

**DUNBARTON ZONING BOARD OF ADJUSTMENT
DUNBARTON TOWN OFFICES
MONDAY, AUGUST 10, 2020 – 7:00 P.M.
MINUTES OF MEETING**

The regular monthly meeting of the Dunbarton Zoning Board of Adjustment was held at the above time, date and place.

John Trottier, Chairman, called the meeting to order at 7:00 p.m.

The following members were present:

John Trottier, Chairman
Alison Vallieres, Secretary
Dan DalPra
James Soucy

Other Attendees:

Donna White, Building Department
John Wilt, Applicant
Braydon Tuscher, Representing Applicant
Michael Baier, Applicant

Meeting Posting:

The Chairman verified with the Secretary that the meeting notice had been posted in two public places throughout the Town and published in the Concord Monitor for one day. It was noted the Zoning Board Meeting was posted on the Google Calendar and on the Dunbarton Town Web Site.

APPROVAL OF PREVIOUS MEETING MINUTES: MONDAY, July 27, 2020

MOTION:

James Soucy made a motion that the Dunbarton Zoning Board of Adjustment approve the minutes of the July 27, 2020 meeting as written. Dan DalPra seconded the motion. The motion passed unanimously.

CONTINUED PUBLIC HEARING - #2020-ZBA-004, JOHN WILT (K1-03-04) REQUESTS A VARIANCE FROM SECTION 4, C. NONCONFORMING LOTS, PARAGRAPH 1c. TO ALLOW DIMENSIONAL RELIEF ON THE NORTHERN LOT LINE AT PROPERTY LOCATED ON 6 HOLIDAY SHORE DRIVE IN THE LOW DENSITY DISTRICT. APPLICANT IS REQUESTING 7.13' WHERE 20' IS REQUIRED.

John Wilt, Applicant and Brayden Tuscher, Tuscher Design Group, appeared before the Board with an updated revised plan of the proposed home. Mr. Tuscher reported that they had revised the building plans as follows:

1. Reduced the height of the building from 34.5 feet to 29' 6". (Reduced by 6.5')
2. Reduced the coverage of the lot from 22% (Existing) to 21% (Proposed)
3. Encroachment on corner of building setback has been reduced from the previous proposed setback of 7.13' to 9.13'.
4. Reduced the patio area by 75 square feet.

Mr. Tuscher presented a picture of a similar structure located on 28 Holiday Shore Drive for comparison purposes. Estimated the height of this building to be around 33'. Noted this was a good example of a house in the Holiday Shore area.

John Trottier, Chairman, stated the Board needs a plan that is accurate.

Mr. Tuscher noted the following corrections on the plan:

1. Page A2.1 – On the Carport the square sq. ft. is shown as 351 and should be corrected to read 343 sq. ft. as well as the note indicating total area of encroachment should be corrected to read 343 sq. ft.
2. Page A2.2 – in the NOTE indicating existing area of encroachment, it reads 351 and should read 343. The NOTE indicating net area of reduction is shown as 23.5 sq. ft. and should be corrected to read 15.5 sq. ft.
3. Page A5 – Needs to show 29.6 is from average grade.

The applicant noted they had reduced the size of the building by narrowing it by 2 feet.

John Trottier, Chairman, stated that after looking at this revised plan, you heard the concerns of the board last month.

No other members had comments at this time.

Board Discussion:

James Soucy stated he felt the revised building was more conforming and fits into the space better. It fits better with what we have to work with.

John Trottier, Chairman, read the criteria that the applicant submitted as follows:

1. The Variance will not be contrary to the public interest because:

The intent of the ordinance, as it pertains to public interest, is preserved by continuing the use of the property as a Single Family home which matches the character of the existing neighborhood, which is comprised of a mix of seasonal and year round Single Family homes. The portions of Article 4, Section C that pertain to public interest are being satisfied as follows:

"Contrary to the Ordinance: character of the Neighborhood"

The lot has been used as an existing, year round, Single Family home since 1958 (Article 4, section C 1 a)

- *“Health & Safety of the General Public”*
- *The supporting documents supplied by Aspen Environmental, LLC show a compliant septic system which can only be argued to be an improvement for local health and safety. (Article 4, section C I.b)*

2. The spirit of the Ordinance is observed because:

The Town of Dunbarton Zoning regulations are very clear that the proposed use is well within the overall intent and spirit of the Ordinance by virtue of it being Single Family home in a area that has never know any other use.

3. Substantial justice would be done because:

The intent of this request is to bring about a fair and equitable solution to the owners and their neighbors that agrees with the principles and intent of the Ordinance. It is through this process that substantial justice will be assured to have occurred.

4. The values of surrounding properties are not diminished because:

The proposed building will be replacing an unsightly, run down home. By following all of the town regulations regarding size and height, this new proposed building will only help to increase the surrounding property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

- (a) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:**

If all of the current Town and State setbacks are applied, this lot becomes very restrictive – to the point of not being viable as a building lot of any real value. It is therefore easy to argue that applying current regulations to this particular site would create an unnecessary hardship that is incurred by the dimensions of the lot itself, which was created long before modern zoning and so therefore is clearly no fault of the owners. They are simply trying to construct a functional and attractive home on this lot. That is not a viable option without the variance relief we are requesting.

It was noted for the record there were no abutters present.

James Soucy noted that the applicant needs to initial the corrections on the plan.

MOTION:

James Soucy made a motion that the Dunbarton Zoning Board of Adjustment GRANT the request for a Variance from John Wilt (K1-03-04) (Case #2020-ZBA-004) to Section 4, C. Nonconforming Lots, Paragraph 1c. to allow dimensional relief on the northern lot line at property located on 6 Holiday

Shore Drive in the Low Density District in Dunbarton, NH with relief from 20' requirement to 9.13' with notes and corrections on the plan as noted on the August 3, 2020 letter submitted by the applicant. Dan DalPra seconded the motion. The motion passed unanimously.

PUBLIC HEARING - MICHAEL BAIER AND DANA S. BAIER #2020-ZBA-005 (B7-01-08) 233 TWIST HILL ROAD REQUEST A SPECIAL EXCEPTION TO ARTICLE 4, PARAGRAPH I. AND II. TO ALLOW THEM TO HAVE A BUSINESS USE SIMILAR TO A HOME OFFICE OR OCCUPATION. USE WOULD INCLUDE PROFESSIONAL SERVICES AND TECHNOLOGY RELATED BUSINESS IN THE LOW DENSITY DISTRICT IN DUNBARTON NH

Michael Baier appeared before the Board regarding his request for a Special Exception

Mr. Baier stated that his wife and he decided to purchase the home next door and convert it to a realtor office and technology related business in the basement for his wife and he, and rent the first and second floors as residential use. Because they would not be living in the house, it does not qualify for a Home Occupation.

The Board had significant discussion with the applicant regarding the proposed use and his desire to utilize the property.

Due to the fact that the applicant was unsure what he would be proposing for the use of the property, the Board was unable to determine what businesses would be located in the building in addition to the rental of the first and second floor.

The Board pointed out that the approved Special Exception would go with the property when sold and because of this, the proposed use has to be specific when it is approved by the Zoning Board of Adjustment.

The Board noted that the Planning Board would be reviewing the request for Site Plan Review at their next meeting. They would be the Board that would determine adequate parking, etc. for the proposed use.

It was noted for the record there were no abutters present at the meeting.

MOTION:

Dan DalPra made a motion that the Dunbarton Zoning Board of Adjustment continue the application from Michael Baier and Dana S. Baier #2020-ZBA-005 (B7-01-08) 233 Twist Hill Road for a Special Exception to Article 4, Paragraph I. and II. to allow them to have a business use similar to a home office or occupation. Use would include professional services and technology related business in the Low Density District in Dunbarton NH. James Soucy seconded the motion. The motion passed unanimously.

MOTON:

James Soucy made a motion that the Dunbarton Zoning Board of Adjustment meeting adjourn at 8:40 p.m. Dan DalPra seconded the motion. The motion passed unanimously.

Respectfully submitted,

Vallieres, Secretary

Alison R.