

GOFFSTOWN ZONING BOARD OF ADJUSTMENT
MINUTES TO MEETING OF JANUARY 2, 2204

In attendance were Chair Len Stuart, Vice Chair Denise Langley, Alan Yeaton, Gail Labrecque—Member and Recording Secretary, and Jack Shephard—Zoning Officer.

Len Stuart called the meeting to order at 7 pm. He led the Board and audience in the Pledge of Allegiance. He explained the procedures the Board would follow for the hearing and the deliberations. He explained that, for any motion to pass, it needs to have an affirmative vote of at least three members. An applicant can request a continuance if there is not a full 5-member board to act on an application. If an applicant is aggrieved by a decision made by the ZBA tonight, they have the right to appeal to the Superior Court but must first request a rehearing before this Board to preserve your right to appeal. He requested everyone to silence their cell phones, and he asked the Board to introduce themselves.

APPROVAL OF MINUTES

Denise Langley made a motion to approve the minutes to the ZBA meeting of December 5, 2023. Alan Yeaton seconded the motion. VOTE: 3-0-1. Len Stuart abstained. Motion carries.

PUBLIC HEARINGS

O'Leary Family Rev. Trust, (Marla L. & Leslie F. O'Leary), Applicants/Owners, is seeking a Variance to add a deck expansion to connect the existing deck located on the back of the single-family home to the existing landing/entryway located on the front side of the home. A Variance is required as the deck is located 23 ft. from the defined surface water whereas a 100 ft. setback is required per Section 13.3.3.5 of the Goffstown Zoning Ordinance. This deck expansion will not encroach any closer to the defined surface water than the existing deck is currently located, but whereas the deck will be expanded within the 100 ft. Wetland Surface Water Conservation District setback, a Variance is required. The property is located at 103 Danis Park Road, Map 25, Lot 11), Zoned: Residential-2 & Wetlands Surface Water Conservation Overlay District.

Denise Langley made a motion to find the application has no regional impact. Alan Yeaton seconded the motion. VOTE: 4-0-0. All in favor. Motion carries.

Leslie O'Leary said stairs were never attached to the outside of the house and they needed it for safety's sake.

Gail Labrecque said she has no questions because she heard the applicant's presentation to the Conservation Commission.

Denise Langley said it's a straightforward project.

Alan Yeaton said it's on the side of the house that has the most land. The chimney is in the way, so it has to stick out a little further. The applicant is looking for 8 ft, and he has no problem with it. It gives them a direct means of egress.

Denise Langley said it's a safety issue.

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Len Stuart opened the hearing to the public. There was no public comment, and the public hearing was closed. The Board entered deliberations.

Denise Langley made a motion to approve the variance request from Section 13.3.3.5 of the Goffstown Zoning Ordinance to add a deck expansion to connect the existing deck located on the back of the single-family home to the existing landing/entryway located on the front side of the home as requested finding as follows:

- 1. The proposed deck will not encroach any closer to the defined surface water than the existing deck.**
- 2. That the proposed will not be contrary to the public interest because it's a minimal space off the side of the property that has more land and it's not going toward the water.**
- 3. The spirit of the ordinance is observed for the same reason.**
- 4. Substantial justice would be done because it is a safety issue, as they only have one exit currently.**
- 5. The value of the surrounding properties will not be diminished because the property will be improved, and it won't interfere with surrounding properties.**

Gail Labrecque seconded the motion. VOTE: 4-0-0. All in favor. Motion carries.

Time Extension Request: The following application was approved by the ZBA on December 7, 2021. The applicant is required to submit a site plan to the Planning Board and needs more time to prepare the site plan and is therefore requesting a time extension on the Variance approvals that expired on December 7, 2023, to allow for more time to go before the Planning Board for site plan approval. The request for the time extension was received in a timely manner prior to the expiration date. The application is as follows: Brian Nawoj, Owner/Applicant is seeking a Variance to exceed the maximum density allowed to raze the existing detached barn and construct an additional two dwelling units on the parcel that already has an existing five-unit multi-family building. The existing lot size totals 0.62 acres (26,950 sq. ft.), whereas the minimum required lot size for a total of seven dwelling units is 2.33 acres (101,640 sq. ft.). This concerns Section 4.3, Table of Dimensional Regulations footnote [7], of the Goffstown Zoning Ordinance. The applicant is also seeking a Variance to construct the additional two dwelling units (a detached duplex), 20 ft from the rear property line whereas 30 ft is required (the existing former school bus garage would be razed). The property is located at 10 East Union Street, (Map 34, Lot 18) Zoned: Residential-1.

Gail Labrecque asked if the applicant is asking for another variance in addition to what he has.

Len Stuart said it's what was approved in the original application.

Alan Yeaton said the garage is now gone and the site has been cleaned up. He's ready to build but he can't get a permit.

Gail Labrecque said the way it's written doesn't reflect it was an extension on a previous variance. She wanted to clarify for the record because it states the applicant is "seeking a variance."

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Gail Labrecque made a motion to find the application has no regional impact. Denise Langley seconded the motion. VOTE: 4-0-0. All in favor. Motion carries.

Brian Nawoj said he started the design work, and everything took longer than anticipated. Then, when it's multi-family. He has hired Meridian Land Services. They did the survey last week. They couldn't come out until the end of December. He didn't want to have to go through the whole variance application. They will meet the tomorrow's deadline and the site plan will be ready for the Planning Board meeting of January 25th. He didn't realize he needed Planning approval.

Denise Langley asked if what they are doing is exactly what was presented to the ZBA in 2021.

Brian Nawoj said it's exactly the same. Nothing has changed.

Len Stuart opened the hearing to the public. There was no public comment, and the public hearing was closed. The Board entered deliberations.

Alan Yeaton said the amount of time it takes for a survey to get done is amazing. He has a project and was told it would be 7 months before they could start.

Brain Nawoj said he was told the same thing, were able to get it done sooner. But they still ran out of time on the variance deadline.

Len Stuart opened the hearing to the public. There was no public comment, and the public hearing was closed.

Denise Langley made a motion to grant the time request extension for an application approved by the ZBA on December 7, 2021, for 7-unit multifamily units to exceed the maximum density allowed to raze the existing detached barn and construct an additional two dwelling units on a parcel that already has an existing 5-unit multi-family building, finding things haven't changed since the initial application. Alan Yeaton seconded the motion. VOTE: 4-0-0. All in favor. Motion carries.

AB Atlantic Group, LLC Andrew Berube, Applicant/Owner is seeking a Variance to convert a single-family home into a 2-family home that is on a lot of .42 acres (18,240 sq ft), whereas the lot is required to have .67 acres (29,040 sq. ft.) to convert the single-family home to a two-family home, per Section 4.3 (Table of Dimensional Regulations) and Section 4.3 (7) of the Goffstown Zoning Ordinance. The property is located at 9 South Mast Street, (Map 34. Lot25), Zoned: Residential-1.

Gail Labrecque made a motion to find the application has no regional impact. Alan Yeaton seconded the motion. VOTE: 4-0-0. All in favor. Motion carries.

Andrew Berube, the applicant, said he bought the property for his son-in-law, and it needs a lot of work, which they are doing the work. The barn portion is now a pottery studio. They want to use the barn portion to convert it into a 2-family. The house has 5 bedrooms and is big. There is a deck off the back of

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the house and off the back of the barn. They won't exceed the envelope of what's there. They'll use the barn with fire-rated walls and make it a livable space.

Alan Yeaton said he's been in the house more than once.

Denise Langley said she has already reviewed this application.

Andrew Berube said he wants to do many things to the house. Everything he touches falls apart.

Len Stuart said he has reviewed the application also. This is a big upgrade to the property.

Len Stuart opened the hearing to the public. There was no public comment.

Len Stuart said this will be a major upgrade to the property. And it fits into the Village area. He's sure it has water and sewer.

Alan Yeaton made a motion to grant the variance as submitted, to convert an existing single-family home into a two-family home, per Section 4.3 (Table of Dimensional Regulations) and Section 4.3.(7) of the Goffstown Zoning Ordinance, finding the property has been in Goffstown since 1876 and a two-family unit is a better use, as it would lessen the traffic and create housing. The spirit of the ordinance is observed because creating housing in a space that's already designed for it with a big backyard and a 16' x 10' deck and plenty of parking. Granting the variance would do substantial justice because an apartment would be the best use of the space. The value of surrounding properties will not be diminished because the property is going through an extensive rehab and will increase the value of the properties for years to come. Regarding hardship, the proposed use is a reasonable one because the property would be brought up to today's standards and codes. Denise Langley seconded the motion. VOTE: 4-0-0. All in favor. Motion carries.

Cercle National Club, Applicants/Owners, are seeking a Variance to expand use of its property as a private membership fraternal or social organization or club onto the Residential-2 portion of Lot 3 and is requesting a variance from Section 3. 11.B (11) to allow for use of the Residential-2 portion of the property as part of functions including outdoor music and entertainment. This is an accessory commercial use to the abutting private membership fraternal or social organization or club, Cercle National Social Club, which is permitted by right in the commercial district located at 550 Rockland Avenue, (Map 15, Lol2), zoned: Commercial. The expanded use is permitted by right on the Commercial portion of Lot 3, subject to site plan approval. A Variance is required because the use of private membership fraternal or social organization or club is not permitted on the Residential-2 portion of Lot 3, per Section 3.11.B of the Goffstown Zoning Ordinance. The property is located at Woodbine Street (a Town unmaintained paper road), (Map 15 Lot 3), Zoned: split Commercial/Residential-2. (Continued from October 3,2023).

Alan Yeaton said the application requested that the variance be granted for the entire property.

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Denise Langley said we should just have a conversation with them because she did make a suggestion and they did understand where she was going with it and were willing to accept it. If that answer stands, we can talk about it and give them the opportunity to make a decision.

Len Stuart said he thinks the Board should go into non-public session to discuss this.

Gail Labrecque said, before we even start the hearing for the application, we can confirm with the applicant the intentions of his application. If it's as presented previously, the Board may want to talk about it. If it's going to be as mentioned in their correspondence, it may be a little easier.

Len Stuart said the ZBA was in deliberations when the application was continued.

Gail Labrecque suggested going into non-public session because there are things to discuss beforehand.

Gail Labrecque made a motion to enter into non-public session in accordance with NH RSA 91-A:3, II, (I) consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present. Denise Langley seconded the motion. Roll Call Vote: Len Stuart: yes; Denise Langley: yes; Alan Yeaton: yes; and Gail Labrecque: yes. VOTE: 4-0-0. All in favor. Motion carries.

The Board entered the non-public session at 7:37 pm.

Gail Labrecque made a motion to leave the non-public session and return to the public session. Denise Langley seconded the motion. Roll Call Vote: Len Stuart: yes; Denise Langley: yes; Alan Yeaton: yes; and Gail Labrecque; yes. VOTE: 4-0-0. All in favor. Motion carries.

The Board exited the non-public session at 7:51 pm and began the public session.

Lenny Pappas, the club activities director, represented the Cercle National Club.

Len Stuart said the Board has questions to ask, which will determine a lot of what happens with this application. There was a lot of discussion and testimony at the first hearing on this. Is it the intent of the applicant to expand the activities onto the residential portion of the split zoned lot, or do you intend to limit activities to the commercial portion of the lot?

Lenny Pappas said they intend to use just the commercial portion of the lot. That was stated in October. They have always just used the commercial side of the property. There is no fence that separates the two. They are willing to put up a fence or barrier if it needs to be done. All their activities are on the commercial side of the property. They have a shed for storage on the residential portion of the property. There is no future intention to expand the business onto the residential portion of the property. They don't have any intent to use anything on the residential side. Everything they do is on Saturdays from 6-10 pm.

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Denise Langley read Section 2.5.5 of the Zoning Ordinance regarding Split Lots: When the location of the district boundaries splits a lot, the development of each portion of that lot shall conform to the zoning requirements of the district in which that portion of development is located.

Lenny Pappas said from the notes from the last meeting, it says the expanded use is permitted by right on the commercial portion of the lot.

Gail Labrecque said what the determination would be with a Board vote, is that no variance is needed if they are going to stay only on the commercial portion of the lot for the expansion. They will need to go to the Planning Board for a site plan approval.

Lenny Pappas said they filed a site plan in February 2023. They are willing to put up a fence to block the residential portion of the property.

Denise Langley said that would be a Planning Board issue.

Gail Labrecque made a motion that the ZBA accepts the presentation of the applicant that they will only expand the Cercle National Club activities into the commercial portion of the lot, go to the Planning Board for site plan approval, and that the ZBA accepts their withdrawal of the application. Alan Yeaton seconded the motion. VOTE: 4-0-0. All in favor. Motion carries.

Len Stuart said zoning is not the solution they are looking for here. They have to deal with their relationship with the neighborhood. The more they work with them, especially with the volume and noise, the better. But it's not a zoning issue. They will be thought of better in the neighborhood if they work with the people more closely to reach accommodations on the noise levels.

Denise Langley said there were easy solutions presented at the last meeting. She said they don't need a variance, so they are done at the ZBA. There will be a Planning Board meeting and abutters will be notified.

CORRESPONDENCE

Letter dated December 4, 2023, from Tom LeBlanc requesting that the Cercle National application be scheduled for tonight's Meeting.

Email from Conservation Commission recommending the granting of the Variance for Map 25, Lot 11, O'Leary, 103 Danis Park Road

Gail Labrecque made a motion to adjourn. Denise Langley seconded the motion. VOTE: 4-0-0. All in favor. Motion carries.

The meeting adjourned at 8:02 pm.

Respectfully submitted,

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Gail Labrecque
Recording Secretary

These minutes are subject to approval by the ZBA.