

TOWN OF CENTER HARBOR  
ZONING BOARD OF ADJUSTMENT  
Municipal Building

Monday, July 11, 2022  
7 p.m.

In attendance: Chair Bernie Volz, Members George Lamprey, Alternate Members Gregory Hime, Timothy Nefores and Alison Toates. Karen Ponton absent with notice. Public Attendance, Applicant Roy Drukker and Wes Hays of Northstar Construction, LLC. Attorney Ethan Wood for applicants David and Lauren Anderson.

**Voting Members for the Drukker Case: Bernie Volz, George Lamprey, Gregory Hime, Tim Nefores and Alison Toates.**

Chair decides to move past item I. on the agenda and move to the scheduled hearings. Chair will go back to the approval of minutes after the hearings. Chair also decides to change the order of the hearings, the Anderson Case will be moved up to first place due to the request of the applicant for a continuance. Chair also states the protocol for the hearings is the same from the last hearing reminding the public anyone wanting to speak shall first announce their name for the record and any questions for the applicant shall be directed to the Chair

**I. MINUTES:**

Approval of the June 13, 2022. Board asked for the Clerk to go back and listen to the recording regarding a statement made by Wes Hayes that was brought up by Sharon O'Donnell during the Drukker hearing. (see page 2 last paragraph as to the correction). **Motion: George Lamprey motions to approve the minutes recognizing that Aimee will double check the question of septic tanks. Seconded by Bernie Volz. All were in favor.**

**II. PUBLIC HEARING – CONTINUED FROM JUNE 13, 2022 - VARIANCE 28  
BROOKSIDE LANE 104-006 CASE 2022-0613.A FOR DAVID AND LAUREN**

**ANDERSON.** Chair states the Board should have received a written request by the applicant to continue the hearing to August 8<sup>th</sup>. Attorney Ethan Wood confirms that is the request of his clients to have their hearing continued to August 8<sup>th</sup>, Attorney Wood also states it has come to his attention they may need to amend their application to add other variances and he would anticipate doing that sooner rather than later. Chair states that information needs to be submitted no later than Thursday, August 4<sup>th</sup> at noon.

Chair asks for a motion. **Motion: George Lamprey motions to continue the hearing to August 8<sup>th</sup> at 7 p.m. Seconded by Gregory Hime. All were in favor.**

**III. PUBLIC HEARING – CONTINUED FORM JUNE 13, 2022 -VARIANCE 533  
WAUKEWAN ROAD 105-012 CASE 2022-0613 FOR ROY AND NANCY DRUKKER**

Variance requested to DEMO existing garage and rebuild with increase in square footage, structure will be more non-conforming due to setback from the lake (Sections 5:11:3). Chair states they received an updated plan from the applicant. Chair states anything previously stated in the hearing from June 13<sup>th</sup> is already in the record and should not be repeated.

Roy Drukker states he's the owner thanks the Board for their time and comments and he took that into consideration with this new proposal. Mr. Drukker goes through the details of the last proposal size of garage and what they are looking to achieve by their expansion their main goal is to store canoes and a car in the new garage stating a pulley system for the canoes would not be an option as suggested at the last hearing. Mr. Drukker goes through items such as the height of the garage, the breezeway and keeping the garage in proportion with the house which is what the Board discussed with applicant at last hearing. He continues to describe how he got to the measurements being presented now to the Board taking into consideration car door clearance and size of canoe and storage areas. Original proposal was 24'x24' = 576 sf new proposal is 15' x 22' = 330 sf. Approximately 246 sf smaller total of 43% decrease. Board reviews the plans submitted (plans will be contained in the file for this property) Mr. Drukker goes through the plans.

Chair asks if there are any issues with the tanks on this new proposal, he recalls that may have been a problem with the original 24'x24'. Wes Hays states they honestly did not measure that they wanted to know how the Board felt about the new proposal first. Chair asks about the status of the septic today. Wes Hays says there is a clean solution system there, 3 chambers and they are on the lakeside of the driveway, comes from the main house into the first tank, then into a bubbler system and then it overflows into a 3<sup>rd</sup> tank which is a settling tank that then goes into the leach field. Chair asks if that system is in already, Wes responds it is in and the only thing we might have to do is adjust the tanks a few feet. Chair asks if he has to move the tanks would the state get involved. Wes respond they have never gotten involved with us before because the move has been minimal.

George Lamprey, to follow up you still have to run it by DES as a process that you are going to move those tanks? Wes Hays, I've never had to. I work with Bill Evans he was the head of DES waste water for over 30 years, I do contact him, he's retired but I ask the question to someone like David Ames what needs to be done explaining our plan and he's never had an issue. If I have to adjust a leach field or get involved with that then we go through a full DES plan. George Lamprey, and you intend to call and ask that same question? Wes Hays, Bill Evans is working on the project with us, he's the one that did the shoreland for this.

Greg Hime what is the height of the existing garage? Roy Drukker does not know. Greg Hime asks for the height of the new garage, Wes Hays states 16' from the floor of the garage at the peak of the gable, increase of 2'-3'. Board reviews the photos of the property again. Wes states the renderings we submitted tried to follow the roof line of the house.

Chair asks for anyone that wants to speak in favor? Hearing none, anyone wanting to speak in opposition?

Sharon O'Donnell asks a bunch of questions all were part of a document she read from which will be entered in its entirety into the record as "Exhibit A". Her main concern relates to the septic and refers to the June 13<sup>th</sup> minutes page 2 that Wes states that he had the permit from the state to move the tanks. Wes responds no, I said I have the shoreland permit. Sharon responds she's questioning it because it's in the minutes. There was a lot of discussion regarding the statement by Wes so the Board states the minutes are draft and have not been approved yet so they can be corrected if need be. Chair asked the Clerk to verify the statement made by Wes as reflected in the June 13<sup>th</sup> minutes on page 2 for clarification. (July 13<sup>th</sup> the Clerk went back to the recording and has amended the June 13<sup>th</sup> minutes per the statement made by Wes Hays. That correction is as follows: **Original:** Wes states they have the permit from the State to move the tanks and there is a clean solution system there and the tanks can be moved not closer to the

lake but over near the driveway area. **Amended:** Wes states they have the ability “with a permit from the State” to move the tanks because what’s there, is clean solution system and the tanks can be moved, not closer to the lake, but over near the driveway area.

Sharon refers to another statement that the tanks are in the shoreland permit, Chair states Wes has stated he will get permission to move the tanks “if” he needs to move the tanks. Wes adds whatever the State tells him to do, he will do. This is still an unknown. Sharon states she sees nothing regarding the septic systems in any of the approvals at the State. Chair states they are not doing anything to the septic system other than maybe moving the tank and if they do that they will get the permission. Wes adds, whatever the law tells him he has to do he will do it. A lot of detail was given by Sharon for the septic tanks, to avoid duplicate transcription the questions/answers outlined in her discussion are part of the document submitted to the Clerk. (Exhibit A). Chair repeats you need to be a little careful because you say move the septic and the septic is not moving, the tanks might move but the leach field is not they are different components. Sharon said she asked that question and even if he doesn’t move the leach field but he moves the tanks only he has to get a different permit. Chair said, I believe Wes has already stated he will take those steps if he needs to and Bill Doucette as the building inspector will be monitoring the situation. Sharon asks if the abutter gets any information about where the tanks are where they will be moved to, we have no septic system information. Chair I don’t think we should delve to far down in the septic thing because that is under the State purview. The ZBA is dealing with this because they need a variance to build something bigger than what they currently have. We’ve been informed in other cases the location of the tanks, not the septic field, is generally not an issue and Wes has stated if it is, he will do what he needs to do and if we do grant this motion, we could put a condition in that the proper steps are taken through DES. Sharon states there is no information on where the septic will move and as the only abutter, I should know that. Wes says first the town approves, then it goes to the State for an approval for construction, then it gets built and then the State comes back and does an approval for operation. 31<sup>st</sup> year in business we do 99% of our work is on water ways I don’t have issues with DES, I work with them all the time, if we thought we had to pick those tanks up and move them I have no problem communicating to DES and getting whatever permit is needed. Sharon asked if they need to get approval, they would have to come back to the ZBA? Wes says no, it’s a State permit. Chair that is the way it works this is not something we will be dealing with through this Board. George Lamprey, the person to ask to see that information is DES, not us. Sharon, and they don’t have any information dating back to 2012. George Lamprey, because it hasn’t happened yet. Roy Drukker states in 2012 they got approval for a septic because prior to there was no septic. Chair states those documents should be in the file and you can see Aimee to get that information. Sharon continues to read through her letter and asks if they could put another bedroom above the garage. Wes Hays, it’s about 7’6” tall in the center peak of that garage on the outside of the roof on the inside it’s probably 5’ high I don’t think it will have a loft bedroom there, they intend to use it for storage. Sharon refers to a 1-2 foot expansion this goes well beyond that. Chair states they discussed a number of sizes if you refer to the minutes you would see there were several sizes discussed. This is the proposal in front of us now.

Tim Nefores asks for the existing size to the proposed. Chair responds 205 sf currently, new proposal is 330 sf. Sharon asks about the house, Chair states that is old history we can only discuss the garage. (minutes from the hearing for the house can be accessed on the ZBA’s page online from August 9, 2021)

Chair states the new garage goes into the road set back he believes a bit more. Wes says it’s minimal, it was less than 2’ when they had the original proposal this is even less than that maybe

1'. George Lamprey asks to confirm the setback line from the road on the plan, line is confirmed. Alison Toates asks if the garage will be elevated? Wes says no it will be set down from the house based on the driveway access.

**Board starts their discussion:**

**Criteria 1 & 2** – Greg Hime talks about water quality and the character of the neighborhood. Looking at the pictures as they stand now, the lake is everyone's when a bigger garage is built it will block the view of the lake more than it does now. Changing the nature of the premises. Greg has concerns the size of the garage being requested based on the numbers he gave the Board at the last meeting relative to the size of a standard one car garage. George Lamprey, you are becoming closer to the lake. You are already out of compliance with that but now you are getting closer by 5-6 feet and that, to me is a big deal and he thinks based on the Ordinance that is generally the biggest concern is the setback distance from the lake. Chair, devils advocate other than sticking to the same size there is no real option here. George Lamprey, rebuild in kind and no expansion is an option. Alison Toates, one does not necessarily have to store water vehicles in a garage.

Mr. Drukker adds comments about esthetically pleasing look of the property and also mentions about storing items inside and secure. Mr. Drukker states he's not going to live life without being able to park a car in the garage. Security and concerns of items being stored outside was discussed at the June 13<sup>th</sup> hearing refer to those minutes for additional information. Alison Toates asks how does the spirit of the ordinance relate to protection of private property, many people don't have a garage she also mentions as Greg Hime indicated, the visibility to the lake will be impacted. Mr. Drukker adds the house will be a bit larger so the new garage might be a couple feet higher than what is there now it will look more esthetically pleasing. Chair, right the garage may look tiny, what's there now is in proportion. Wes Hayes states the house is going up at least 5' more than what it is.

**Criteria 3** – Chair states going back to the last 2 criteria the harm is the visibility to the lake and the encroachment of the building closer to the lake.

**Criteria 4** – Board did not see that as an impact other than possibly what it looks like from the lake.

**Criteria 5** – Chair thinks the property does have special conditions and the proposed use does seem reasonable the question is the size. George Lamprey agrees the house and garage may look odd but looks is our not our standard as for the view from the road he is not sure that is impacted because most of the view happens in the lawn area before you get to the garage. Greg Hime it's the height that is a concern. Chair to add the house is going on the same footprint there is a tiny increase.

Chair asks if anyone would like to make a motion. Tim Nefores the issues for him is they are getting closer to the road and closer to the lake and 65% increase when you look at it as a percentage, that's a big increase. People come to us with 5%-10% that we are debating this is a big number, 125sf added to a garage on the lake separate from the house. Mr. Drukker states he has a shed on the property that he would be willing to move back from the road if there is a concern with structures being too close. Chair asks if he plans to rebuild the shed? Mr. Drukker said he would like everything to look the same. Tim Nefores asks how big the shed is? Applicant responds 8x10. Tim Nefores asks if he would consider removing the shed as a tradeoff

for more space in the garage. Applicant said no that he puts all his lawn chairs and outdoor items in there. Chair states you may need to look at what you're doing with the shed it's possible you need a variance for that too if you move it. Greg Hime states he would like to make a motion.

**Motion: Greg Hime moves to deny the application for variance.** Chair states we have to be careful because if this motion fails then what? Greg Hime asks if he can ask a question of the applicant. George Lamprey states there has not been a second on the motion. Greg Hime asks the applicant if he would be willing to look at this further. Mr. Drukker says no, right now he has one foot clearance on each side any smaller he would not move forward with the project and just sell the house and buy something else, they don't want to do that because they love Center Harbor but ultimately, they would need to if the enlarged garage didn't get approved. He also wants everything to look the same and states they need to park a car inside the garage if they go away, they don't want to leave a vehicle parked outside. Chair adds the personal stuff we don't consider because whatever we decide is permanent. Alison Toates asked if they considered storing the canoe outside the garage and reducing the size of the garage so it just fits your car? Mr. Drukker states two years ago he was robbed and there were people living in his house they don't trust the area, nothing against Center Harbor he just doesn't want to leave any personal belongings outside plus I don't think it looks nice. Greg Hime, you bought this house as it was and now there are all these things that will make this property more non-conforming. Mr. Drukker, I feel like I'm being reasonable, trying to make this a full-time year-round home and not just a summer cottage. Greg Hime is trying to think of how to properly word the motion. George Lamprey, I just want to say to Greg that he could make that a motion to "grant" and urge everyone to vote no, your position will be clear. Greg Hime would like to take the recommendation and requests to change his motion. **Motion: Greg Hime motions to grant the variance requested.**

George Lamprey asks the Chair if procedurally if he thinks that's a cleaner way. Chair states he thinks it is but the question is if it passes is there any conditions that you might want to apply? Alison Toates asks for clarification regarding the significance of the change from deny to grant. Greg Hime, to Bernie's point, if we have deny and it doesn't pass now where are we? George Lamprey states the Chair made a good point about the conditions. Tim Nefores asks would there be any conditions they could discuss. George Lamprey, go back to the deny and we will deal with it. Greg Hime, this just shows the seriousness of the actions we need to take and goes back to his original motion. **Chair asks for a second on motion which is to "deny" the variance. George Lamprey seconds the motion.** George Lamprey asks if Chair wanted to chime in, Chair responds no. Board moves to vote. **Board votes 4 to 1 to deny the variance application. (In favor of denying the variance George Lamprey, Greg Hime, Tim Nefores and Alison Toates. Chair Bernie Volz opposed).** George Lamprey states the legislature has just passed a bill but I don't know when it takes effect, but I think it's safer to add that in a finding of fact to the decision. Board adds the following finding of facts:

1. The garage would encroach one (1) foot closer to the road and five (5) feet closer to the lake
2. The increase in square footage is approximately 62% (205 sf existing, 330 sf proposed)
3. This increase would make the non-conforming structure more non-conforming

**Chair states the applicant will receive a notice of decision and has 30 days to file an appeal.**

#### IV. OTHER

Chair asks the Clerk if she would like to provide an update. Clerk states she will be resigning that this will be her last ZBA meeting that August 4<sup>th</sup> is her last day as an employee of the town. Clerk is unsure of her replacement.

**Discussion regarding Boat Houses for Bill Doucette.** Board will review section 9.

**Meeting Length** – does the Board have any input on putting a time limit on meetings and changing the meeting time. Chair likes limiting time on hearings and continuing hearings to give the Board time to digest information. Board will think about it and perhaps discuss at next meeting. Chair states if they make this change it may require an update to their by-laws.

**V. ADJOURNMENT**

Motion to adjourn by Tim Nefores. Seconded by Greg Hime. All were in favor. Meeting adjourned at 8:49 p.m. Next meeting scheduled for August 8th at 7 p.m.

Submitted by Aimee Manfredi-Sanschagrin