

TOWN OF CENTER HARBOR
ZONING BOARD OF ADJUSTMENT
Meeting Minutes

Monday, September 11, 2023
7 p.m.

In attendance: Chair Bernard Volz, Members George Lamprey, Karen Ponton and Stephany Marchut Lavallee. Alternate Members Gregory Hime, Timothy Nefores, and Clerk Helen Altavesta. Vice Chair Jean Meloney and Alternate Alison Toates absent with notice.

Public attendance: Wesley Hays (NorthStar Contractors), Claire Wilkens (Claire Wilkens Architect, plc.), Garrett & Susan Wein, Walter, Tiffany, WC and Irene Spaulding, Bill Ricciardi, Bill Doucette, Bruce Bond; and Alden Beauchemin (Land Consultant).

The meeting was called to order at 7:00 p.m.

Chair Bernie Volz asked board members to introduce themselves.

Chair Volz elects to wait on the approval of the August 14 2023 minutes until after the hearings:

PUBLIC HEARINGS

- **Continuance:** 2023-0410.A Variance-Tax Map: 104 Lot: 016 Owner: Garrett & Susan Wein. -10 Mayo Shores Lane
- **Continuance:** 2023-0726.A-Special Exception-Tax Map: 104 Lot: 016 Owners: Garrett & Susan Wein- 10 Mayo Shores Lane
- **Voting Members for both the continuation of a Variance case: 2023-0410.A- and 2023-0726.A-Special Exception Garrett & Susan Wein-Tax Map 104 Lot 016-10 Mayo Shores Lane:** Bernard Volz, Karen Ponton, Stephany Marchut Lavallee, Greg Hime and Tim Nefores

Chair Volz wanted to hear any new information from the petitioners on the continuance and hear from anyone that is in favor and those that are opposed. Then discussions until hopefully we can proceed with our deliberation. With that we will go through the new information. On August 14th meeting we reviewed the special exception and continued discussion on the variance and it continued as the applicant desired to revisit their plans and submit an updated set of plans, I believe. Also, a letter from Bruce Bond and he also included a case regarding moving a right of way easement. We had also received an email letter from the Fire Chief and received updated location map and data from the applicant.

The Chair asked if he wanted to summarize any of his points from the letter. Bruce Bond said not at this time.

The Chair summarized the main points of the Bruce Bond's letter.

- He finds the desire to improve the property commendable, he also feels that several things that were approved by the Town will have a deleterious effect on the neighboring properties and Lake Waukewan.
- While the footprint is not clear, (There is new information submitted) he has increased the footprint and the footprint is in a different location. It is his understanding that it is not permitted in the shoreland protection Zone.
- He goes on to say he was denied the permit to increase his footprint. Bruce Bond interrupted to say that it was decade ago and they had different rules then.
- He acknowledges that the Garage is already approved so there is not much he can do about that
- Mentions the relocation of Mayo Shores Lane, The ZBA has no ruling on the road that is a civil matter.
- He mentions the stormwater flow.
- A wetland plan needs to be developed to maximize the infusion of stormwater into the ground on the north side of Mayo shores lane and reestablishment of forest growth. To minimize the runoff into Lake Waukewan.

He also included a Supreme Court NH case-regarding easements of trails not roads

Chair Volz asked Bruce if he had anything more to say. Bruce Bond did not want to take any further action.

The clerk handed out copies of the letter during the Chair's summary.

Email from the Town of Center Harbor Fire chief - not sure how that was necessarily solicited. It went to Bill Doucette and Planning and Zoning. Subject Mayo Shores Lane:

Good evening,

I was informed that there may be some upcoming construction on Mayo Shores Lane. I would highly encourage the road be improved if that is an option. Any improvement to the road would be helpful for ambulances and fire trucks to navigate the road. Please let me know if you have any questions.

Have a good night,

Tyler D.

Fire Chief

Chair adds: the only part of the road that might change, again which is out of our control is on the Weins property.

Also, received the new plans, existing Dwelling and the proposal. Did someone want to talk about the new proposal?

The Weins asked to speak first before they showed their proposal. Susan Wein talked about how the Weins have been coming here for 100 years. Derek was raised here and we have raised our two boys here. We want to build a new home so that we can retire here and have many more generations of The Wein's Family to enjoy the beauty of Lake Waukegan. After the past five months we have listened to the concerns of the neighbors and the board. We have spent so much time and money to make modification of our plans, meet with various departments including the New Hampshire DOT, DES, Fire Department and have hired a soil scientist to address the wetland issue and water concerns. We are fixing the culverts; we plan to put in drainage and are working on a storm mitigation plan. We want to make it better for Lake Waukegan and our neighborhood. The drainage will be improved and road will be wider. We are putting in a septic system that is better for the environment and the lake. Our new plans are no closer to the wetlands than our previous cottage. We have eliminated the outside kitchen we will just have pervious pavers. The drainage will be addressed by Alden Beauchemin with the plans going forward. We appreciate your time and hope to have a resolution tonight.

Garrett Wein added that he appreciated what the board does and everyone in this room cares about the lake and we don't want to be confrontational. We want to do what is best for the Lake and for our neighbors. There are two big things in my mind. One the water and we are going to fix that and the road. I spoke briefly with Bruce before this meeting and I spoke to the Fire Chief and he is in support of us widening the road. But I will work with everyone to make this work. Plus, the septic and we are replacing and improving this. And I'm tired of coming to these.

Claire Wilkens went up and pointed out the outside of the existing home in red Dashed lines, she showed the 50 ft line and the 75-foot line. There will be nothing within the 50 ft line. She pointed where the new green line showing the proposed Footprint. We have removed the outside Kitchen and put in a pervious patio. The new location of the proposed home has shifted away from the Spaulding and shifted away from the wetlands

Chairs first question is you didn't provide any floorplans for the new house. In our ordinance, it is all about total square footage. We have to consider that in our ruling. Do you have this?

Claire Wilkens said she didn't have time to supply in the two weeks to update the actual plans that we were hoping that shift it and use the old plans. We were just supplying the footprint with the changes the board requested. We are not sure what is going to be there, I can't answer this question.

Chair said we don't know what to approve. If we just approve this hypothetically that is all you will get. We need to know the Total square footage not just the footprint square footage. Claire Wilkens asked Total square footage not footprint square footage. We were not doing that before.

Chair that is the way the ordinance reads is that it is total square footage with in the 75 feet.

Claire Wilkens said in this plan all we did was footprint and it does not take into account two floor, 3 floors, any of that. Those are the numbers we provided so these are the comparable numbers here.

Chair potentially depending on if you increase the total square footage. You will need a different variance which if I'm correct is 5:11:3. Because that is total square footage.

Claire Wilkens asked what article we were asking for originally.

Chair said your original application and house plans you were asking for 5:11:2 The first plan you were decreasing the square footage of a non-conforming structure. You can rebuild on a separate footprint

Claire Wilkens asked if she could have a minute.

Chair pulled up the section of the Zoning Board that was on the variance application.

5:11:2 A non-conforming structure on a lot which does not comply with the regulations contained in this ordinance may be replaced by a new structure in a different location on the lot provided the ZBA determines that the new structure is not more non-conforming than the original structure. The ZBA may set conditions and re- strictions for the replacement structure such as:

1. Sideline and frontage setbacks
2. Screening of site/structure
3. Limitations on future expansion
4. Limitations on footprint size and total square footage of structure.

The chair said the 5.11.3 No additions or changes or reconstruction shall be undertaken which increase the total square footage of a non-conforming structure.

Wes said that we never mentioned the square footage of the house. The only communication was mainly the two things that were needed. The distance to the neighbors and the covered kitchen.

Chair said he had brought up the total square q times in the last two meetings. If you look at your original building plans you had a higher roof line but very little living space within the 75-foot setback. It's very critical for us to have the total square footage because that is what we go by. We cannot have the total square footage increased.

Timothy Nefores didn't they supply the total square footage in the original plans.

Chair in the original Building plan they supplied the Total Square footage of the house but not the total square footage that was within the 75 feet.

Wes Hays- How were you going to vote on it last time? I was the one that wanted to continue it to get the two things you requested. Maybe I'm missing something

Chair the missing piece is that we are missing information.

Greg Hime mentions concerns about snow removal around lake.

Karen Ponton said that as you remember I was very tired last meeting and my recollection was that we weren't anywhere near making a decision.

George Lamprey asked if it was the total structure.

Chair mentioned that it's only the part that is nonconforming. It is not the total structure. Because people can build whatever they want after the 75 feet obviously with other restraints.

Discussion back and forth regarding what was communicated in the last few meetings. They didn't feel that the square footage was needed but it was always needed.

Helen Altavesta asked if they could use the original plans of the house and asked what is non-conforming.

Tim Nefores asked if there was any language that a percentage of the structure is non-confirming.

Chair said No.

Discussion on Road and the 50 ft from the center of the road. It's a private road intended for public use.

Garrett Wein asked the Chair if it was safe to say that they were not going to rule on this tonight until they had further data, was the conversation ended.

George Lamprey said he was sorry he missed the last meeting because maybe I would have made a point of this. There is a lot of moving parts. Those moving parts at a minimum should be completely identified as what the issue are, that way they don't come back with a piece of it because that is what we asked. In this meeting at a minimum, we need to nail down exactly what references we need to address and not move the goal post.

Tim Nefores-We have been given this application and we accepted it and there is no where on the application that mentions 5:11:3. Do we need to except as is or can we amend it.

George Lamprey said it could be amended. They can leave tonight knowing what is needed X, Y and Z. We need to do that tonight.

Chair mentions that we have amended applications before.

Claire Wilkens asked if we rebuild anywhere after the 75 ft line, we wouldn't need to get a variance just a building permit.

Chair as long as the total square foot stays the same you can rebuild in the original footprint.

Claire Wilkens if we stay within the existing footprint can we change from the 75 back.

Chair- again there is still the road.

Claire Wilkens- But besides the road issue.

Chair- I just want to point this out because someone is going to say Oh you didn't mention that. There is the road setback issue as well. You're nonconforming on both sides. You have a tough property there is no doubt about that. We have to work with you to get some relief. This is clear example of hardship you have a very difficult property on which to build.

Claire Wilkens it is very squeezed that is our challenge right now satisfy everything that keeps coming up as well as getting an actual home that is usable. Because there is so many things that you could do to make it functional.

Susan Wein- Am I correct in stating that if I build in my footprint that I would have to keep the same square footage. I could not go up is that correct.

Chair-That is correct without a variance. 5:11.3 variance

Wes Hays was his understanding with the new house we will be able to adjust the road and keep the new house the same distance away from the road as the old house.

Chair said right and that was what I was hoping you would do.

Greg Hime brings up the setback 5:3:1 setback, patio size is limited to one per lot 150 square feet of pervious material within the 50 to 75 shorelines.

Garrett Wein- We are not worried about that.

Greg Hime- You said you wanted the whole picture.

Garrett Wein- Going back to George's point what do we specifically need for when we come back?

Chair if you want my opinion because you also have issues with the wetland buffer but other members of the board might have a different opinion. Just consider the entire house is non-conforming and provide us with the total square footage you are going to go for and the footprint you are going to go for.

Claire Wilkens- By total square footage first floor and the second floor.

Chair- Yes total square footage. The basement is just crawl space correct. Total square footage of living space Do not quote me on that Total Square footage.

Claire Wilkens- Does it make any sense to stop this procedure to start a new application when we have everything in order?

Chair- Personally it would make it cleaner and clear our memories but it would cost more for the applicant because they would have to pay everything including notifying abutters.

Then discussions on everything the Weins would need. This is the reason why this is a complicated procedure. If you move your house one way you could be encroaching on the 15 ft setbacks to your neighbors. That's why it is very important that we can't tell you what you are going to need because of we don't know what you are going to present us.

Chair said that he would continue the Special exception because they really can't approve it until the Variance are agreed upon and then we can rule on the special exception.

Karon Ponton – I want to put some options out there. What if you re-thought your entire parcel and started from scratch. You haven't built your garage yet, demolished the old house or started any work. Then take the whole lot and start from there. How about you move your house in the area above where the garage would have been?

Wes Hays- There is power lines in that area we cannot build under the power lines and the garage is a lot smaller than the house.

Discussion on the square footage of the house tonight. But that is not possible.

Karen Ponton- Could you build on the existing footprint?

Garrett Wein- Our existing foot print is 700 square feet and going to 1400 square feet and that is not livable and or realistically living space for a family of 4. It just would not be enough space.

Chair- Plus given the houses in the greater area around Waukegan Road

Karen Ponton- Some have done this in their neighborhood. The Spaulding built on the original footprint. Just giving options. It's not the board's job to design your house.

Chair - yes, they built up and they would have needed a variance.

Wes Hays- Can we end this meeting? Can we stop this meeting right now and stop wasting your time and ours. Can we come back within a week to decide if we are going to do a continuance or start over?

Chairs- If we do a continuance we would have to meet in October and decide if we want to proceed or not. If you want to put the special exception on hold and withdraw the variance. Whatever you decide at this time. I know that if we do accept something you know that we will demand a stormwater plan? That will be a given.

Wes Hays- We already have one. Yes, and we wouldn't expect it to be any less

Claire Wilkens- Is it possible that we can have the articles that we specifically need to address?

Karen Ponton- yes and an updated Floor plan/update print/ blue print of the building.

Chair put the articles up on the screen:

- **Special Exception for wetlands buffer setback encroachment**
- **Variance from 5:3:1 including setback from the road**
- **Variance from 5:11:2 replaced in different location**
- **Variance from 5:11:3 (total square footage) for reconstructing a non-conforming structure (with 75' of shore, encroachment in wetlands buffer, and road)**

Square footage:

- **Total square footage of new and old structure (all floors included, but break down by floor)**

Discussions on back and forth regarding square footage, total square footage and on conforming square footage. Discussion on the original/ old plans and the floorplans were very small in the area that was in the setback. Discussion on the setbacks of the road.

Garrett Wein- The problem is I think the process has gone on so long that everyone forgets what we are here asking for. We have received a lot of redirections and a lot of it is irrelevant on why we are here.

Karen Ponton- I was attempting to clarify the question. I didn't mean to mislead you if that is what I did. I'm sorry about that.

Chair said we will see where the house lies. We just want to make sure you stay within the setbacks of the road.

Wes Hays-Again can we end this meeting we have enough to go by and we will know in a few weeks if we are going continue or restart this process. Can we get this information to me in writing?

George Lamprey- Is October enough time for you?

Wes Hays- We will let you know in what direction we decide.

Karen Ponton- My understanding you have a building permit for the Garage and permit for a septic system. You have a Demo permit

Wes- yes

Karen Ponton- I would hope you would not be executing any of those permits until we settle these issues

The Weins, Wes Hays and Claire Wilkens-WHY? We already have the permits. It has already been approved.

Greg Hime- They don't need to
Karen Ponton- I know

Garrett Wein-The Board keeps bringing up things that are not relevant to the hearing.

Karen Ponton- I know, I'm sorry but I'm looking at the property as a whole and I think it's not inappropriate

Discussion back and forth with Wes Hays and Karen Ponton regarding the recommendation of the letter from the Conservation Commission. Karen would have proposed if this had gone any further tonight to put a condition on this property that a comprehensive and affective storm management plan as defined in section 10:3:11 be developed and implemented before any construction would be undertaken on the whole property. Wes said they need the structures because they are a part of the storm management plan that they have.

Timothy Nefores- I think we need to appreciate that the Weins have said from day one that they are willing to undertake the drainage problems. Some of the culverts were adjusted back a long time and they said they would fix these. I haven't heard the other neighbors offer to fix them. If we could get the other neighbors thinking this way, we are doing a good service for

the town. This situation isn't a true wetland it was caused by the run off. I think we should move on to just deal with the house.

Chair that is all we have authority for. We can put a condition for the stormwater plan on the house.

Motion for the continuance of the special exception and the variance. Karen Ponton makes a motion to continue until the next meeting until October 9, 2023.
Second by Stephany Marchut Lavallee. All were in favor.

MINUTES:

Approval of the August 14th meeting minutes

Motion: Grey Hime, motions to approve the minutes with a few amendments.

Seconded by Timothy Nefores. All were in favor.

Other business:

 **Karen Ponton**
To: Bernard Volz >

7/29/23

Building Permit/ZBA Applications Language

Hi Bernie:

Could we please discuss recommending that the word "Sketches" be removed from the Building Permit Application at our next ZBA meeting? It only appears in one place (shown below), and I think the word is misleading and unnecessary.

I would also like us to discuss recommending that something like the following be added to the Building Permit application: "The information contained in or otherwise submitted with the Building Permit application is true, complete and not misleading to the best of the applicant's knowledge and belief. The applicant understands that the submission of false, incomplete or misleading information constitutes grounds for the Building Inspector (or should it be the Board of Selectmen?) to deny the application or revoke any approval that was granted based on the information."

Similarly, it would be added to the Variance and Special Exemption applications: "The information contained in or otherwise submitted with the application is true, complete and not misleading to the best of the applicant's knowledge and belief. The applicant understands that the submission of false, incomplete or misleading information constitutes grounds for the Zoning Board of Adjustment to deny the application or revoke any approval that was granted based on the information."

Thanks, Bernie. karen

11. Sketches and building plans:

REQUIRED: A complete set of building plans for all construction/alterations and a plot plan of the property. GIS Maps are available on the town website
https://www.axisgis.com/Center_HarborNH/.

Submit all documents with this permit application. Hard Copy or Electronic format are accepted. If submitting in electronic format, please send email to code@centerharbornh.org and reference property location in subject line.

Plans are required for both exterior and interior work NO EXCEPTIONS.

Discussion on building permits and wording on ZBA applications. The chair will follow through with bringing this information to the selectmen.

Meeting adjourned at 8:27 p.m.

Next schedule meeting scheduled for October 9,2023 at 7 p.m.

Submitted by Helen Altavesta.