

**UNAPPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
May 22, 2018**

Present: Mike DiPietro, Stephen Carroll and Kevin Stuart, Members; Dennis Vieira, Dale Phillips, Robert Beaurivage, and Stoney Worster, Alternate Members of the Board. Minutes recorded by Patricia Rousseau and Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector and Jeffrey Porter and Kayla Beliveau, Conservation Commission.

Absent: Mark Wright, Chairman. Peggy Neveu, Member.

Mr. DiPietro chaired the meeting in Mr. Wright's absence and called the meeting to order at 7:02 p.m. and introduced the Board members to everyone present at tonight's meeting.

Mr. DiPietro asked if the applicant was present and the applicant was not present. Both Mrs. Rouleau-Cote and Mr. Carroll contacted the applicant to see where they were and indicated that he had it on his calendar as meeting with the ZBA tomorrow night but could be at the meeting in 20 minutes and apologized to the Board because the Board was only here tonight for this case. With that in mind the Board decided to vote on the minutes of April 24th.

Minutes

Mr. Worster made a motion to accept the minutes of April 24, 2018 as written, seconded by Mr. Carroll. All were in favor, with Mr. Beaurivage abstaining and the motion passed.

The Board had nothing else to discuss and reviewed the Zoning Determination completed by Mrs. Rouleau-Cote. The Board moved to recess the hearing to wait for the applicant to show up at 7:05pm.

The Board reconvened the meeting at 7:21pm as the applicant had arrived.

**Case #18-06
Sirron Development, LLC
Norris Viviers
18 Sun Valley Road – Tax Map 18, Lot 24
Zoned Residential One**

Applicant is requesting a Variance to permit new construction of a single-family home, 27.6ft from side property line, where 30ft is required within the Residential One zone. (Article 3, Section 3.05(2)(a) and Article 4, Section 4.06(6))

At this time, Mr. DiPietro elevated Mr. Worster, Mr. Beaurivage and Mrs. Phillips to full voting status for tonight's hearing. Mr. DiPietro asked Mr. Viviers to read his application into the minutes for the record.

Mr. DiPietro asked the Board if they had any questions for the applicant. Mr. Worster asked what style of house they were planning to build and what the number of bedrooms would be. Mr. Viviers stated that it would be a split/raised ranch because of the high-water table. The house would be similar to the other homes in the area. Mr. Viviers talked about the foundation and that they would have to cut it down a bit to make it more aesthetically pleasing.

Mr. DiPietro asked if there were any other questions from the Board. None were noted. Mr. DiPietro asked Mrs. Rouleau-Cote about the variance for a non-conforming structure and asked if it was because of the frontage. Mrs. Rouleau-Cote began by saying that it was because of the location of the foundation relative to the side property line because it requires 30 feet and they are looking for 27.6 feet. Mrs. Rouleau-Cote further explained that this was one tract of land that was unmerged legally as the right of the property owner could do and at that time one lot became three (3) lots. Mrs. Rouleau-Cote believed they had a copy of the plan showing the unmerged lots in their packages. Mrs. Rouleau-Cote further added that, the applicant has the ability to build a structure on a non-conforming lot as long as it meets all of the other zoning provisions. Since the applicant has removed the old structure and in order to rebuild he now needs to meet all the zoning regulations. In light of him not moving the foundation then he would need to seek a variance from the Zoning Board of Adjustment to allow it to stay in the footprint the foundation is now. A brief discussion ensued with regard to the location of the foundation.

Mrs. Rouleau-Cote pointed out that they do have a four (4) bedroom septic design approved by the state and there is an existing well on the property as well which has an easement. Mr. DiPietro asked if it was only one variance to allow the foundation to be 27.6 feet where 30 feet is required. Mrs. Rouleau-Cote said yes.

Mr. DiPietro asked the Board members if they had any questions for the applicant or Mrs. Rouleau-Cote. Mr. Stuart understood that the applicant would be cutting down the foundation but was not expanding it in any way. Mr. Viviers said that was correct it would be within the existing footprint. Mr. Beaurivage asked how old the foundation was. Mr. Viviers estimated it to be approximately built in the 70's. Mrs. Phillips believed it was in the 1966 or 1967 was the original foundation.

Mr. DiPietro asked if there were any abutters who wished to speak. Mr. Butts of 58 Wilson's Crossing Road argued against granting this variance because the lots were allowed to be unmerged but that they were merged previously to allow conformity back in the day. Mr. Butts did not have a problem with the other two (2) new homes but believed they should shrink this foundation or take it down.

Mr. Komaridis of 5 Sun Valley Road believes that the foundation should be removed because it had severe water damage and floods out because it had mold in that house. Mr. Komaridis explained that he has rebuilt that house twice already and did not believe they should be asking for forgiveness when they built their other two (2) homes. Mr. Komaridis wanted to know where they were measuring from and if it was from the foundation or the overhang. Mr. Komaridis was against the board granting this variance and was worried about the wells of the abutters and did not like the fact that it was becoming a cluster because all the abutters were in agreement that they were against this request.

Mr. MacPherson of 10 Sun Valley Road believed his well would go dry and was worried about their septic and well with these 3 houses going in. Mr. Hendrickson of 19 Sun Valley Road agreed with everyone else and was also against the granting of this variance.

Mr. DiPietro asked for a motion to enter into deliberation. Mr. Viviers wanted to comment before the Board entered into deliberation. Mr. Viviers commented that there is going to be three (3) houses built whether this variance was approved or not and there was already one well there and they have drilled two (2) more and that there is no way of knowing what will happen with the abutting wells. Essentially the concerns of the abutters have nothing to do with the request for relief of three (3) feet. Mr. Komaridis asked where they were measuring from because they need more relief than three (3) feet. Mr. DiPietro asked Mrs. Rouleau-Cote indicated that they would have a foundation certification. Mr. Butts believed that the existing foundation was conforming before they unmerged the lots and put in two (2) more foundations so basically, they caused their own problem and was not a reason for requesting a variance.

Mr. DiPietro commented that they had a motion and a second to enter into deliberations and asked if everyone was in favor.

Mr. Worster made a motion to enter into deliberations at 7:37 p.m., seconded by Mr. Beaurivage. A vote was taken and passed unanimously and the Board entered into deliberations.

Mr. Worster began by saying that, he was glad that Mrs. Rouleau-Cote clarified that it was to the foundation but it still comes down to, if there is an overhang it becomes questionable. Mr. Worster believed that they should go forward.

Mr. DiPietro believed that they needed a variance for somewhere around 3 feet and if it was 30 feet to the property line that they would not be before them tonight. Mr. DiPietro went on to say that the issue with the three (3) lots that are small lots or the water table has nothing to do with this request for a variance.

Mr. Phillips agreed with Mr. DiPietro and noted that they would be cutting the foundation down a bit and that they were looking for approximately 3 feet. Mr. Carroll believed it was less than three (3) feet. A brief discussion ensued with regard to the request for relief for 27.6 feet. Mr. Carroll also agreed that there were three (3) houses going in there no

matter what and the discussion regarding the water table and wells and septic is not what is being asked for tonight and that the Board needed to look at the request for relief of 2.6 feet and nothing else.

Discussion ensued with regard to the foundation and what the applicant was looking to do with regard to cutting down the foundation and raising the floor. Mr. Worster believed that if the applicant was going to have to modify the foundation as much as they were talking about that they should just remove the old foundation and place it where it should be with regard to the regulations. Mr. DiPietro understood what Mr. Worster was saying and agreed but to him, it's not a house and believed that the folks that didn't want the house there that there would be a house there anyways.

Mr. Stuart commented that he agreed with the rest of the Board members and that 2.6 feet is not going to change those concerns that the abutters have which are valid concerns and was not in this Board's purview. In conclusion, Mr. Stuart believed the applicant has met all the criteria for a variance. Mr. Carroll commented that although he was not voting tonight that he believed the applicant has met the criteria.

Mr. DiPietro asked if there were any further questions or comments. None were noted. Mr. DiPietro asked for a motion to come out of deliberation.

Mr. Worster made a motion to exit out of deliberations at 7:43 p.m., seconded by Mr. Carroll. A vote was taken and the Board exited out of deliberations.

Mr. DiPietro explained that the Board has come out of deliberation and everyone heard what was discussed during deliberations and asked if anyone had anything else to add. Mr. Komaridis commented that if this Board allows this that other people who own extra lots will be doing the same thing because he's heard from other people. Mr. Worster commented that, one of the 15 towns within the SNHPC that the tax rate in the Town of Auburn is the lowest and that there are many reasons that people want to live in Auburn of which includes the schools and the fact that the high school is Pinkerton Academy. In the end, we can all expect other houses to be built within the Town of Auburn.

Mr. DiPietro indicated that, if there are no further questions that he would entertain a motion to vote on the application as presented.

Mr. Worster made a motion to vote on the Variance request as presented tonight, for Case #18-06, 18 Sun Valley Road, Tax Map 18, Lot 24. Seconded by Mr. Stuart. Mr. Worster voted to Deny, Mr. Stuart voted to Grant as he believed that all five (5) factors have been met, Mrs. Phillips voted to Grant, Mr. Beaurivage voted to grant as he believed that all five (5) factors have been met, and Mr. DiPietro also voted to Grant as he believed all five (5) factors have been met. The motion passed by a vote of 4 to Grant and 1 to Deny.

Mr. DiPietro explained that the motion passed by a vote of 4 to 1 and further explained that there was a 30-day appeal period where someone could appeal the Board's decision.

At this time, Mr. Viviers thanked the Board members and exited the meeting.

Other Business

None noted.

Adjourn

Mr. Worster made a motion to adjourn, seconded by Mr. Beaurivage. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 7:48 p.m.

The next ZBA Hearing is scheduled for June 26, 2018 at 7:00 pm and will be held at the Town Hall, 47 Chester Road.