

Appeals Board Meeting Minutes

April 20, 2023

Members present: Peter Leavitt, Patrick Hanna, Gemma Baldinelli, Maryjo Hanna, Jon Bartlett.

Attendees: James Estabrooks, Aaron Smith, Joshua Tuller, Nick Ryan, Thomas Lund, Cliff Thomas, Henry Huntley, CEO Patti McKenna, Administrative Assistant Kelly Willey.

Meeting Minutes: Kelly Willey

Public Hearing: Patrick Hanna made a motion to open the public hearing, motion was seconded by Gemma Baldinelli, all were in favor.

Aaron Smith spoke on behalf of the applicant, Chris Cronkhite. Chris Cronkhite is requesting a variance to the 75' stream setback to build 25' from the stream. This variance request pertains to 96 Quail Trail (tax map 3, lot 45-9) and 110 Quail Trail (tax map 3, lot 45-7). With the 75' setback rule, there is not ample space to build a structure that meets the provisions of the subdivision. Without being granted a variance, the house size would not offer a reasonable return. It was also noted that mobile homes are not allowed in the subdivision.

CEO McKenna read section 11.20.A of the zoning ordinance: "All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of Bonny Eagle Pond and seventy five (75) feet from the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland. However, the water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity such as piers, docks and retaining walls, nor to other functionally water-dependent uses." In this matter, the DEP has reduced the setback to 25', however she doesn't have the authority to waive the 75', and that is what is being asked for the appeals board to do.

Peter Leavitt advised the prior CEO thought he could issue a variance based on the DEP. CEO McKenna said this is incorrect. The appeals board can issue a variance if the applicant meets the hardship criteria as outlined in the applicant's email dated April 14, 2023. Peter Leavitt (speaking for himself) thought the CEO could adapt to the DEP standards if the applicant received the tier 1 waiver from DEP.

Abutter asked where the stream was; Patrick Hanna advised it's not rushing water on the property, more of a seasonal runoff.

Abutter asked what the size of the lots are; Aaron Smith said each lot is approximately 40,000sf, and would likely be building a 28x36 home with an attached 20x24 garage.

Patrick Hanna asked if a perk test had been done; Aaron Smith advised there has not been a perk test yet.

Maryjo Hanna asked what the risk to getting closer than the 75' was; Aaron Smith advised there is no real risk, will still have the same structure and the same foundation. He has no concerns with the artery of water. Maryjo Hanna also asked if there would be a sump pump; Aaron Smith said there would be. They will have Sebago Technics or BH2M set the pins.

CEO McKenna asked the board that if they were considering approving the variance request that maybe they could consider a variance on the front setback.

An abutter who owns the property between the two properties in question advised he has never had any issue with water in the basement.

Peter Leavitt asked if any of the abutters had concerns or if they wished to speak; no abutters wanted to speak.

Peter Leavitt discussed with the other board members that the applicant did receive a tier 1 waiver which allows the applicant to be within 25' of the wetlands. The board needs to decide if the applicant meets the four hardships, and consider whether to consider a variance on the front setback.

Peter Leavitt believes maybe they should reduce the front setbacks; Patrick Hanna disagrees, would like to see the houses to be built to be in line with the other houses in the neighborhood to keep consistency.

Maryjo Hanna advised they will have to find out what's underneath; Aaron Smith said depending on what they find they may have to do frost walls vs a full foundation. The abutter between the two properties in question reminded the board that he has a full basement and has never had water in his basement. Maryjo Hanna also asked if the slope will have any effect; Aaron Smith said he doesn't want to be closer than necessary – needs to be approximately 63' away from the wetland. If the variance is approved it will give more building options. Patrick Hanna added that the grade shouldn't effect it and mentioned that lot 7 has a culvert.

Gemma Baldinelli suggested maybe give a 50' variance instead of 75', which still allows room to build but not as close as 25'.

Peter Leavitt would like to accommodate the builder, if possible. He read the hardship criteria and it was voted on as follows:

1. The land in question cannot yield a reasonable return unless a variance is granted.

VOTE: 5 yes / 0 no

2. The need for the variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.

VOTE: 5 yes / 0 no

3. The granting of the variance will not alter the essential character of the locality.

VOTE: 3 yes / 2 no

4. The hardship is not the result of actions taken by the applicant or a prior owner.

VOTE: 5 yes / 0 no

The board agreed to grant a 50' setback from the stream as opposed to the 25' waiver authorized by the DEP.

At this time the public hearing portion of the meeting was closed.

Approval of minutes: Minutes for the March 30, 2023, meeting were approved with a vote of 5-0.

Approval of bills: Bill from Portland Press Herald for the public hearing notice in the amount of \$70.40 was approved with a vote of 5-0.

Election of Officers: Approved with a vote of 5-0


Chairman: Peter Leavitt

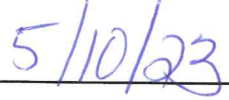
Vice Chairman: Patrick Hanna

Secretary: Maryjo Hanna

There was discussion of the next appeals board meeting, however a date was unable to be set.

Peter Leavitt made a motion to adjourn the meeting, Maryjo Hanna seconded the motion, all were in favor. The meeting was adjourned at 7:42pm.


Chairman


Date