

Town of Bedford
March 16, 2021
Zoning Board of Adjustment
Minutes

A regular meeting of the Bedford Zoning Board was held on Tuesday, March 16, 2021 via the Zoom meeting platform.

Present: John Morin (Chair), Kevin Duhaime (Vice Chair), Len Green (regular member), David Gilbert (alternate member), Neal Casale (alternate member), Elizabeth Jude (alternate member), Sue Thomas, Karin Elmer (Planner 1), Rebecca Hebert (Planning Director).

Absent: Sharon Stirling, Melissa Stevens.

I. Call to Order and Roll Call

Chairman Morin called the meeting to order at 7:00 p.m. and introduced members of the Board. In accordance with the right to know laws all members present indicated they were alone in the room while on this Zoom call.

Ms. Elmer read the following statement:

- *Due to the Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Zoning Board is authorized to meet electronically.*
- *This meeting is being conducted using the Zoom platform. All members of the Board have the ability to communicate with each other during the meeting, and the public has access to listen and participate by dialing 929-205-6099 and entering the Meeting ID # 936 9789 2555 and the meeting Password 571643. Instructions regarding remote access to the meeting have been published in advance and are available on the ZBA agenda, which is posted on the Town website.*
- *There is no physical location for the meeting, which is permissible pursuant to the Governor's Emergency Order. Town of Bedford is providing public access to the Zoom meeting by telephone, and the meeting will also be broadcast live on BCTV's Channel 22.*
- *Members of the public may email staff at planning@bedfordnh.org to ask questions during the meeting or notify us of technological issues. If you have joined the meeting using Zoom, you may also ask questions when the Chair opens the hearing for public comment through your phone connection.*

- *All votes will be taken as a roll call vote.*
- *If there are technological issues during the meeting, the Chair will recess the meeting and we will try to correct the problem. If the issue continues, the application will be postponed, and the meeting will be adjourned.*

Ms. Elmer reviewed the agenda.

Chairman Morin stated the following: This will serve as notice to those participating and may wish to speak that you are required to tell the truth, the whole truth and nothing but the truth.

Any party has 30 days to request a rehearing from a decision of the ZBA. The Board has 30 days in which to respond to said request(s). (Per RSA 677:3) Tomorrow being day 1. All requests must be in writing and must contain new evidence. Please point out any errors you believe the Board made in its decision. Per State law it takes 3 votes in the affirmative for a motion to pass.

1. **Approval of Minutes:** February 16, 2021

MOTION by Mr. Gilbert to approve the minutes of the February 16, 2021 meeting of the Bedford Zoning Board of Adjustment as written. Mr. Duhaime duly seconded the motion. Roll call vote taken – Two abstentions (Len Green and Sue Thomas), all others in favor. Motion carried 5-0.

2. **Old Business & Continued Hearings:**

- None

3. **New Business:**

1. **Bryan Lynch** – Request for a variance from Article III, Section 275-22.A and Table 1 in order to construct an addition 20.3-feet away from the front boundary where 35-feet is required at 1 Kalmia Way, Lot 14-18, Zoned R&A.

Bryan Lynch and his wife Andrea Zaines introduced themselves and explained they are asking for relief to the setback to construct an addition that would sit behind their existing carport. Their property is in a pi shaped lot as you come down Ministerial Road and is constrained because they have two road frontages. Mr. Lynch said they are looking to build an extension probably no greater than the existing rear of the house. In looking at the lot and the shape of the house – the house is currently non-conforming and as you move further back it becomes less-conforming. There is a 20-foot setback but as you move further back it is closer to a 35-foot setback. Mr. Lynch said they are trying to remain true to the house and the architectural mid-century design.

Mr. Lynch said another option would be to put a separate structure on the lot, but he said quite frankly, he thinks it would cause more harm to the neighborhood and abutters. Although they could find a spot somewhere on the 1.4 acres, they are trying to make it reasonable and not affect the lot and stay true to a mid-century design.

Mr. Lynch indicated they had some renderings prepared. They must lift the roofline in the back of the house slightly because of the slow pitched roof and the width of the house so they can maintain headroom at the far end. They are looking to square off the house and would really not be getting any closer to the road than they are currently today with the existing carport.

Mr. Lynch reviewed the criteria for the application:

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

(1) Whether granting the variance would alter the essential character of the locality:

(2) Whether granting the variance would threaten public health, safety or welfare:

Mr. Lynch wrote in the application that the addition will not alter the essential character of the neighborhood. We intend to extend the existing carport with similar architectural features including the roof line, so the addition will blend in seamlessly. Granting the variance will not alter the public health, safety or welfare.

Mr. Lynch said the addition would not alter the essential character and they are trying to be reminiscent of the older home. The alternative is to do something crazy or add a second addition and putting a separate structure on the lot in order to be conforming. He thinks someone driving by would look in and see a 1-story ranch that is true to the 1960 mid-century architecture. He said they are certainly not threatening their neighbors' health and safety with this, and they took this to their closest abutter to show them the plans and gauge their feedback and feel this is the least harmful approach to creating additional living space on the lot.

2. The spirit of the ordinance is observed because:

Mr. Lynch wrote in the application that the existing home is limited with expansion possibilities due to no basement. We also feel expanding the home laterally is in keeping with the mid-century design. Our alternative would be to expand vertically within proper setbacks, but it would ruin the architectural design of 1960. We recognize the need of the ordinance but do not feel the requested improvement impacts the look and feel of the neighborhood or is a detriment to any abutter.

Mr. Lynch said they have limited expansion possibilities and are unable to go down. The house was built on a crawl space and there is no basement in which to create additional space. They think staying lateral, keeping a low profile is the least visually impacting when driving by. Somebody driving by would see a wall with a couple of windows whether it was there or the original setback – he doesn't know if anyone would catch it, quite honestly. The alternative would be to expand vertically in proper setbacks, but that is not a great feel for them and something they are not keen on doing. Worst case scenario would be a separate building the back of the yard that has proper setback from both Kalmia and Ministerial.

3. Granting the variance would do substantial justice because:

Mr. Lynch wrote in the application that he and his wife are trying to create ample space to accommodate her aging parents while retaining the architectural integrity of the home. The home is built on a crawl space and the design of the home does not conform to a

second story. Granting the variance allows us to expand the square footage with the least visible impact to the home and the neighborhood.

Allowing the addition also avoids us having to construct a standalone building within the setbacks that will have a greater impact on the look and feel of the neighborhood.

Mr. Lynch said what they are trying to do is create ample space on the house so his wife's parents can join them in Bedford. They want to blend with the current space. With recent events, Mr. Lynch is using the bedroom full-time as an office and anticipates having to do so for quite some time into the future. Because the home is on a crawl space they don't have the ability to go down, only the option to go up. Granting the variance would allow for additional square footage with what he considers to be the least visible impact to the home and neighborhood. If you are familiar, when you come up Ministerial it is the one part of town where you will see a few of the mid-century ranches – a couple of beautiful ones on the right and left. If you go up Laurel there are another couple of examples; so, they are in a cluster where you will see these low-profile ranches and they would like to stay within that look.

4. The values of the surrounding properties will not be diminished for the following reasons:

Mr. Lynch wrote in the application that the values of the surrounding properties will not be diminished because we will not be altering the look of the home significantly. Only one home is in close proximity and their view of the home will alter slightly as the carport is extended and filled in. The south façade of the home will vary slightly from what is there now.

Mr. Lynch said, quite honestly, they are probably the most modest house in the neighborhood. Just beyond them is Riddle Drive, so there is quite a mix of architectural designs: A house built in the 60's; a house across the street that is only 6-7 years old; and Colonials, so they don't think that making this type of modest change to the back corner of their home is going to impart any issue. It will add value to the home, but he doesn't think it is detracting and they certainly are not infringing on any of their neighbors. The Blairs live across the street and that is who they shared the plans with. Again, Mr. Lynch explained they are not moving any closer even though the first inch of construction is non-conforming, they are not moving any closer to Kalmia with the addition than they are today.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:

Mr. Lynch wrote on the application that the home was built in 1960 prior to the current ordinance. The building was constructed to then-current standards. The current setback distances have changed since 1960. We believe the house has architectural merit as

represented by other mid-century ranches in the neighborhood. Our alternative would be to build vertically and conform to setbacks, but it would not be designed to mid-century characteristics.

Mr. Lynch said they bought a home built in the 60's and are unsure what the ordinances were at that time, he suspects there weren't as many rules on the books back in 1960 and he suspects Kalmia was probably a dirt road or pathway. He said the house was built to then-current standards. He thinks they are somewhat impacted, because unlike a normal house that would have a front and then side setbacks which tend to be less in a lot of communities – they are constrained by the fact that they have two roads and really only have 3 sides on their property rather than the traditional 4 sides. They want to try not to ruin it architecturally and they don't feel the alternatives are the best choice for either the neighborhood or themselves.

(A) Denial of the variance would result in unnecessary hardship because

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

Mr. Lynch wrote on the application that they are asking for relief on the setback requirement on the Kalmia Way side of the property. Adding to the property will not impact the general public. It is a lightly travelled roadway, and the proposed addition will not encroach any closer to the roadway than other parts of the existing building.

Mr. Lynch said that they are asking for relief on setback on the Kalmia side and are not seeing that it impacts the general public. Kalmia is a lightly travelled road with very little activity. Ministerial is the busy side. They will not encroach any further on Kalmia so he does not think they are causing any detriment to Kalmia.

- (ii) The proposed use is a reasonable one because:**

Mr. Lynch wrote on the application that they want to add additional living space with the least amount of visual impact on the surrounding property owners and environment.

Mr. Lynch said they are simply looking for additional living space to accommodate second pair of adults in the house. He and his wife downsized and moved to Bedford 3-years ago, and their kids have grown, and they are not looking after grandchildren.

(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:

Mr. Lynch wrote on the application that the property requires additional living space and cannot be used in strict conformance of the ordinance if we maintain the architectural character of 1960. The least impact visually is to expand the footprint of

the existing home rather than building a second story or additional standalone structure.

Chairman Morin opened the floor for questions from the board.

Q: Mr. Duhaime asked if they are expecting any structural changes to the existing carport?

A: Mr. Lynch said there will be no change to the carport roofline or exterior wall, but the only thing they might do when they sit with the builder is bring some storage area into the end of the carport. If we were to look at a floorplan there is 5-6 feet of the back end of the carport might become a closet. Visually there will be no change to the roofline, the only thing that will be done is to bump up starting at the back of the existing carport. They tried to go to a local builder, Triple Oaks, to get renderings so people could visualize it and they have the footprint figured out. What Triple Oaks drew was a roofline that is the same pitch as the existing roof – nothing crazy from a roofline standpoint. The lift of the roof could go up or down a few inches as they layout the headroom in the space, but there will be no change to the existing carport.

Q: Mr. Duhaime had a question for Ms. Elmer because with the setback it looks like they will be adjoining, and he asked if it would stay at 20.3 feet or should we be going to the 14-foot number.

A: Ms. Elmer explained the 14-feet is the existing carport and the beginning of the new construction is at 20.3-feet.

Mr. Green and Mr. Gilbert had no questions.

Q: Ms. Jude asked if the proposed extension to the carport is going to block anyone who would be driving or stopping or provide any blockage to anyone coming down the road at all?

A: Mrs. Zaines said it would not cause any blockage to the road at all. Mr. Lynch explained their driveway is off to the front of the carport and that is the front of the home. The paved driveway is in the front of the home. It will become like a garage without a garage door, and you can drive in and there is an entry into the home there. You would back up and exit into the street.

Q: Ms. Jude asked if you were backing out into the road if the addition would block any view.

A: Ms. Elmer said it does not block any of the sightlines at all.

Mr. Casale and Ms. Thomas had no questions.

Chairman Morin opened the floor for questions or comments from the public. Ms. Elmer said no emails had been received.

Keith Rodrigue who lives at 3 Old Farm Road right across the street commented that it looks like a great plan. He thinks it looks awesome and he does not see any impact to their existing house structure, and he likes it.

Scott Blair, who lives across the street supports the plan. He said Brian and Andrea showed them the plans and the Blairs think it is a nice addition to their home, the property, and the neighborhood. He said they have worked very hard on the property and the Blairs support this 100%.

MOTION by Mr. Gilbert to move into deliberations on this variance application. Mr. Green duly seconded the motion. Roll call vote taken – all in favor. Motion carried 6-0.

Chairman Morin appointed Ms. Jude as a voting member this evening

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

(1) Whether granting the variance would alter the essential character of the locality:

Mr. Duhaime feels it seems reasonable architecturally. They are squaring off the structure and they are in a tough lot to deal with.

(2) Whether granting the variance would threaten public health, safety or welfare:

Chairman Morin said he does not see that at all.

2. The spirit of the ordinance is observed because:

Chairman Morin said one of the biggest issues with a house with two roads around it is that it makes the lot much smaller for building. He said where this is going and being 20.3-feet from the road where it is basically going to keep the same line as the carport is not an issue.

3. Granting the variance would do substantial justice because:

Mr. Duhaime said it allows for an expansion on their property and reasonable additional living space.

Mr. Green thinks there also a push for people who would like to accommodate bringing mature parents to live with them by extending their home.

Chairman Morin said the way it is being done is very nice, and when it is done it may look like it is part of the house in the first place.

4. The values of the surrounding properties will not be diminished for the following reasons:

Chairman Morin said we had seen no expert testimony on this, so it is not an issue.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:

Chairman Morin said you don't see many long triangles for property and the way this one is situated between two roads with the setbacks being 35-feet for each of the road. For a 1960's home when it was built – makes it difficult for a lot of this with the zoning on record.

(A) Denial of the variance would result in unnecessary hardship because

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

Chairman Morin thinks this is one of those “scales of justice” type of things where you've got the homeowner looking to do something to their property to enhance it; and then the Town ordinance which makes it very difficult to do that and he thinks this doesn't affect the general public per se; it will help the homeowner; and we have testimony from two neighbors who are very happy with the application and the plan that they've seen, so Chairman Morin thinks they've met this piece.

- (ii) The proposed use is a reasonable one because:**

Chairman Morin said it is reasonable to look to put on an addition.

(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:

MOTION by Mr. Duhaime that the Zoning Board of Adjustment approve the application from Brian Lynch on his request for a variance from Article III, Section 275-22.A and Table 1 in order to construct an addition 20.3-feet from the front boundary where 35-feet is required at 1 Kalmia Way, Lot 14-18, Zoned R&A per our deliberations. Mr. Green duly seconded the motion. Roll call vote taken - all in favor. Motion carried 5-0.

MOTION by Mr. Gilbert to move out of deliberations on this variance application. Ms. Jude duly seconded the motion. Roll call vote taken – all in favor. Motion carried 7-0.

The next meeting will take place on April 20, 2021.

4. Adjournment

Motion by Mr. Gilbert to adjourn the meeting at 7:31 p.m. Mr. Casale duly seconded the motion. Roll call vote taken – all in favor. Motion carried 7-0.

Respectfully submitted,
Tiffany Lewis