

ZONING BOARD OF ADJUSTMENT

Meeting Minutes

Recorded by Janice Pack

August 23, 2023

Members Present: Gil Morris, George Rainier, Jarvis Adams, Loren White, Tom Bascom, and Sheldon Pennoyer

Gil called the meeting to order at 6:55 PM

The ZBA has convened tonight after a Site Walk at 1 Yankee Way in Greenfield. An application has been received from Cyrus Delay, 1 Yankee Way, Greenfield, NH; Map and Lot S1-000020. This is for a Variance from Article D Section III of the Zoning Ordinance to permit an existing shed to be expanded to approximately 6' from the property line.

Sheldon moved to accept the Application as Complete as submitted. Loren seconded. All were in favor; motion passed.

Gil opened the Public Hearing at 7:05 PM and asked the Applicant to present their case.

Cyrus said he believes building forward towards the right of way would interfere with the leach field; during the site walk he had pointed out the opening. He plans to put an addition behind his existing shed. Sheldon asked if he planned to replace the whole structure. Cyrus plans to keep the walls and replace the entire roof with a full-size gable pitch.

There were no Abutters present, but a letter was submitted on July 23rd during the Site Walk from Valli and Robert Hannings, which Sheldon read aloud, in support of granting the variance. The Hannings own the property on the back and side of Cyrus's property. Cyrus did discuss his plans with his abutters and he said that no one had any concerns with them.

Sheldon read the first Criteria, the Addendum to the Application, and the applicant's response (*in italics*), moving to accept Criteria 1:

1. Granting the variance would not be contrary to the public interest because: *the existing shed is already nonconforming; it is already within the setback.* Loren said that further encroachment is not acceptable. Tom asked what the public interest was in this instance. He noted on the site walk that there is a bit of a slope down behind the property which creates a natural buffer. George said the legislative body of the Town voted in the setbacks. For whatever reason, we don't know, but we are charged with enforcing the ordinance. Sheldon said that there will be impact because of the water run off from the roof.

Going back to Loren's point, the Board talked to the Applicant about other options for placement of the shed but none seemed viable to the Applicant because of the septic tank and leach field.

Move the question to accept Criteria 1: George seconded. 0-6 opposed, motion failed.

2. If the variance were granted, the spirit of the ordinance would be observed because: *it does not infringe on the neighbors' ability to use their land.* **Sheldon moved to accept Criteria 2 because a planting buffer could still be installed and public safety would not be diminished. Jarvis seconded. All were in favor except George who abstained; motion passed.**
3. Granting the variance would do substantial justice because: *at .2 acres, the lot is very small. It is difficult to effectively use the land with the required setbacks.* **Tom moved to accept Criteria 3 and Loren seconded. All were in favor; motion passed.**
4. If the variance were granted, the values of the surrounding properties would not be diminished because: *expanding the shed does not place it awkwardly close to any neighboring buildings.* **Loren moved to accept Criteria 4 and George seconded. All were in favor; motion passed.**
5. Unnecessary Hardship
 - A.i. 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 because: *the current Zoning Ordinance limits lots to 2 acres or larger. Even the reduced setback requirements do not allow effective use of the land.* **Tom moved to accept Criteria 5.A.i, Jarvis seconded. All were in favor; motion passed.**
 - A.ii The proposed use is a reasonable one because: *there is no garage or full basement on the property. A bigger shed is needed for storage and woodworking/mechanical projects.* **Tom moved to accept Criteria 5.A.ii and Loren seconded. All were in favor; motion passed.**

Gil read through the calculations for proportionate size lots. Cyrus's lot size is only .2 acres. Loren commented that the statement about no further encroachment was made in 1980. The formula adjustment for undersize lots was done after that; he feels this should apply in this case. The spirit of the ordinance amendment was to allow people to use their undersize lots.

Gil noted that III, Letter D, Paragraph 3 of the Zoning Ordinance states that for lots smaller than 2 acres, setbacks will be reduced in proportion.

Sheldon moved to reconsider supporting Criteria 1. Jarvis seconded. Discussion: Loren wants to state that we have chosen as a Board after further discussion of the details and the Zoning Ordinance under III, D, Paragraphs 3 and 4, that we will reconsider our vote for Criteria 1. **Call the Question: 5 in favor - 1 opposed, motion passed.**

Sheldon said we've had a lot of discussion and the spirit of the ordinance was to allow people to use their lots. When addressing smaller lots like this, we need to look at them individually. **Sheldon moved to accept Criteria 1 because it will allow the property owner to use their property in a way that is consistent with the original intent of the ordinance.**

Tom said what we are really saying is that there is no identifiable public interest involved. Is there a safety issue here? No. Is there a quality of life issue here for the neighbors? He doesn't see one. What's going on here that could harm the public interest? He doesn't see anything. Sheldon said the Zoning Ordinances were put into place and the ZBA is charged with upholding them. **Sheldon withdrew his motion.**

George moved to contact Counsel for advice, Tom seconded. All were in favor; motion passed.

Sheldon moved to continue the Public Hearing to Wednesday, September 27th at 6:30. George seconded. All were in favor; motion passed.

Sheldon moved to approve the Minutes of July 19, 2023 as written, George seconded. All were in favor; motion passed.

George moved to adjourn the meeting, and Loren seconded. All were in favor, motion passed. The meeting adjourned at 8:28 PM.