

**Town of Boscawen NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex**

**FINAL MEETING MINUTES
Tuesday, December 27, 2022 at 7:00 PM**

Members Present: Chairman Ed Cherian, Dr. Scott Maltzie, Tracy Jo Bartlett, Roger Sanborn, Tama Tillman

Absent: none.

Others present: Kellee Jo Easler, Planning and Community Development Director, Kearsten O'Brien, Planning & Community Development Deputy Director, Kara Gallagher, Planning & Community Development Assistant, and Rose Fife, Recording Secretary.

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- Call to Order by Chair @ 7 pm
 - Roll Call by Recording Secretary
 - Open the Public Meeting at 7:07 pm
 - Approval of draft Minutes – A **motion** to approve the Minutes as amendment was made by Tillman, seconded by Maltzie and passed by a unanimous vote.
- Cherian asked if Tillman is now a regular member. Easler will do a new appointment letter Thursday. Cherian appointed Tillman as a full voting member this evening.

New Business

A **Variance** for relief from **Conditions granted on 11/27/2001 regarding the removal of an existing garage** in a **COM zone**, submitted and owned by **Christopher and Robyn Blanchard Trust 2021, 160 North Main Street, Boscawen NH, 03303**, property address of **160 North Main Street, Boscawen NH 03303 on Map 183D, Lot 15 & Map 183D, Lot 15, Sublot 1** located in a **COM zone**.

Testified: Chris Blanchard, 160 N Main Street. He would like to change the wording of the 2001 Zoning Board of Adjustment decision. This approval was granted to his grandfather to allow a property line to go between 2 existing garages. Back then the property was zoned R1 so the setbacks were different than they are now. In 2006 the property was subdivided and he purchased the new lot 15-1 and built a new house there in 2006. That subdivision approval, with the line between the garages, takes priority over the variance 5 years earlier as well as zoning changes that have been made since then. It is no longer commercial. The original decision stipulates that family owns both properties. He believes this to be unrealistic. It limits their ability to sell the lots.

Cherian noted the property had been R1 zone, with 20 foot setbacks. It is now a commercial zone so the setbacks are smaller. Easler explained that they are asking for relief from the setbacks. Courts frown upon placing a stipulation on approvals that require family members only. Cherian asked if they are asking to remove the stipulation. Easler acknowledge that was the only change. Cherian asked how to proceed. Is this a new variance?

Tillman asked if they can amend or delete the variance. Cherian asked how they would move forward. Easler suggested removing the condition.

Bartlett asked if the little garage stays with his grandfather's house.

After much discussion, the Board decided to amend the previous decision.

Abutters or public in favor? None seen or heard.

Abutters in opposition? None seen or heard.

Amend the decision to remove the condition that they need to demolish the existing garage as a condition of sale to an unrelated party. And continue to allow existing buildings setbacks consistent to ZBA decision granted on 11.27.01 on lots 15 and 15-1 as shown on the subdivision plan 17901.

Chair closed the public hearing at 7:19 pm.

Variance criteria discussion:

1. Granting the variance would not be contrary to the public interest because the property has been that way for over 20 years. There are no abutters here objecting and they were notified.
2. The Spirit of the Ordinance would be observed because he is just asking for clarification for current zoning purposes. The restrictions put on in 2001 to restrict sale to family is unreasonable.
3. Granting the variance would do substantial justice because everyone else that has been granted a variance can sell their properties as they aren't restricted to family members only.
4. The values of the surrounding properties would not be diminished as the property owner owns two properties. The variance was granted in 2001 variance. Separation and setbacks predate zoning. It was a conforming lot prior to zoning. There is no reason to believe that the surrounding properties would be harmed. Granting is consistent with other variances. The nature of the properties and where the garages are situated is not impacting anyone.
5. It is an unnecessary hardship because denial would result in a continuation of an unnecessary hardship that should not have existed. There is a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property owner because it has been there for a long period of time. There is no adverse effect. The proposed use is reasonable as stated above.

A **motion** that criteria #1 is met was made by Tillman, seconded by Cherian and passed by a unanimous vote.

A **motion** that criteria #2 is met was made by Cherian, seconded by Bartlett and passed by a unanimous vote.

A **motion** that criteria #3 is met was made by Tillman, seconded by Bartlett and passed by a unanimous vote.

A **motion** that criteria #4 is met was made by Cherian, seconded by Bartlett and passed by a unanimous vote.

A **motion** that criteria #5 is met was made by Dr. Maltzie, seconded by Tillman and passed by a unanimous vote.

A **motion** to amend the decision to remove the condition that they need to demolish the existing garage as a condition of sale to an unrelated party, and continue to allow existing buildings setbacks consistent to the Zoning Board of Adjustment's decision granted on 11.27.01 on lots 15 and 15-1 as shown on the subdivision plan 17901 was made by Dr. Maltzie, seconded by Tillman and passed by a unanimous vote.

Other Business:

Easler wanted to remind the Board to put a size stipulation when granting an ADU. Much discussion took place regarding ADU sizes and conditions set in notice of decisions. The Board discussed whether an ADU needs a basement or not.

The Board discussed the ADU that was granted at their previous meeting for 154 North Main Street. The relief granted at the previous meeting was for up to 750 square feet. The owner wants to build 1200 s.f. The consensus of the Board is that what the property owner is building is not what was approved. The Chair asked for the Code Enforcement officer's determination letter. O'Brien explained that the gun shop area is getting renovated. Then the basement is becoming a walkout basement that is connecting to the existing basement, which will have a stair way/egress. Chair Cherian suggested the Code Enforcement officer call him.

Chair Cherian wanted to make sure the Tax Collection office gets the information regarding the variance they approved for 160 North Main Street this evening so they can adjust assessing record.

A motion to adjourn at 7:47 pm was made by Tillman, seconded by Sanborn and passed by a unanimous vote.

Next Meeting

January 24, 2023

Respectfully submitted,

Rose Fife, Recording Secretary