicant said she would be fine with that. Kris said there is an ordinance allowing three sales a year with a permit. Proc said he knows the area and he hasn't seen any problem with cars. He said a sign should be allowed.

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Randy agreed with a sign or flag and said cars should pull into her driveway and not park on the street. Hank, Jaye and Randy would be okay with outdoor sales three times a year by permit.

THE VOTE – Randy made a motion to grant the request for a home occupation – gluten-free bakery - Blackbird Bakery – with the conditions there would be no more than three outdoor sales per year, by permit. Karen seconded the motion and the vote was unanimous to grant the request.

MINUTES – Jaye made a motion to accept the February minutes. Karen seconded and the minutes were approved with Hank abstaining. Jaye made a motion to adjourn at 9:00 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Dawn M. Shaw". The signature is written in dark ink and is positioned below the "Respectfully submitted," text.