

Westmoreland Zoning Board Hearing
Approved Minutes of May 15, 2019
Perry/Szuch

Present: Chairman, Peter Remy, Vice-Chairman, Barry Shonbeck, Regular Members: Brian Merry, Nancy Ranson, Ernie Perham, and Alternate Members: John Harris and Mark Terry.

The Westmoreland Zoning Board met at the Westmoreland Town Hall at 7pm on Wednesday, May 15, 2019 to consider the request of Deborah Perry and James Szuch for two Variances to adjust the setback distances on their lot of record, located at 42 Ferry Road, Map R11 Lot12, in order to build a 24x 36 foot garage. The property is bordered at the rear by the Connecticut River. Previously the applicants had come to the Board for Variances to build a house on the lot. Permission was granted with several conditions including obtaining a Shoreline permit from the State of New Hampshire.

Chairman Remy opened the hearing at 7 pm and invited Ms. Perry and Mr. Szuch to address the Board.

. The couple had brought a map of the two acre property which had been drawn up by a surveyor for the previous hearing and pointed out where the proposed garage would be located. They also submitted a photograph of the proposed site. Mr. Szuch said it was the only possible location on the long, narrow lot. The site is away from the house on an existing driveway that leads to the proposed site. The site is 12 feet below Ferry Road. The Shoreline permit which they obtained for the house has another year to run.

The couple went through the criteria for allowing the Variance.

1. It would not diminish the value of properties in the area.
2. It would improve the area, as all things that might have wound up outside would be stored in the garage.
3. The shape of the lot was the only spot that was appropriate for the structure.
4. Substantial justice would be done.

5. It is in keeping with the spirit of the ordinance to keep the structure out of sight as much as possible.

Chairman Remy commented that the spirit of the setback ordinance was to keep structures away from the road.

Mr. Remy asked about the height of the proposed garage. Mr. Szuch said it would be a story and a half high.

Mr. Shonbeck asked for a clarification of where the proposed front setback line of 30 feet would be on the map and also the 50 foot setback line from the river. Mr. Perham asked, if like the house, they would do anything to mitigate the runoff from the garage roof.

Mr. Szuch said they would put a French drain around the foundation walls.

Ms. Perry said that the river at its highest level just reaches the fifty foot setback line. To reach the normal level of the water they must descend three flights of stairs.

Mr. Harris asked if they would be driving vehicles into the garage.

Mr. Szuch said that it would mostly be used for storage including an old Jeep that was seldom used.

In answer to whether the neighbors would be able to see the garage Mr. Szuch said no neighbors would be able to see it.

Mr. Shonbeck asked about lighting.

Mr. Szuch said that only a small outside light would be in use and only when they were using the garage, not very likely most nights.

Mr. Merry asked if they were essentially asking for the same Variances as they did for the house.

The couple said they were.

Chairman Remy asked if the Board members had any further questions before opening the hearing to questions from the public. The Board did not.

One neighbor, Libby Nadeau, said her question had been answered when she found out that the garage would be positioned where neither of the abutters could see it.

Marshall Patmos, the chairman of the Westmoreland Conservation Commission asked about the previous Shoreline permit. He had checked the file in the town office and not found it.

Ms. Perry said that she had not realized it was supposed to go into the property file in the town office. A copy was made and it was agreed that all permits would be given to the Zoning Board clerk and copies made for the owners.

Mr. Patmos said that they would require a new Shoreline Permit for an accessory use structure and because the garage roof would be creating a new impervious area which would need to be mitigated.

Ms. Perry and Mr. Szuch said that since the permit had a year to run before the expiration date they believed that they did not need to apply for a new permit. Mr. Patmos showed them a sample from his state manual. The couple said they would be happy to apply for the accessory use permit. They wanted to do everything by the book. Mr. Szuch said that he had grown up in North Walpole right near the river and had always loved it. Since moving into their new house and previous to that they had made it their business to collect any rubbish or debris that washed up near their property. It was very important to them to keep the river clean.

Mr. Patmos said the state had a formula for the size of the structure that could be put up. One and a half times the square footage could not be more than 908 square feet.

Mr. Terry asked if the Board would be able to take a vote or would it require another hearing once the Shoreline Permit was settled.

Mr. Remy explained that the vote could be taken at the present meeting with conditions attached to it. When and if the conditions were met the construction could begin.

Mr. Shonbeck had done the math and pointed out that it was likely that the square footage of the structure would exceed the 908 allowed square footage with the proposed slope and roof overhangs.

Mr. Remy mentioned that there should be no floor drains and the exterior lighting should be sensitive to the neighbors.

Mr. Shonbeck asked if hazardous waste would be stored in the garage. The couple said there would not be.

Ms. Ranson asked about the flooding last year on Ferry Road. Mr. Szuch replied that the flooding had come off of the hill not up from the river. The Nadeau property had been affected but their own property had not.

Mr. Merry asked about the conditions that would be attached to an affirmative vote.

Mr. Remy said there would be two conditions:

1. The Shoreline Permit must be in hand.
2. No hazardous waste would be stored in the garage structure.

Mr. Remy asked if there were more questions and, if not, he would go through five criteria for granting or denying the Variances.

1. There would be no diminution of value of the surrounding properties.

All agreed

2. Granting the Variances would be in the public interest.

All agreed.

3. Denial would result in unnecessary hardship due to the unique features of the land.

All agreed.

4. Substantial justice would be done.

All agreed.

5. In granting the Variances substantial justice would be done.

All agreed.

Mr. Remy called for a motion, emphasizing that two Variances were needed, one for the front of the property and one for the rear.

Mr. Terry asked if this application and the Board's vote would set a precedent.

Mr. Shonbeck assured him that none of their votes ever set a precedent.

Mr. Shonbeck moved to approve the Variance for a road setback of 30 feet.

Mr. Merry seconded. All regular members voted in favor.

Mr. Merry moved to approve the river setback to 50 feet which would match the state setback, on the condition that all state permits are in hand and no hazardous waste will be stored in the garage. All voted in favor.

The applicants were reminded to give the permits to the ZBA clerk.

Other business

1. Mr. Shonbeck moved to accept the (Earla Williams) Minutes of November 14, 2018 as read. Mr. Merry seconded and all voted in favor.

2. Mr. Shonbeck moved to nominate Mr. Remy as Chairman of the Zoning Board for the year 2019. All voted in favor.

3. Mr. Remy nominated Mr. Shonbeck as Vice-Chairman of the Zoning Board for the year 2019. All voted in favor.

Ms. Ranson made a motion to adjourn at 8:12 pm. Mr. Merry seconded.

All voted in favor.