



ZONING BOARD of ADJUSTMENT
Town of Hollis
Seven Monument Square
Hollis, New Hampshire 03049
Tel. (603) 465-2209 FAX (603) 465-3701

Minutes of March 23, 2023

The Zoning Board of Adjustment meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Brian Major at 7:03 pm.

MEMBERS OF ZONING BOARD OF ADJUSTMENT PRESENT: Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Member – Drew Mason; Alternate Members – Kat McGhee, Bill Moseley, and Stan Swerchesky.

MEMBERS ABSENT: Regular Members – Cindy Robbins-Tsao, Rick MacMillan; Alternate Member – Meredith West.

STAFF PRESENT: Kevin Anderson, Town Planner & Environmental Coordinator; Donna Setaro, Building and Land Use Coordinator.

J. Belanger led the Pledge of Allegiance.

B. Major explained the policies and procedures.

B. Major stated that the voting members for case ZBA2023-001 will be: J. Belanger, D. Mason, K. McGhee, B. Moseley, and S. Swerchesky.

Determination of Regional Impact

By unanimous vote, the Zoning Board of Adjustment (ZBA) found no regional impact for case ZBA2023-001.

ZBA2023-001

Application of Benjamin & Sharon Mercuri, property owners, for a variance to Section XG; paragraph 5.c, Minimum Front Yard Depth, of the Zoning Ordinance, to construct a 24' x 36' detached garage/barn, 29'2" from the front property line (required 50 feet), located at 25 Snow Ln., (Map 020, Lot 062) in the Residential/Agricultural District.

Applicant: Benjamin & Sharon Mercuri. B. Mercuri stated that they are seeking relief in the form of a variance for their front setback. They feel that their proposed garage/barn will not be contrary to the public interest as they will not be altering the character of the neighborhood, but will maintain the existing character. The garage/barn and its use will not be a threat to public health, safety, welfare, or otherwise injure public rights. They are maintaining the historic character of the neighborhood, in which the original 1790s barn from the Snow estate stood – at a later time, that was turned into a two-family home. They are looking to build a 24' x 36' garage with a couple of overhead doors, and 60 amp electric service. While they understand and appreciate the intent of the ordinance, they feel that their proposed detached garage and this addition to their property and to the neighborhood will preserve the character that residents past and present have come to know. Historically, a 1790s barn stood only feet away from their proposed structure, and they feel that this proposed detached garage will revive what once stood for centuries. In terms of substantial justice being done, the property will continue to be used as it has historically been used, which is in a residential manner. They feel that it is their personal duty to be certain that their proposed garage does not harm surrounding neighbors and/or the community. The proposed garage will not

diminish the value of surrounding properties, as they feel that the proposed structure will be consistent with the existing neighboring properties and structures, and also will improve the cosmetic and functional appeal of their lot. In turn, this will not only add value to their property and increase their tax base, but it will increase the values of the surrounding properties, too. Their property is unique, unlike any other properties in the neighborhood. Unique features include a hammerhead turn-around which intersects their property; this is where the issue of their front set-back is created. They also have a very large incline on the southwesterly side of the lot. The topography of that incline creates hardship, as that side of their property contains a lot of ledge. During construction when they built their home, they removed as much ledge as they could – excavating, hammering, everything but blasting. They got to the point at which any further removal of the granite ledge would require blasting. Now, not only is blasting not feasible as they have a 1000-gallon underground propane tank close to where they would like to put the garage, but changing the topography of the land would also result in damaging changes to local water and drainage – runoff could potentially penetrate their foundation. If they were to go toward the back portion of this westerly-south side of their lot, they would be excavating a good portion of the hill, up to 14 or 16 feet in elevation difference from where the ground would be; he can't see any instance in which the flow of water in that case wouldn't be an issue for their foundation. The public purpose of the ordinance is to promote the health, safety, morale, and general welfare of the community by regulating use of land within Town. The use of their property as proposed will not adversely affect any of the public purposes of the ordinance. Their proposed use of the property is reasonable, because it continues the historic use of the property as residential. Their proposal is also consistent with the rural character of the neighborhood and area. The relief they seek is due to the existing conditions of the building envelope on their property, which don't allow them reasonable use of the property, as the property is unusually configured – and they believe that the zoning restrictions prohibit their reasonable use. They feel that, because of the setup of the lot, it would not be reasonable to use the lot in strict conformance with the ordinance, and a variance is necessary to continue the reasonable use of their property.

K. McGhee stated that it looks as if the hammerhead incursion into their property is the reason that they do not meet the setbacks, and asked if that was correct. B. Mercuri confirmed that that is the case.

B. Moseley asked if it was correct that the reason the Applicants cannot put the proposed structure at the end of their driveway is because of ledge, and a cliff. B. Mercuri said that yes, that was correct.

B. Major stated that if it were not for the hammerhead, the home would be more than 50 feet from the travel portion of Snow Lane – it would be 80 feet away. He also stated that it appears that because of the property configuration, the Applicants are essentially mowing five feet of the Town's land. B. Mercuri confirmed that, and added that they are doing snow removal in that area, too.

B. Major asked if the hammerhead is used; B. Mercuri replied that it is used, but not as much as they thought it would be. Even delivery vehicles don't use it as much as Town maintenance vehicles or the property owners themselves.

D. Mason asked why the hammerhead is there; the answer is that it is for snowplows and emergency vehicles to turn around.

Per a question from B. Major, B. Mercuri confirmed that he has frontage on three sides of the hammerhead.

Per a question from J. Belanger, B. Mercuri stated that they have lived at the property since 2016. J. Belanger asked if the Applicants could not build the garage somewhere else on the property because of the topography; B. Mercuri stated that it could probably go on the north side, but it would require another curb cut – which is unlikely to be approved – and they would be encroaching upon their septic system. B. Mercuri confirmed that they built the house in 2016, when they acquired the lot.

Per a question from B. Major, B. Mercuri confirmed that they already have a garage – so this would be an additional garage. B. Major stated that they could move the 1000-gallon underground propane tank, and it would

be possible to blast the ledge, and move the garage back 50 feet from the hammerhead. B. Mercuri said that yes, it was possible, but stormwater runoff was the concern in that instance.

B. Moseley asked for more detail about the former antique barn; B. Mercuri stated that when they bought the lot, a 1790s barn that had been converted into a duplex residence was right at the end of the subdivision. It stood about 8-10 feet away from the currently proposed garage, and was where the Applicants' existing driveway is located now. They are not proposing to build the new structure on the foundation of the former barn – that is gone.

D. Mason asked if a former, 1790s-era road on the Applicants' property had been discontinued. K. Anderson replied that he looked into that question; it's not certain that the road has been discontinued in a proper way. All of the surrounding subdivisions note it as a potential passage for the public. There are two stone walls that bound it. D. Mason asked if the road cuts through the Applicants' property, to which K. Anderson responded that the center of the old road is their southern property line.

D. Mason stated that it might be worth while to definitively get that road discontinued.

S. Swerchesky asked about the designation "garage/barn" – is there any intention to have animals there? B. Mercuri responded that they don't intend to keep animals in the structure, but it would be storage for their tractor and trailers. S. Swerchesky pointed out that there is a big tree with a swing on it near to the proposed construction; B. Mercuri stated that he hopes they will be able to salvage that tree when they build the garage. It depends on how big the root ball is. The tree would ultimately be behind the garage. In response to a question from D. Mason, B. Mercuri stated that the tractor has currently been stored under their three kids' bikes and other equipment, seasonally.

S. Swerchesky asked if the Applicants' current garage is a three-car garage, which B. Mercuri confirmed it is. The new construction is also proposed to be a three-car garage. S. Swerchesky asked if the Applicants had any intention of using the structure for a business, to which B. Mercuri replied no. It would also not be for residential use – just a personal-use garage, ideally with storage space above. It would not be heated.

Per a question from D. Mason, B. Mercuri stated that the doors on the new garage would face the existing dwelling, and open onto the Applicants' existing driveway.

No one spoke in favor or against the application.

No further questions from the Board and none from the floor. The hearing portion of the case was closed.

DELIBERATIONS AND DECISION

ZBA2023-001

The discussion of the Application of Benjamin & Sharon Mercuri, property owners, for a variance to Section XG; paragraph 5.c, Minimum Front Yard Depth, of the Zoning Ordinance, to construct a 24' x 36' detached garage/barn, 29'2" from the front property line (required 50 feet), located at 25 Snow Ln., (Map 020, Lot 062) in the Residential/Agricultural District.

J. Belanger moves for a finding-of-fact;

- 1. The Board finds that setbacks as defined in the ordinance was not intended to apply to hammerhead turnarounds, but to through roads.*

The ZBA discussed the motion and liked the direction; however, the ordinance does not exclude hammerheads from setback requirements at this time. B. Moseley's opinion was that the approach for a hardship should be the hammerhead, the topography, and geography. The motion was not seconded.

D. Mason moves for a finding-of-fact;

- 1. The Board finds the lot is extremely irregularly shaped and the property surrounds the existing hammerhead turnaround on three sides.*

B. Major seconded.

Motion unanimously approved.

D. Mason moves for a finding-of-fact;

- 2. The Board finds that in the absence of the west leg of the hammerhead, the garage would be in conformance to the ordinance.*

B. Moseley seconded.

Motion unanimously approved.

B. Moseley moves for a finding-of-fact;

- 3. The Board finds that based upon the topography and geography of the lot, the Applicant is limited to the proposed location of the garage.*

B. Major seconded.

Motion unanimously approved.

Questions – Variance

Question 1.	The variance will not be contrary to the public interest.
Question 2.	The spirit of the ordinance is observed.
Question 3.	Substantial justice is done.
Question 4.	The values of surrounding properties are not diminished.
Question 5a(1).	No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.
Question 5a(2).	The proposed use is a reasonable one.
Question 5b.	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.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question # 5a(2)	Total Yes	Total No
J. Belanger	Yes	Yes	Yes	Yes	Yes	Yes	6	0
D. Mason	Yes	Yes	Yes	Yes	Yes	Yes	6	0
K. McGhee	Yes	Yes	Yes	Yes	Yes	Yes	6	0
B. Moseley	Yes	Yes	Yes	Yes	Yes	Yes	6	0
S. Swerchesky	Yes	Yes	Yes	Yes	Yes	Yes	6	0

THEREFORE, THE VARIANCE WAS GRANTED WITH THE FOLLOWING FINDINGS-OF-FACT;

- 1. The Board finds the lot is extremely irregularly shaped and the property surrounds the existing hammerhead turnaround on three sides.**
- 2. The Board finds that in the absence of the west leg of the hammerhead, the garage would be in conformance to the ordinance.**
- 3. The Board finds that based upon the topography and geography of the lot, the applicant is limited to the proposed location of the garage.**

Other Business

Review of Minutes

J. Belanger moved to approve the minutes of December 22, 2022.

Seconded by D. Mason.

Motion unanimously approved with K. McGhee abstaining.

Appointment of Board Members

B. Major stated that we just learned about a change in the appointment procedure for members of the Zoning Board of Adjustment and the Planning Board, in which the Select Board will interview applicants. He recommends that the ZBA write a note to the Select Board, stating that they have been informed of the change in application procedures, and that they would recommend that the Select Board invite the Board chairs and vice-chairs to participate in the interview process.

J. Belanger stated that he did not want to do that; they changed the policy in November – let them fill the vacancy. It's their policy.

B. Major stated that he would want to be sure that an applicant has an understanding of what the ZBA does, how important it is to maintain impartiality, and how important it is to commit their time to it. He would prefer to have some input, if the Select Board were willing.

K. McGhee pointed out that the ZBA would want to provide information to applicants in regard to what we are looking for in members.

J. Belanger pointed out that we should have diversity in our Boards. We don't want all lawyers, or real estate agents.

B. Major stated that, additionally, he thinks the Board needs to get younger.

J. Belanger stated that the new policy takes it out of our hands.

D. Mason suggested drafting a document for the Select Board, outlining the fact that we want someone who will participate and stick to it, and be impartial. That is something that the applicants should all be made aware of, one way or another.

Meeting Adjourned

The ZBA meeting adjourned at 7:50 pm.

Respectfully submitted by:

Donna Lee Setaro, Building and Land Use Coordinator,
and Aurelia Perry, Recording Secretary.