

TOWN OF CENTER HARBOR
ZONING BOARD OF ADJUSTMENT
Meeting Minutes

Monday, July 10, 2023
7 p.m.

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

Public attendance: Wesley Hays (NorthStar Contractors), Maureen Criasia (Conservation Commission), Garrett & Susan Wein, Walter, Tiffany and Irene Spaulding, George, Bruce Bond; Karin Kavagozian; James Hayden, Claire Wilkens; Wayne Gray; Barbara Beal; Larry Tarica; Kyle Barnard; Anne and Eric Strapp; Michael Latulippe, Sue Wood; Mary Ann and Chris Hogan; Mark Fetting; Georgie Smith, Chris Hogan; Mariamne Gurney, David Driscoll; Beverly Lafoley; Matt Emmons and P. Beal

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

Chair Bernie Volz asked board members to introduce themselves.

Chair Volz elects to move past item II, the approval of the June 12, 2023 minutes, until after the hearings.

The voting members will change and be announced for each hearing.

Continued hearing 2023-0410.A: Variance - Tax Map: 104 Lot: 016 Owner: Garrett & Susan Wein - 10 Mayo Shores Lane

Voting Members for the continuation of a Variance case: 2023-0410.A-Garrett & Susan Wein-Tax Map 104 Lot 016-10 Mayo Shores Lane: Bernard Volz, George Lamprey, Stephany Marchut Lavallee, Karen Ponton and Greg Hime.

Brief overview of the case because it is a continuation.

Chair Volz overview regarding a variance that was requested from Zoning Ordinances, Article 5:3:1 and 5:13.2, on May 8th and was continued for a site walk for May 15. This was regarding the submitted map which showed wetlands and to get a decision from the planning Board if they would accept the wetlands delineation map. The Planning Board meeting concluded that the wetlands do apply and they would accept the map. On June 12, the hearing was continued again as the applicants requested so they could obtain an updated map. The town did not

receive any maps to date so most likely the hearing will be continued again. I also sent a letter to Wes Hayes and Garrett Wein regarding the need of a Special Exception per Section 10:7, Table 2, item g instead of a variance. This is for building within a protective buffer.

Wesley Hays, who represents the Weins, asked to continue until next month so he could have his wetland expert be present. The wetland expert completely remapped with detail the wetlands on the property. The expert and Wes felt it was important for him to be present to explain the map and be able to answer any questions.

Motion to continue meeting: Karen Ponton motion to continue the hearing to August 14, 2023 at 7.00 PM. Seconded by George Lamprey. The vote was unanimous

Discussion between Bernie and Wes to send the maps electronically to the Planning Zoning Department (as well as providing full sized paper copies).

Special Exception hearing 2023-0622.A-Allison G. Cargile & Christopher C. Johnson-Tax Map 101 Lot 021-6 West Bay Circle
A Special Exception per article 10 Section 10.7 table 2 item g.

Voting Members for case: Bernard Volz, Jean Meloney; George Lamprey; Karen Ponton and Stephany Marchut Lavallee.

Chair Volz has already had some action prior to this hearing. This Special Exception requires written comments and/or recommendations from the Conservation Commission. Bernie Volz sent a Letter requesting a written comments/recommendation on 6/30, as per 10:7 of the Ordinance. The Conservation Commission did meet on Friday July 7th and have provided their comments/recommendations. Also, Bernie Volz sent a letter to the Planning Board regarding the Delineation Map to be approved by the Planning Board but have not heard back yet. This is accordance with 10:4:2:4 of the Zoning Ordinance.

Helen Altavesta – Stated she had received from Horizon Engineering by hand delivery on June 22nd a Special Exception application for Article 10 Section 10.7 table 2 and sent out certified mail for all abutters and Posted on Web-site.

James Hayden representing Horizons engineering and property owner provided the Existing Condition Plan and Zoning Application Plan on Eisel for discussion. He wants to discuss the application for Map 101 Lot 021 6 West Bay Circle. The existing house now sits within the 75 ft lake setbacks and the septic system also sits within the non-designated wetlands setbacks. The house is very close to the lake. The application is proposing to remove the existing house and construct a new house further from the 75 feet lake setbacks. The house will be closer to the previous disturbed wetlands but it will keep the house away from the lake. All the lots along this land were built in the 1960s and have disturbed wetlands. The applicants recognized the land is sensitive and the key to this project is to build a home in this dense area but keep it away from the Lake as much as possible. The Lake is the most important part of the parcel.

Chair Volz - Asked the agent to review the Special Exception criteria as specified in article 10 section 10:7:3 as this is the criteria as to how the Board will determine if the Special Exception conditions have been met.

James Hayden – Went over why the applicant should be granted a Special Exception to permit the construction within the non-designated wetlands

1. **To prevent the degradation of surface and ground water.** The existing home lies 33.1 feet from the shoreline and the proposal moves it away from that shore line to 84.1 feet. It is outside the 75-foot setback. By doing this it will prevent the designation of surface water by moving this house back and relandscaping the area. It will greatly improve the storm water not only for this property but the surrounding properties
2. **This supports water resources protection** as the Chair said these resources for this lot are not on the Center Harbor Natural Resource list. They are not listed as wetlands but non designated wetlands. This proposal will protect the lake which is the main water resource.
3. **Talks about floodwater and retention of sediment.** This proposal will reduce the coverage of impervious surfaces from 22.3 % to 19.8%. By doing so this it will allow the rain water to get sucked into the ground before it reaches the lake.
4. **Discusses to prevent the destruction of the habitat for rare or endangered flora and fauna.** NHM permit was sought with the shoreline application and not only nothing was found on this lot but nothing was found on the surrounding area.
5. **To prevent the development of structures and land use in areas adjacent to surface that could contribute to the degradation of water quality.** This proposal will replace the existing home 33.1 feet from the shoreline with the new home 84.1 feet from the shoreline.
6. **To preserve and enhance the aesthetic and recreational values associated with surface water and wetlands.** Set back further from the lake will enhance the lake because it will provide more greenspace along the lake.
7. **To protect fish and wildlife habitat cited in RSA 483-A:1:** By pulling the house away from the lake it will protect the wildlife habitat and by not having the impervious surfaces to close to the lake.
8. **Prevent unnecessary or expenditure of municipal funds** -This project will not impact any wetland. It will only impact the protective buffers. No municipal funds will be used. The owners would have been able to replace the existing house will out seeking the variance from the Town but they wanted to consider the lake.

Chair Volz asked if anyone wanted to speak in Favor of this project.

No response

Chair Volz asked if anyone wanted to speak in opposition of the project.

Beverly Lafoley Direct Abutter - 43 West Bay Circle She had questions but they were for the variance. Her comment would be brought up again under the variance hearing on this property

Chair Volz showed the letter of the recommendation of the Conservation Commission.
Proposed the following condition:

Due to the existence and location of multiple non-designated wetlands on the property, and due to the necessity of wetland buffer encroachment in order to conduct & complete project related activities, an engineered storm water management plan as defined in Zoning Ordinance 10:3:11 should be developed and implemented as a condition of approval. Commissioners expressed concerns pertaining to effective redistribution and infiltration of stormwater in the face of impervious surfaces created by development within the wetlands' buffers.

And they also complimented the applicants of the quality of the plan.

Maureen Criasia, Chairman Center Harbor Conservation Commission, has identified all these wetland as Non-Designated Wetlands.

Chair Volz, are there any Questions from the Board regarding the application for Special Exception?

Q – Gregory Hime, what is the Driveway going to be made of?

A – James Hayden, gravel. Just to be aware the state of NH considers gravel and pavement the same. It is going to be gravel.

Q – Gregory Hime, how many trees are going to be take down during the construction?

A – James Hayden, He is unaware of how many will be taken down but when he goes for the shoreline permit, they have regulations on how many can be taken down. They will only take down what is regulated and needed.

Q – Karen Ponton, would they be taking down trees by the driveway because it looks like the driveway is staying in the same area?

A – James Hayden, proposed driveway is within the existing driveway to eliminate disturbing as much as possible.

Q – Karen Ponton, regarding the existing house, is it on slab or have a crawl space?

A – James Hayden, I believe it's a frost wall no foundation.

Q – Bernie Volz, is the new House also on slab?

A – James Hayden, yes, the only grading will be septic system.

Several questions followed asking about the square footage of new home and original house that is being teared down.

James Hayden the footprint of the house is 1700 square feet.

Jean Meloney recapped what they went over:

- 1700 Footprint and then going up from there.
- Driveway - Enhanced gravel less footage.
- Maintaining swales - very flat, leave what is there.
- New foundation will be Frost wall.
- Roof overhang with crushed stone.
- Frost wall typical depth.

The Zoning Board, in granting the Special Exception. the board must determine that each of the criteria in 10:7 was met and if so can decide to put conditions if needed.

Motion by Karen Ponton: Motion to Grant the special exception as requested for TML 101-021 with the condition that an engineered storm water management plan as defined in section 10:3:11 to be developed and implemented.

The board considered the 4 criteria for the Special Exception (as per 10:7) as per the application and found they were satisfactorily and appropriately met.

Seconded by George Lamprey. The vote was unanimous.

Variance 2023-0622.B1 Allison G. Cargile & Christopher C. Johnson-Tax Map 101 Lot 021-6 West Bay Circle for a new landscape wall.

The applicant is requesting a variance for article 5 section 5.3.1 to construct a new landscape wall with the sideline setback.

Voting Members for case: Bernard Volz, Jean Meloney; George Lamprey; Karen Ponton and Stephany Marchut Lavallee.

Chair Volz asked if anyone wanted to speak in Favor of this project.

No Response

Chair Volz asked if anyone wanted to speak in opposition of the project

Beverly Lafoley Direct Abutter - 43 West Bay Circle. Not actually opposed to the project, just the Wall. What is the purpose of it? The issue I have is the swale, and why the landscaping couldn't be done naturally as it would serve the same purpose.

Questions asked if all criteria were met to grant this Variance. All 5 Criteria's must be met.
Discussion if it caused the applicant unnecessary Hardship per RSA 674:33.

Recap of Discussion on the landscaping wall.

The wall is 12 feet 2 inches tall, 2 feet 2 inches deep and 4½ feet across.

Placement of the wall is 8 ½ feet from the setback line.

It is made of Concrete and Stone Façade on both sides.

And the purpose is to provide privacy.

Motion by Karen Ponton: Motion to Deny requested variance from 5:3:1 for ZBA case 2023-0622.B, TML 101-021, Allison Craigle & Christopher Johnson, 6 West Bay Circle - new landscape wall, for the following facts.

- The potential change to the neighborhood's character
- The lack of utility of the structure
- The increase in impervious surfaces without significant benefit to the applicant
- Possible disruption of the natural vegetation
- Denial doesn't prevent reasonable use of the property
- Potentially inhibit safety as would result in narrow corridor on the north side

Seconded by Jean Meloney. The vote was unanimous

Variance 2023-0622.B Allison G. Cargile & Christopher C. Johnson-Tax Map 101 Lot 021-6 West Bay Circle- A variances is requested from Zoning Ordinance Article 10:8:1, Table 3, for construction of a new leach field within 75' of a non-designated wetland.

Voting Members for case: Bernard Volz, Jean Meloney; George Lamprey; Karen Ponton and Stephany Marchut Lavallee.

James Hayden presented his drawing on the septic system and presented the facts to support this request. He explained that it is a new Clean Solution System The existing system is over 80 years old and replacing it with a new system with a yearly maintenance agreement. There is no place on the lot to place this new system where it would not need a variance.

Discussion on the system, grading, locations, and general concerns.

The Board reviewed the criteria to see if they were met to support the variance and a motion was presented.

Karen Ponton Motion to Grant the requested Variance for TML-102-021 for the setback from the wetland buffer for the septic system.

- Replacing the septic is in the public interest
- New location is further from the lake front
- And there's no location that would not require a wetland buffer variance

Seconded by George Lamprey. The vote was unanimous.

Variance 2023-0622.C-David Driscoll Design Owner: Mariamne Gurney Tax Map 203 Lot 004-55 Mosswood Road

Variance is requested from Zoning Ordinance Article 5:3:1, Structure Setbacks, from the centerline of a private way.

Voting Members for case: Bernard Volz, Jean Meloney, Karen Ponton, Stephany Marchut Lavallee, Gregory Hime. (George Lamprey recused himself from this case.)

David Driscoll of David Driscoll Designs who is representing the owner Mariamne Gurney displayed his Plan and presented his reasons for requesting a variance. This project is the most feasible place to put the dwelling. They will improve public safety by widening the private way. Essentially, we are faced with a situation and we wanted to maintain a good distance from the lake and also maintain on site drainage and maintain the total waterfront buffer. We have some steep topography and the challenge is the rectilinear and curved road. If we put the structure down where we prefer, we end up wanting to maintain a high grade and use the structure as a dam keeping the sheet flow from above and allow it to percolate in the ground. Moving it down (closer to the lake) we could accomplish this but it would require more walls, more fill and more impact on the lower part of the property. This will be a full-time property. Maggie is committed to the ecology and lot. There was a clearing of trees but we reviewed the RSA Intent to Cut and used the inclusion RSA79:1.11B before cutting which was applicable and by reviewing the DES 140161A we were not required to get a permit. The applicant also had an arborists review the site and explain the life span of the trees and how most of these had reached their lifespan and were dead. In the end we will be landscaping and will plant new trees. We will prepare an engineer stormwater plan once we have the variance but didn't want to incur the cost until it was approved.

Chair Volz, are there any Questions from the Board regarding the application

Q – Chair Volz, is that a driveway?

A – David Driscoll, yes.

Q – Chair Volz, how many properties are past this lot?

A – David Driscoll, one more house past this lot.

Q –Greg Hime, is Mosswood a private way?

A – David Driscoll, yes.

Q – Chair Volz, how big is the road for emergency vehicles - are there any other turnarounds now?

A - David Driscoll, no not what they could find but with the proposal they would be able to turnaround in Maggie's driveway.

Greg Hime brought up that when these lots were originally subdivided that all homeowners needed to sign a release of liability filed in Belnap County Registry of Deeds releasing the town of Center Harbor and town of Moultonborough to protect the town if they couldn't get down these properties. Jeff Haines, Road agent had to approve the turn around and that it is maintained.

Q – Greg Hime, is the driveway going to be a part of the turn around?

A – David Driscoll, yes.

Chair Volz asked if anyone wanted to speak in Favor of this project.

No response

Chair Volz asked if anyone wanted to speak in opposition of this project.

Larry Terrico 47 Mosswood lot #5 and Lot # 8 of High Haith Road

Application error it says 25 Ft not 50 Ft. Setback from the middle of the road.

Application says 3 parties use the road but it is 4 parties.

Have not seen a Shoreline permits.

Large clearcut of trees not sure if needed permit.

Looks like the driveway is two.

Landscaping plan.

Does not see the unnecessary Hardship down the hill.

Requested a site visit.

Bernie Volz - We are only here to rule on the variance request.

Mark Fetting 88 Owls Head Road

Would like to see something more sensible. Building a 5000 square feet house to seek a variance to get closer to this narrow road that is used by 4 families, delivery vehicles and emergency vehicles.

Matt Emmons, Holderness Builder by trade, anytime you move anything away from the lake makes more sense. We are asking for a variance of 25 ft to stay off the water. Also, no other permits were taken out until we know what we can build.

Chair Volz mentioned that abutting was a 9.2-acre lot and at some point, in the future it could be subdivided. There are reasons we have the right of way setback of 50 Ft. The zoning ordinance 50 FT from the middle line.

Further discussing how much of the house is in the setback for the road.

Bernie Volz mentioned a site visit is something that the board should do.

Jean Meloney Motion continuance of Variance for ZBA case 2023-0622.C, TML 203-004, Mariamne Gurney, 55 Mosswood Road and have a scheduled site visit on Monday July 31st at 10:00

Seconded by Chair Bernie Volz. The vote was unanimous.

Chair Volz ask if this works for the applicant.

Maggie Gurney responded she would be there.

Chair Volz also mentioned it would be helpful to mark or stake out where the boundary lines and where the structure will be.

Eric Strapp, High Lane Road, I just wanted to point out that there is not a standard road on this island. Mosswood was mainly a driveway but 911 wanted to have every building have a number. It doesn't make them a highway.

Neighbor Larry Terrico offered to let the Zoning Board park on his properties by Mosswood Road.

Maggie Gurney stated that she bought the home in 2020, with no kitchen. She spoke with her aunt, the abutter across and she has no objection. The only request she had was of the front foliage to make sure the landscaping blended with the house and surrounding properties. Of course, 110%. The other reason for the driveway below is to make sure her house is handicapped accessible. If the Board needs to go into the cottages or have any questions please call anytime.

The public hearing ended.

MINUTES:

Approval of the June 12, 2023 meeting

Motion: Bernie Volz, motions to approve the minutes with a few amendments.

Seconded by Stephanie Marchut Lavallee. All were in favor.

Maureen Criasia, chair of the Conservation Commission, wanted to talk about Section 10 with the board. The board discussed when would be a good time. Needed to wait and see what was on next month's Agenda.

Meeting adjourned at 10:10 p.m.

Next schedule meeting a site visit on July 31st at 10:00 a.m. for 55 Mosswood Road site visit and then monthly meeting scheduled for August 14 at 7 p.m.

Submitted by Helen Altavesta.