



TOWN OF
BROOKLINE, NEW HAMPSHIRE
BOARD OF ADJUSTMENT

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BOARD OF ADJUSTMENT
MINUTES

Wednesday, October 8, 2008

Present:

Peter Cook, Chair
George Foley, Vice-Chair
Marcia Farwell, Clerk
Charlotte Pogue, Alternate
Webb Scales, Alternate

Absent:

David Beauchamp, Member & John Ganos, Member.

Case 347, 21 Rocky Pond Road, Lot F-104-35

Frank Traut was present for this meeting.

Peter read the hearing notice “This is an application for an Area Variance to allow the construction of an addition with a porch within the 50 foot open space development setback. Brookline Zoning and Land Use Ordinance, Articles: 1505.00, section 1505.03. Applicant Frank and Helena Traut are requesting an Area Variance. The property is located at 21 Rocky Pond Road, in the Residential /Agricultural district, Lot F-104-35.

Peter asked Kristen if the fees were paid and the abutters notified. **Kristen** said yes.

Frank said a house without a great room isn’t complete. He asked his architect where the best place for the room would be and this is what he came up with. Because of the pool and the leach field this is the only logical place to put it. **Marcia** asked how far into the set back it will be.

George said the plan states the room addition will be 31ft from the property line and the attached deck will be 25 feet from the property line. **Peter** said there is a 50 foot setback because it is an open space lot. This addition will cut into half of the setback. **Marcia** said if it was a regular subdivision it would only be 15 feet. **Charlotte** said it is a 1.261 acre lot. **Marcia** asked Frank if he could see the homes on Pope Road from his house. **Frank** said only when the leaves are gone and they are pretty far away.

The abutting lot F-66 is a 2.66 acres lot and could only have one house on it. Lot F-106 is owned by the Town of Brookline and it almost completely surrounds Franks lot F-104-35.

Peter read through the abutter list and noticed the owner of lot F-104-36 wasn’t directly notified of this hearing. Owner of lot F-104-35 is Jason and Erica Crea, 23 Rocky Pond Road, Brookline.

Frank said he had spoken with them they did not have an issue with this request. **Peter** said they

could make it a condition that they are notified and if there is no dispute within 14 days the Variance is granted.

Peter said they should go through the application:

1. The proposed use would not diminish surrounding property values because:

Applicant answer: It will not produce any change in the character of the neighborhood.

2. Granting the variance would not be contrary to the public interest because:

Applicant answer: This is a very private lot, does not set a precedent

3. Denial of the variance would result in unnecessary hardship to the owner because:

a. the zoning restriction as applied to the property interferes with the reasonable use of the property, Considering the unique setting of the property in its environment such that:

Applicant answer: The shape of the lot, the location of the septic system, well, and propane tank.

Webb said the special condition of this lot is that it abuts almost all non-developed lots.

Peter said he thought the pool and the leach field locations make them a special condition.

George said the location of the pool and the leach field was self created and not really a special condition.

b. that no fair and substantial relationship exists between the general purpose of the zoning ordinance and the specific restriction on the property because:

Applicant answer: The only other option would decrease the back yard substantially thus limiting the scope of any outdoor activities for children.

Frank said the front yard slopes down to a drop off. He liked the lot because of the privacy and worked with the architect and the placement of the great room enhances the flow of the house.

Marcia said it sound s like he has done extensive research and this is the only viable option.

4. Granting the variance would do substantial justice because:

Applicant Answer: The requested variance is not substantial.

5. The use is not contrary to the spirit of the ordinance because:

Applicant Answer: It is my understanding that it is not to the detriment of the health, safety or welfare of the community.

Peter said with this lot being surrounded by almost all vacant lots it doesn't seem to violate the spirit of the ordinance.

Marcia moved to grant the area variance to build the addition with in the 50 foot open space development setback on lot F-104-35.

Peter asked Frank if the plan with the great room location and how far in encroaches into the set back is accurate. **Frank** said yes it is.

Marcia amended motion:

Marcia moved to grant the area variance to build the addition within the 50 foot open space development as reflected on the plan and contingent upon. Seconded by Peter.

Peter said the motion should reflect that granting this area variance is contingent on not hearing any objections from the abutter that was not notified. Jason and Erica Crea. Lot F-104-36. The decision notice should not be signed until the 14 days are up.

ZBA Minutes

10/08/2008

Marcia amended motion:

Marcia moved to grant the area variance to build the addition within the 50 foot open space development as reflected on the plan and granting this is contingent upon hearing no objection from the abutter that was not notified (Lot F-104-36, Crea, Jason and Erica) within 14 days of notification . Seconded by Peter. Vote yes 5-0.

Zoning Ordinance Discussion

Kristen reminded the board that the Planning board meeting will be discussing possible adjustments to the zoning ordinance and the Zoning Board will have a joint meeting to discuss proposals at the October 16th 2008 Planning Board Meeting.

The Board discussed the ordinance section 2000 to be prepared for the discussion with the Planning Board.

The minutes from the previous meeting were signed.

George motioned to adjourn the meeting at 9:35. Seconded by. Vote yes 4-0.

Minutes submitted by Kristen Austin.

_____ **Peter Cook, Chair**

_____ **George Foley, Vice-Chair**

_____ **Marcia Farwell, Member**

_____ **Webb Scales, Alternate**

_____ **Charlotte Pogue, Alternate**