



BOARD of ADJUSTMENT
Town of Hollis
Seven Monument Square
Hollis, New Hampshire 03049
Tel 465-2209 FAX 465-3701

Minutes of September 28, 2017

Meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Major at 7:05pm.

MEMBERS OF ZONING BOARD OF ADJUSTMENT: Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Members – Cindy Robbins-Tsao, Rick MacMillan, Susan Durham; Alternate Members – Kat McGhee and Bill Moseley.

Major explained the policies and procedures.

Major stated the voting members for the cases this evening would be as follows;

ZBA 2017-011, ZBA 2017-012 and 2017-014 voting members Major, Belanger, Robbins-Tsao, MacMillan and Durham.

ZBA 2017-010 and ZBA2017-013 voting members Belanger, MacMillan, Durham, McGhee and Mosley.

Case ZBA 2017-011

The application of Anne Tucker & Sandra Heinicke, property owners, for a Variance to Section X, Paragraph(s) F3.c Minimum Front Yard Depth and Paragraph F3.d Minimum Side Yard Depth of the Zoning Ordinance to permit the construction of a 10' x 16' storage shed 42 feet from the front yard property line (required 100 feet) and 10 feet from the side property line (required 15 feet) located at 39 Federal Hill Road, Map 059, Lot 018, in the Recreational Zone.

Sandra Heinicke stated the variance being sought is to allow the construction of a 10' x 16' boat storage shed 42 feet from the front yard setback and 10 feet from the side yard setback. The existing cover-it shed would be removed and the new shed would be constructed.

The variance will not be contrary to the public interest because; the character of the neighborhood is typical of most lake front communities high density and close proximity of structures. The addition of the shed would not alter the character of the neighborhood in any way. The shed would match the existing structure in design, materials and color. The shed would be obscured from the abutters by its placement along the southern boundary, better views would also be provided from the lake and road by the proposed placement. The lake itself would not be affected by the shed in that there is no septic involved, natural vegetation would not be removed and the shed location meets the State of NH lake setback of 20 feet for an accessory structure.

The spirit of the ordinance is observed because; this lot by comparison to the immediate neighborhood is the second largest at .316 acres, least developed and most open and natural on the Federal Hill lake front. The lot is one of the 3 lots around the entire lake used exclusively for lake access. All other lots have homes, garages and sheds in some combination. The existing screen house has been on the property since 1940 which predates the zoning ordinance.

Substantial justice is done because; the immediate neighborhood would not exist under the current zoning regulations and there is precedence for accessory structures and with non-conforming setbacks. The request is to allow equal opportunity as our neighbors, to use and develop our property in a reasonable, rational and responsible manner while taking into consideration all abutters. A balance between the reality of lot sizes and ordinances would indicate a need to adjust regulations to provide equal use of properties. The requested setbacks are not inconsistent with the setbacks of adjacent properties.

Values of surrounding properties are not diminished because; the removal of the cover-it and its replacement with a boat/storage shed would improve property values. The abutters' views would be taken into consideration and preserved.

Literal enforcement of the provision of the ordinance would result in an unnecessary hardship because; the lot is limited in size, shape and was a legal lot of record prior to the zoning ordinance. There are significant wet areas

which limits the placement of the shed. The NRPC maps supplied shows significant density and clustering of multiple structures on the lake including Silver Hill and Wallace Grove. The special condition of the property are; the size, shape, slopes, wetness, access, existing structure and the protection of the shoreline all provide minimal space for structures in light of the current ordinances. The density of structures on the property would be minimal and the shed would be inconspicuous in the proposed location. Removal of the cover-it would be an improvement to the property should the variance be granted.

The proposed use is a reasonable one because; the proposed location is flat, dry and already prepped with a crushed stone base once the cover-it is removed. The location is hidden from abutters and Federal Hill Rd. by privacy fencing and evergreen shrubs. No further land disturbance is necessary and the abutters are supporting the shed and its location. (see letters)

Belanger asked what type of floor, shingles would be used and would the shed be on blocks. Heinicke replied the shed would have wood floors, asphalt shingles and would be placed on gravel. Tsao asked what size was the current cover it shed. Heinicke replied 12' x 20'. MacMillan why is the shed being placed 10 feet from the property line instead of the 15 feet required. Heinicke replied the placement is to reduce visibility from the abutters, road and reduce the possibility of the shed flooding. That portion of the lot sometimes floods practically during heavy rain or when the lake water rises. MacMillan stated he does not have any concerns regarding the front yard setback however, there is amply room to adhere to the side yard setback. MacMillan asked if the applicant would object to a condition of approval stating that the shed must comply with the 15 foot side yard setback. Heinicke replied no, however, the proposed location would be more usable and would not extend into the current driveway. Major agrees that the 100 foot scenic road setback can't be met at the location and is an unreasonable setback for the area. The ZBA has dealt with many cases concerning the setback requirement. However, the side yard setback should be adhered too since the lot is capable on doing so. Major asked if there were any other sheds on the property. Heinicke replied yes, a 4' x 6' changing shed. Major asked would it be reasonable to place a condition of approval that no other structures be constructed on the property and that the temporary structure be removed in order to control the density on the property. Heinicke replied yes. McGhee asked if the applicant could verify the location of the shed if it was moved out an additional 5 feet. The ZBA reviewed goggle maps aerial view to show where the shed would be located and the visibility from the road at the 10 foot side yard setback and the 15 foot side yard setback.

Spoke in favor of the application

Beth Harper, 57 Federal Hill Rd.

Harper stated the applicants have a beautiful yard and the removal of the shelter logic shed would be a great improvement to their property and the area. Harper stated she is completely in-favor of the application in its entirety.

No Further Questions from the Board and none from the floor – hearing portion of the case closed.

Case ZBA 2017-012

The application of Christopher and Rachel McEleney, for a Variance to Section IX, Paragraph (s) J, Number of Residential Units that may be constructed on a lot, of the Zoning Ordinance to permit the extension of the occupancy of a mobile home on a single lot with another dwelling, for an additional three years, original variance was approved on September 25, 2014 (Case 2014-012), property owned by Joan Cole, located at 54 & 54A Wheeler (Map 024, Lot 010) in the Residential/Agricultural Zone.

Rachel McEleney stated the variance request is to extend the previous approval granted on September 25, 2014 for an additional 3 years. Major asked if any circumstances from the prior approval had changed in any way and noted if the application was approved they would have to submit another application in 3 years. . McEleney replied nothing had changed and they would submit an application in 3 years if approved. Major asked if McEleney would like to incorporate her prior testimony during the September 25, 2014 (Case 2014-012) meeting into the record. McEleney replied yes.

Spoke in favor of the application

Joan Cole, 54 Wheeler Road, property owner

Cole stated there has been one change to Rachel and Christopher's circumstances, they had a baby boy. Cole requested the ZBA to grant the variance for an additional 3 years.

The ZBA said congratulations.

No Further Questions from the Board and none from the floor – hearing portion of the case closed.

Case ZBA 2017-013

The application of Richard Snell, property owner, for a Variance to Section VIII, Definitions, Building Area, and Section X, Zoning Districts, Paragraph (s) G4g Building Area, of the Zoning Ordinance to permit the development of a residential building lot within a 110' x 200' building area which will encroach the wetland buffer by 85 square feet, located at 19 Flagg Road (Map 007, Lot 045) in the Residential/Agricultural Zone.

Attorney Jeffrey Zall presented Case 2017-013 on behalf of the property owner, Richard Snell. Zall stated since the denial of case 2017-010 last month, the engineering firm re-configured the plan and currently the wetland buffer encroachment is now 85 square feet in one location as opposed to a total of 890 square feet encroachment as was previously submitted.

The ZBA granted a similar variance on Federal Hill Road with a 2% encroachment to the buffers. This proposal is requesting a ½ of 1% encroachment meaning 99.57 % of the building area would be outside of the wetland buffer. The encroachment to the wetland buffer will not impact the wetlands in any way. The spirit and intent of the ordinance is to insure the lot is capable of accommodating a house site and all required utilities. There is sufficient building area to construct a home and the associated out-buildings without violating any setback requirements. The spirit of the ordinance will still be observed since a minor reduction on the building area from 20,000 square feet to 19,915 square feet will not result in any buildings or improvements being constructed within the wetlands buffers and will not alter the character of the neighborhood, or threaten public health, safety or welfare, or impact wetlands.

Substantial justice will be achieved by granting the variance because the location of the building area as shown, is the only location on the lot for the building area. The value of surrounding properties will not be diminished since the lot to be created will be in excess of 8 acres, well above the size requirement of the ordinance, and the house to be constructed will not encroach into any setbacks. Literal enforcement of the building area requirement would result in an unnecessary hardship due to the location of wetlands and wetlands buffers, the proposed location of the building area is the only location that result in minimal encroachment into the buffers. Since there will be ample building area outside of the wetlands buffers to allow for construction of a house, and associated structures, neither abutters nor the general public will be adversely affected and wetlands and wetlands buffers will not be affected, there is no fair and substantial relationship between the general public purpose of the ordinance and its application to the property. The location of wetlands and wetlands buffers make the proposed location the best and most reasonable place for the building area. Zall stated for those reasons this requested variance does not violate the purpose or intent of the ordinance. Major asked if the variance is approved would the applicant be withdrawing the rehearing request. (Case 2017-010) Zall replied yes. MacMillan asked if the bridge would remain a bank to bank bridge on the driveway. Zall replied yes

No Further Questions from the Board and none from the floor – hearing portion of the case closed.

Case ZBA 2017-014

The application of Heather Maillet, property owner, for a Variance to Section X, Paragraph(s) F3.c Minimum Front Yard Depth and Paragraph F3.d Minimum Side Yard Depth of the Zoning Ordinance to allow a 5' x 24' storage shed 30 feet from the front yard property line (required 50 feet) and 17 inches from the side property line (required 15 feet) located at 67 Flint Pond Drive, Map 058, Lot 025, in the Recreational Zone.

Heather Maillet and Jordon Ally approached the ZBA. Maillet stated they are the property owner of 67 Flint Pond Drive the lot is very small with a small cottage, due to the lot size the shed could not be placed 15 feet away from the property line. The submitted pictures show; the left side of the house the neighbors have a fence, our septic tank is in that area and the lake towards the back of the property. These conditions limited placement of the shed, the placement of the shed is 17 inches from the abutters privacy fence and hidden by trees. The shed is was constructed to match the existing structure and is being used to store their children's bikes and other items so that the items are not all over the yard.

MacMillan showed the applicants a view of their property on his tablet. MacMillan asked the applicants if the aerial photo showed their property. Ally stated the view of the property was correct and added that prior to purchasing the property there was a shed located behind the home. The previous owner had to fix the septic and the original shed

was removed. Maillet explained that their neighbors and other properties in close proximity also have sheds which do not meet the ordinance which were visible on the aerial view. The shed location is consistent with others in the area. Ally stated the total square footage of the shed is under 120 square feet which does not require a building permit. Maillet stated they are friends with most of the neighbors and one of them (Michael Penn) submitted a letter of support. MacMillan asked if they knew how large the lot was prior to the purchase. Maillet replied yes. MacMillan stated the Town has setback ordinances that need to be followed. Ally stated that when they purchased the home they were told the original shed could be put back the previous owners did not say where it could be put. Major asked at what location was the original shed. Ally replied near the septic system, the shed needed to be removed when the septic system was repaired. Maillet stated their neighbors have shed back to back, closer than 17 inches apart. Condra stated at the time the shed was constructed a building permit was required. Ally agreed.

Major stated the application should be consider as if, the shed was not constructed, the shed being built should not be considered in the decision process. Maillet stated the lot size should be considered a hardship and most of all the other tiny lots have sheds. Major asked does the septic system take up the entire back yard. MacMillan asked if a temporary canvas shed was an option. Maillet replied no there is no room and it would have to be custom built. Major asked if there was any other location to put the shed on the property. Ally noted that when the new septic was installed he has no idea why it was not installed in the front of the property since, it is close to the water. A variance would have been required by the previous owners. MacMillan stated the state approved septic systems. Maillet stated if the ordinance is there to protect the neighborhood the shed should be allowed. Major asked Condra if there are any restrictions that a pre-built shed could not be placed on a leach field. Ally asked if the ZBA could visit the site prior to asking the question to the Building Inspector. Condra replied you would not want to put a substantially amount of weight on the leach field there is nothing that would prevent the placement of a temporary structure. MacMillan asked if the shed was already built. Condra replied yes, the shed was built without going through the application process. Maillet stated they were told that since the old shed was removed, they could install another one. MacMillan asked who told them they could install another shed. Ally replied the previous owners. MacMillan asked if the applicants felt they did not have to apply for a building permit. Ally replied yes since there was an existing shed on the property and because they were told they did not have to. The shed is also under the square footage that did not require a permit. No one in the area meets the setback requirements. MacMillan stated we have received applications for the Flint Pond area that were denied, due to the setback requirements.

Spoke in favor of the opposition of the application

Darren White, 69 Flint Pond Drive

Setaro handed out documentation supplied by White to the ZBA.

White stated the application was submitted incorrectly the shed is actually 11 inches from the property line, not 17 inches as stated. Major asked if their fence was built on the property line. White replied no the fence was installed in December 2014, the fence company recommended the fence be placed 6 inches away from the property line so we could maintain the fence without interfering with the neighbors.

Prior to having the fence installed was had a survey done by Cuoco & Cormier. The previous owners of 67 Flint Pond Drive also had a survey completed in September 2014 prior to the installation of the new septic system. The septic company struggled with having enough access to their backyard. Their trucks were 15 feet wide and barely cleared their house, which is why the town has a 15 foot setback.

When the current owner moved in they indicated to us that he was filing a permit for a shed. We voiced our concerns about our new fence was recently installed and the lack of space to install a shed. We showed him the property marker but he indicated the shed would fit. We came home from work to find a large shed built right on our property line. We went over to let him know they couldn't have the shed on our property line, there wasn't enough room to side the shed without encroaching on our property. He became very agitated, yelling and throwing things. He then moved the shed another 11 inches away from our property line and still was not able to side that side of the shed which abuts our property.

Since that time both markers in the front of his property have gone missing, and our rear property marker has been altered. (see file for pictures) The property owner installed a fence post next to his shed and attached a makeshift fence to our fence. (see file for pictures) They are intentionally blocking our access to our property by installing the fence, they are lining our fence with random tools, a gas grill and planting vegetation against our fence knowing it was not their property in an attempt to claim it as their own.

Major stated the ZBA can only deal with the application however, he understand the abutters frustration in this matter. The Applicants disrupted meeting. Major stated there will be no arguments between the applicants and the abutters. The ZBA will listen to one side than the other in a professional manner. Ally stated we should not have to listen to him trashing us. Belanger stated the applicant will have a chance to rebut after the abutter is finished.

It was recently discovered our fence was damaged by the property owner. (see file for pictures) The applicant has their gas grill up against the fence, which caused an 8 foot section of our fence to melt. The concern is there's even more damage being done that we are not aware if. I feel 11 inches is not a sufficient setback and this variance request should be rejected based on their clear disregard of our rights as property owners. The problem is not that the applicant wants a shed it is about the damage they are causing to our property.

Ann Maria White, 69 Flint Pond Drive

White stated she had never spoke to Maillet, their discussion was with the Ally. Major stated the ZBA needs to deal with the application the ZBA is not going to solve a neighbor dispute. Major asked White why she objects to the application. White stated they have no problems with the shed and are aware of the restriction to the lot. We just had the fence installed and it was damaged. Major asked if the shed being placed 11 inches from the property line was the concern. White replied yes and they can't even finish siding the shed because it is too close to the property line. There is white plastic blowing in the wind which decreases our property value. The old shed was a small tin type shed placed in the back yard towards the water. Major asked if the original shed was in the area where the septic is. White replied yes closer to the other neighbors fence.

Applicant rebuttal

Ally stated the pictures submitted shows the visible property markers and the fence is not installed 6 inches away from their property it was installed 3 inches from their property line. The pictures show the shed 17 inches away from the fence and you can come to look at it if you wish. Major asked if the property markers were still there. Ally replied yes. Major asked was it Ally's testimony that the abutters' fence was installed on their property line. Ally replied yes. Major noted if the fence was installed 3 inches away from their property, the shed would be 14 inches away from their property line not 17 inches as portrayed in your application, was this a correct statement. Ally yes. Belanger asked if the shed could be relocated. Ally replied no

DELIBERATION AND DECISION

Case ZBA 2017-011

The discussion of the application of Anne Tucker & Sandra Heinicke, property owners, for a Variance to Section X, Paragraph(s) F3.c Minimum Front Yard Depth and Paragraph F3.d Minimum Side Yard Depth of the Zoning Ordinance to permit the construction of a 10' x 16' storage shed 42 feet from the front yard property line (required 100 feet) and 10 feet from the side property line (required 15 feet) located at 39 Federal Hill Road, Map 059, Lot 018, in the Recreational Zone.

MacMillan stated he opposes granting the variance for the encroachment on the side yard setback. However, he is in favor of granting the scenic road setback. Major agreed. Durham stated the 5 foot side yard encroachment would not impact the view from Wood Lane of the lake. If the shed was to be located 15 feet from the side yard it would limit the view of the lake for the abutters. MacMillan stated the Zoning Board of Adjustments (ZBA) should consider setting a precedence if the side yard setback variance is granted especially when the setback can be adhered to in this case. McGhee stated while understanding the intent of the ordinance she feels, in this case, the spirit of the ordinance would be observed. Mosley stated the case is difficult if we adhered to the setback it would create a visibility intrusion for the abutters. McGhee agreed however, the applicant had agreed to the condition, if required to place the shed 15 feet from the property line. MacMillan stated the setback can be adhered to in this case and visibility of the lake should not be considered.

Major requested that the ZBA vote on whether or not the members would have the applicant adhere to the 15 foot side yard setback.

MacMillan, Major and Tsao voted yes

Belanger and Durham voted no

Vote was 3 to 2 in-favor of the applicant adhering to the side yard setback of 15 feet.

Belanger moves for the following conditions;

- 1. The existing "Store-It" structure shall be removed and no other outbuildings are to be erected.*
- 2. The fifteen (15) foot side yard setback must be adhered to.*

Seconded by Major.

Motion unanimously approved.

Belanger moves for the following findings of fact;

- 1. Lake front property is not typical of what was envisioned by the ordinance and calls for different considerations.*
- 2. The historic lot size of the non-building lot limits use of the property by owner and ordinance changes since lot was established caused the hardship and was not owner created.*
- 3. Application of the scenic road setback does not apply to this property due to the location and layout.*

Seconded by Major.

Motion unanimously approved.

No Further Discussion.

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). And, the proposed use is a reasonable one.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5	Question #6	Question #7	Total Yes	Total No
Major	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Robbins-Tsao	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
MacMillan	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Durham	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0

THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITIONS AND FINDINGS OF FACT;

Conditions:

- 1. The existing "Store-It" structure shall be removed and no other outbuildings are to be erected.**
- 2. The fifteen (15) foot side yard setback must be adhered to.**

Findings of Fact:

- 1. Lake front property is not typical of what was envisioned by the ordinance and calls for different considerations.**
- 2. The historic lot size of the non-building lot limits use of the property by owner and ordinance changes since lot was established caused the hardship and was not owner created.**
- 3. Application of the scenic road setback does not apply to this property due to the location and layout.**

Case ZBA 2017-012

The discussion of the application of Christopher and Rachel McEleney, for a Variance to Section IX, Paragraph (s) J, Number of Residential Units that may be constructed on a lot, of the Zoning Ordinance to permit the extension of the occupancy of a mobile home on a single lot with another dwelling, for an additional three years, original

variance was approved on September 25, 2014 (case 2014-012), property owned by Joan Cole, located at 54 & 54A Wheeler (Map 024, Lot 010) in the Residential/Agricultural Zone.

The ZBA had no concerns pertaining to this application.

Major moves to impose the same conditions set forth in the prior ZBA decision of Case 2014-012;

- 1. The Variance shall survive as long as Christopher McEleney demonstrates a continuing need to use the premises, but for a period not to exceed three (3) years.*
- 2. When the dwelling unit is no longer used by Christopher McEleney, the dwelling unit shall be removed within 60 days.*

Major moves to impose the same findings of fact set forth in the prior ZBA decision of Case 2014-012;

- 1. The Applicant has a recognized physical disability.*
- 2. A reasonable accommodation is necessary to allow the applicant to reside in or regularly use the premises.*
- 3. The variance requested is in harmony with the general purpose and intent of the zoning ordinance.*
- 4. The site is 15.4 acres in size and the proposed unit "will not be" visible from the roadway or adjacent homes.*
- 5. An Accessory Dwelling Unit no greater than 800 square feet in size could be placed on the parcel as a matter of right.*

Seconded by Tsao.

Motion unanimously approved.

No Further Discussion.

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). Not Applicable pursuant to RSA 673:33.
- Question 5a(2). Not Applicable pursuant to RSA 673:33.
- Question 5. The Applicant has a recognized physical disability.
- Question 6. A reasonable accommodation is necessary to allow the applicant to reside in or regularly use the premises.
- Question 7. The variance requested is in harmony with the general purpose and intent of the zoning ordinance.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5	Question #6	Question #7	Total Yes	Total No
Major	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Robbins-Tsao	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
MacMillan	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Durham	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0

THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITIONS AND FINDINGS OF FACT;

Conditions;

- 1. The Variance shall survive as long as Christopher McEleney demonstrates a continuing need to use the premises, but for a period not to exceed three (3) years.**
- 2. When the dwelling unit is no longer used by Christopher McEleney, the dwelling unit shall be removed within 60 days.**

Findings of Fact;

1. The Applicant has a recognized physical disability.
2. A reasonable accommodation is necessary to allow the applicant to reside in or regularly use the premises.
3. The variance requested is in harmony with the general purpose and intent of the zoning ordinance.
4. The site is 15.4 acres in size and the proposed unit "will not be" visible from the roadway or adjacent homes.
5. An Accessory Dwelling Unit no greater than 800 square feet in size could be placed on the parcel as a matter of right.

Case ZBA 2017-013

The discussion of the application of Richard Snell, property owner, for a Variance to Section VIII, Definitions, Building Area, and Section X, Zoning Districts, Paragraph (s) G4g Building Area, of the Zoning Ordinance to permit the development of a residential building lot within a 110' x 200' building area which will encroach the wetland buffer by 85 square feet, located at 19 Flagg Road (Map 007, Lot 045) in the Residential/Agricultural Zone.

The ZBA decided since the proposed wetland buffer encroachment had been substantially minimized from the prior application (2017-010) and the proposed encroachment was well under what the ZBA has considered acceptable in other cases, the ZBA has no concerns with this application.

Belanger moves for a finding of fact;

The proposed 85 square foot intrusion into the wetland buffer is minimal and well under what the ZBA has considered acceptable in other cases.

Seconded by MacMillan.

Motion unanimously approved

Belanger moves the incorporate the prior testimony of case 2014-010 into the record.

Seconded by MacMillan.

Motion unanimously approved

No Further Discussion.

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). And, the proposed use is a reasonable one.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question #5a(2)	Total Yes	Total No
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	6	0
MacMillan	Yes	Yes	Yes	Yes	Yes	Yes	6	0
Durham	Yes	Yes	Yes	Yes	Yes	Yes	6	0
McGhee	Yes	Yes	Yes	Yes	Yes	Yes	6	0
Moseley	Yes	Yes	Yes	Yes	Yes	Yes	6	0

THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING AND FINDING OF FACT;

1. The proposed 85 square foot intrusion into the wetland buffer is minimal and well under what the ZBA has considered acceptable in other cases.

Case ZBA 2017-014

The application of Heather Maillet, property owner, for a Variance to Section X, Paragraph(s) F3.c Minimum Front Yard Depth and Paragraph F3.d Minimum Side Yard Depth of the Zoning Ordinance to allow a 5' x 24' storage shed 30 feet from the front yard property line (required 50 feet) and 17 inches from the side property line (required 15 feet) located at 67 Flint Pond Drive, Map 058, Lot 025, in the Recreational Zone.

Belanger stated he sympathizes with the neighbors however, the shed can't be placed anywhere else on the lot. The placement of the shed is also consistent with other properties in the area. Belanger stated he is in favor of granting the variance. MacMillan disagrees since the applicant blatantly disregarded the ordinance concerning the setback and they also built the shed without a permit. Major noted the ZBA should not consider the shed being built while making a decision. Durham stated she is against the granting the variance due to the fact the shed is too close to the property line. Major questioned whether or not the shed could be placed on the leach field. MacMillan replied a temporary structure could, in fact, be placed on the leach field. Tsao agreed. Major stated a shed could be placed in a different location, the applicant could live without the shed and the shed is located closer to the property line than what was presented. For those reasons in Major's opinion, the variance should not be granted.

Belanger moves for a finding of fact;

The proposed structure does not meet the conditions set forth in the ordinance.

Seconded by Major.

Motion unanimously approved.

No Further Discussion

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). And, the proposed use is a reasonable one.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question #5a(2)	Total Yes	Total No
Belanger	No	No	No	No	No	No	0	6
MacMillan	No	No	No	No	No	No	0	6
Durham	No	No	No	No	No	No	0	6
McGhee	No	No	No	No	No	No	0	6
Moseley	No	No	No	No	No	No	0	6

THEREFORE THE VARIANCE WAS DENIED WITH THE FOLLOWING FINDING OF FACT;

- 1. The proposed structure does not meet the conditions set forth in the ordinance.**

Other Business

Application for a rehearing for case 2017-010 to appeal the Zoning Board of Adjustment decision made on August 24, 2017. Relative to the building area which encroaches the wetland buffers in two location at the property located at 19 Flagg Road (Map 007, Lot 045)

Major stated the application has been withdrawn by the applicant, in conjunction with the Board's approval of case 2017-13.

The ZBA voted unanimously to except the case withdrawal.

Review of Minutes

Belanger moves to approve the minutes of August 24, 2017.

Seconded by McGhee.

Motion unanimously approved with Major and Robbins-Tsao abstaining.

Meeting Adjourned

The ZBA meeting adjourned at 8:40 pm.

Respectfully submitted, Donna L. Setaro, Building & Land Use Coordinator