

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

July 21, 2020

Approved: October 20, 2020

Members Present: Bonnie Winona MacKinnon, Chair; Teresa Bascom, Vice-chair; Terry Bonser; Peter White; Realene Shippee-Rice;

Members Absent: Kevin Bassett, Alternate

Others Present: JoAnna Arendarczyk, Land Use Clerk; Scott Frankiewicz, Surveyor; Robin Marshall, Applicant; Jessica Marshall, Resident; Ray Bission, Surveyor

Call to order: 7:01pm

The Chair read the following:

In anticipation of the extension of Executive Order 2020-10, the Nottingham Zoning Board of Adjustment will be holding a virtual hearing. Access to the meeting is given through Zoom. All members of the Committee have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in the meeting.

Public Hearings

(Italics notes Public Hearing Notice language as sent to abutters and the Union Leader)

Public Hearing Opened: 7:07pm

Case 20-005-VA

Application from Robin & Thomas Marshall requesting a Special Exception from Article II Section E.1 of the Nottingham Zoning Ordinance to permit a new residential lot to be created behind an existing residence in the Commercial/Industrial Zone (Route 4). The property is located at 189 Old Turnpike Road in Nottingham, NH and is identified as Tax Map 2 Lot 4.

It was noted that the case number should be "Case 20-08-SE" for a Special Exception (SE).

Surveyor, Ray Bisson represented the applicants. He shared his screen displaying the plan with the Board. He explained that there was a Lot Line Adjustment in 1985 due to the property line going through the house.

Ray Bisson stated that a full survey will be done if the SE is approved. He gave an overview of the plan and the existing conditions on site and surrounding properties. Outlining the Backlot Subdivision criteria, he stated that this plan meets each one. He is aware that a state driveway approval will be needed.

Public Comment Opened: No one spoke to the case

Public Hearing Closed: 7:27pm

Mr. White expressed concerns about holding zoom meetings where no abutters are showing up. The chair noted that we've had other cases, even when meeting in person, where abutters did not show up.

Motion Made by: Mrs. Bascom to approve the application request from Robin & Thomas Marshall for a Special Exception from Article II Section E.1 of the Nottingham Zoning Ordinance to permit a new residential lot to be created behind an existing residence in the Commercial/Industrial Zone (Route 4). The property is located at 189 Old Turnpike Road in Nottingham, NH and is identified as Tax Map 2 Lot 4.

Seconded by: Mr. Bonser

Roll Call Vote:

Winona MacKinnon- Y	Bascom- Y	White- Y
Bonser- Y	Shippee- Rice- Y	

Vote: 5-0-0 Motion Passed

For the Nottingham Zoning Board of Adjustment ~ JoAnna Arendarczyk; Land Use Clerk

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The Chair advised the applicant of the 30-day appeal window.

Case Closed: 7:26pm

Case 20-009-VA

Application from Elmer Lai, Trustee of Shore 49 Realty Trust, requesting a Variance from Article II Section C.1.a of the Nottingham Zoning Ordinance to permit removal and replacement of an existing residential home. The property is located at 49 Shore Drive in Nottingham, NH and is identified as Tax Map 68 Lot 42.

It was noted that the article number referenced in application and public hearing notice is incorrect, however the language referenced is correct. The new 2020 adopted Zoning Ordinance lists it as Article II C.2.b. After discussion and using the example that banks look at the wording amount versus the numeral amount on checks, the Board agreed to vote to move forward with the application with a note in the Notice of Decision regarding the situation.

Motion Made by: Mrs. Bascom to move forward with the application from Mr. Lai even though the number for the Zoning Ordinance is referenced in error and the Board requests the Land Use Clerk to make a note of this error in the Notice of Decision.

Seconded by: Mr. Bonser

Roll Call Vote:

Winona MacKinnon- Y	Bascom- Y	White- Y
Bonser- Y	Shippee- Rice- N	

Vote: 4-1-0 Motion Passed

Surveyor, Scott Frankiewicz, represented the applicant for the case. He explained the applicant's desire to remove and replace the house and the leach field. He is aware that a shoreland permit will be required for this project. The new house is not being placed in the previous footprint. The new construction will be pulled in to meet the 20' setback requirement.

Mrs. Bascom noted that "Note#1 Purpose" on the plan is left blank.

Mr. White expressed concern again that there aren't any abutters speaking for or against the case.

Ms. Shippee-Rice noted that there is an acreage discrepancy the plan lists it as .31 acres and the tax card lists it as .33 acres.

Mr. Frankiewicz added that a well release will be needed in addition to the shoreland permit already stated. The septic will be approved for a two (2) bedroom due to the lot size. It will be a better, updated quality septic than the current one. He read the required five criteria for the VA.

Public Comment Opened: No one spoke to the case

Public Hearing Closed: 7:56pm

Mr. White expressed further concern about the lack of comments from neighbors. There will be a bigger house and a bigger impact to neighbors, and he feels it is difficult to make decisions without hearing their comments.

The requirement for a Variance to the frontage issue was clarified.

A discussion ensued about the septic approval by Town and Department of Environmental Services (DES)

Motion Made by: Mrs. Bascom to approve the application from Elmer Lai, on 49 Shore Drive Map 68 Lot 42 for their Variance request from Article II Section C.2.b of the Zoning

For the Nottingham Zoning Board of Adjustment ~ JoAnna Arendarczyk; Land Use Clerk

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89 Ordinance to permit them to remove and replacement an existing residential home with a lot
90 that has less than 200' on a class V road.

91 **Seconded by:** Mr. Bonser

	Criteria Summary	Board Roll Call Vote - was the Criteria met?
1.	Granting the variance would not be contrary to the public interest because: _	BWM- Y TB-Y PW-N TLB-Y RSR-N
2.	If the Variance were granted, the spirit of the ordinance would be observed because:	BWM- Y TB-Y PW-Y TLB-Y RSR-Y
3.	Granting the variance would do substantial justice because:	BWM- Y TB-Y PW-N TLB-Y RSR-Y
4.	If the variance is granted, the values of the surrounding properties would not be diminished because:	BWM- Y TB-Y PW-N TLB-Y RSR-A
5.	<p>Unnecessary Hardship</p> <p>a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:</p> <p>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:</p> <p>ii. The proposed use is a reasonable one because:</p> <p>b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, 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.</p>	<p><u>A</u>:</p> <p>BWM- Y TB-Y PW-N TLB-Y RSR-Y</p> <p><u>B</u>:</p> <p>BWM- Y TB-Y PW-N TLB-Y RSR-Y</p>

92 **Roll Call Vote:**

Winona MacKinnon- Y	Bascom- Y	White- N
Bonser- Y	Shippee- Rice- Y	

93 **Vote: 4-1-0 Motion Passed**

For the Nottingham Zoning Board of Adjustment ~ JoAnna Arendarczyk; Land Use Clerk

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94 The Chair advised the applicant of the 30-day appeal window.

95

96 **Public Meeting**

97 Review and Approve By-Laws and Rules of Procedure

98 The Board reviewed the proposed addition to the document:

99 **Under the Meetings, Section 4:**

100 **"ZBA members must do a drive by site visit for every application so that they are aware of**
101 **the community conditions and can make a better informed decision. If they cannot find the**
102 **time to do a site visit then they shall be disqualified from voting on the proposed variance."**

103 The Board discussed amending the language to state "ZBA members are strongly recommended
104 to do a drive by..." Mr. White listed his reason for this amendment to the document:

105 1. To show you care

106 2. Get information about the site and the neighborhood

107 The Board agreed to vote on a revised amendment at the next meeting.

108

109 **Staff/ Board Members Update**

110 **Raelene Shippee-Rice:** Suggested an agenda item on an educational discussion session
111 regarding public interest and developing a guideline as to how it applies to the ZBA.

112 **Peter White:** Suggested adding a session on 'what describes a hardship?'

113 **JoAnna Arendarczyk- Land Use Clerk update:** When asked if the Board wanted to return to
114 in person public hearings like the Board of Selectmen have the ZBA determined it is best to
115 remain remote for the time being.

116

117 **Minutes**

118 May 19, 2020

119 **Motion Made By:** Mrs. Bascom to approve the minutes for May 19, 2020 as amended

120 **Seconded By:** Mr. Bonser

121 **Roll Call Vote:**

Winona MacKinnon- Y	Bascom- Y	White- Left the meeting
Bonser- Y	Shippee- Rice- Y	

122 **Vote: 4-0-1 Motion Passed**

123

124 **ADJOURNMENT**

125 **Motion Made By:** Mrs. Bascom to adjourn

126 **Seconded By:** Mr. Bonser

127 **Roll Call Vote:**

Winona MacKinnon- Y	Bascom- Y	White- Left the meeting
Bonser- Y	Shippee- Rice- Y	

128 **Vote: 4-0-1 Motion Passed**

129 **Adjourn at: 8:58 pm**