

Town of Bedford
May 18, 2021
Zoning Board of Adjustment
Minutes

A regular meeting of the Bedford Zoning Board was held on Tuesday, May 18, 2021 via the Zoom meeting platform.

Present: John Morin (Chair), Len Green (regular member), David Gilbert (regular member), Neal Casale (alternate member), Elizabeth Jude (alternate member), Sue Thomas (alternate member), Rebecca Hebert (Planning Director), Jillian Harris (Assistant Planning Director).

1. 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. Hebert 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 # 992 4459 7591 and the meeting Password 515482. 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. Harris 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.

2. Approval of Minutes: April 20, 2021

MOTION by Mr. Green to approve the minutes of the April 20, 2021 meeting of the Bedford Zoning Board of Adjustment as written. Mr. Gilbert duly seconded the motion. Roll call vote taken – One abstention (Ms. Jude), all others in favor. Motion carried 4-0.

3. Old Business & Continued Hearings:

- None

4. New Business:

- 1. Lois Brodsky- Request for a variance from Article I, Section 275-6 in order to construct an above-ground pool as an accessory structure on a separate lot from the principal use (house) which is located on the adjacent property, at 27 Beaver Lane, Lot 31-23-1 Zoned R&A.**

We'll jump right to our first item on the agenda this evening, and that would be Lois Brodsky request a variance from Article 1, Section 275-6 in order to construct an above-ground pool as an accessory structure on a separate lot from the principal use (house),

which is located on adjacent property at 27 Beaver Lane, Lot 31-23-1 Zoned R&A. Could you please introduce yourselves and go forward with your presentation?

Mrs. Brodsky: Hi, I'm Lois Brodsky.

Mr. Brodsky: I'm Steven Brodsky, we're residents at 29 Beaver Lane. We also own abutting property at 27 Beaver Lane.

Chair Morin: If you want, you can go right through your application or if you have a little opening statement, you can do that first.

Mr. Brodsky: Sure. Do you review our application or do we typically step through the different questions?

Chair Morin: You need to go right through it so we have it all in testimony.

Mr. Brodsky: Are you doing this?

Mrs. Brodsky: I live at 29 Beaver Lane. It's owned by my husband, Mr Steven Brodsky. He's the sole owner of the 29 Beaver Lane Lot. We both are listed as owners of the abutting 27 Beaver Lane lot. Our house is at 29, and there's no residential dwelling at 27. We do have a barn on the lot 27. This is because 29, 27 Beaver Lane were originally one 2.5 acre lot, and that was subdivided by the previous owner into two 1.25 acre lots. The two separate lots were originally one. They're laid out on the map that we gave you, they visually appear as such. The town foreclosed on both lots, and in 2014 and later that year-- Do we have to go over all of them?

Mr. Brodsky: It's a helpful background in addition to the record.

Mrs. Brodsky: The town foreclosed on both lots in 2014, and then later that year the town auctioned off the 29 Beaver Lane Lot to a company named Campfire Properties, and we purchased it from them the following year. However, 27 Beaver Lane remained to be owned by the town until it was auctioned off in 2018, and we purchased it. Although the lots visually appear to be one such that it would make the most sense for them to be remerged or at least owned by the same owner, we decided at the time that we bought the property to keep the lot separate to afford us flexibility moving forward, such as when we're selling.

We've done substantial work to the 27 Beaver Lane Lot since the purchase including renovating the dilapidated barn, adding a well, adding an electrical hookup to the grid, all of which we got permits for. Then recently, we were exploring the installation of an above-ground pool on our property, and naturally, we want it to be in the back of our property, and that just left us with sections in the back of 29 and 27.

After analyzing the sections, the land, it made sense for numerous reasons to install the above-ground pool on the 27 Beaver Lane Lot behind the barn so the pool doesn't extend beyond the boundaries of the barn. The reasons include that the pool would be - It's a 33-foot diameter pool and it has limited options for where we could put it on our property. For instance, here at 29 Beaver Lane, we have a double septic, and so it takes up the entirety of our backyard between septic and the leach field. We don't have the availability to put an above-ground pool back there.

Let's see. Then we have a fire pit back there, we have our children's playset back there. Further, we believe it would be the best option from the viewpoint of our neighbors and our abutters to install the above-ground pool behind the barn because it would be the most hidden from everybody at that location. In addition, building behind our barn at 27 provides easy economical access to the electrical that we had installed there and the water hookups.

Once we decided that we wanted to build a pool behind the barn, we did contact the town offices to determine if we're allowed to do so. We were informed that a variance would be needed. Thus we are requesting this variance from Article 1, Section 275-6 of the zoning ordinance to permit building of the above-ground pool, which falls under the definition of accessory building structure on the 27 Beaver Lane lot where the principal building is on our 29 address.

Chair Morin: Can you go through the criteria for us, please? If you just state the beginning of the first question and then go into what you've put in so that way we have it all on record.

Mr. Brodsky: Yes. I can take over this one. The first facts supporting the request **granting the variance to not be contrary to public interest**, this is because installation of the above-ground pool would not alter the essential character of the locality. There are multiple houses in the area that include above-ground or in-ground pools. Adding a pool to a property is typical of the locality. We would ensure the pool is safe and complies with all relevant regulations.

We would ensure that the pool is properly permitted before and during the building process, therefore granting the variance to allow us to build the above-ground pool would not threaten public health, safety, or welfare. Moreover, the above-ground pool is a non-permanent structure that could be removed should any such threat present itself in the future. In addition, we've informed our friends in the neighborhood that we are looking into adding a pool and that if we did, they would be able to come over and enjoy it with us, which would be in the benefit of the public interest of those neighbors.

Moving to the next. **The spirit of the ordinance is observed** because, as my wife just described in the background section, the 29 and 27 lots used to be one lot until they were subdivided by a previous owner. We own both of the lots. The ordinance defines accessory building structure in Article 1, Section 275-6 as a building or structure detached from but located on the same lot and within the same zoning district, which is customarily incidental and subordinate to the principal building.

Although 27 Beaver Lane is technically a separate lot from 29 Beaver Lane, the spirit of the ordinance would be observed because the 27 lot is also owned by us. They were originally one lot and they're likely perceived by the public as one lot due to the nature of the lots and the fact that there's a house only on the 29 Beaver Lane property. The forest surrounds both of the lots, and again, they were designed originally as a one 2.5 acre lot.

Moving to the next. **Granting the variance would do substantial justice** because, as my wife also described, we are limited in our options for where to place a pool on the 29 Beaver Lane Lot, mainly due to the location of our septic system and the size of the pool that we wish to have installed. Further, the location where we desire to install the above-ground pool, which is behind our barn on 27 Beaver Lane, is the most hidden location to our neighbors and abutters as well as being substantially hidden when looking from the street.

For example, the abutting neighbor to our 29 Beaver Lane lot lives in a house at 33 Beaver Lane, that's Marie O'Brieter that is higher in elevation than our 29 Beaver Lane Lot such that if we were even able to put the pool on the 29 Beaver Lane Lot, Marie and her family would have reduced privacy when we are using our pool and we would also have reduced privacy relative to building the pool behind our barn.

Also, the neighbors abutting our 27 Beaver Lane lot live in a house at 25 Beaver Lane, that's the Wallaces. They have a fenced-in backyard that contains an in-ground pool. The fence is high such that it currently provides privacy and would continue to provide privacy if we built our above-ground pool behind our barn. And additionally the location behind our barn is the easiest and most economical from an installation standpoint. It would do substantial justice by reducing how intrusive the project will be to the property, as well as reducing the overall cost of the project.

Again, because the pool is an above-ground installation, it is temporary in nature and could be removed if future interests so dictated. Moving to the next fact number four, the **values of the surrounding properties will not be diminished** for the following reasons. Many houses in the area have pools, including the Wallaces who are abutting neighbors to the 27 Beaver Lane Lot. Adding a pool to the property will not diminish the

value of surrounding properties. Further, the location beyond our barn would maintain the most privacy as I previously explained.

Number five, **literal enforcement of the provisions of the ordinance would result in unnecessary hardship.** Here literal enforcement of the Article 1 Section 275-6 in this situation would result in unnecessary hardship because it would mean that we could only build a pool on our 29 Beaver Lane Lot which, as we've described, would be difficult or potentially impossible, depending on the-- We'd have to analyze the land to see if it could even fit there within the proper offset from the boundaries of the property.

Then the other alternatives that we would have to merge the two lots together to be able to build a pool on the land that is now 27 Beaver Lane, and such a merging process would take longer and incur higher costs while also reducing our future flexibility with respect to the two lots thereby resulting in unnecessary hardships to us. Then the last two sections. Denial of the variance would result in unnecessary hardship because going to number one, no fairness and substantial relationship exists between the general public purposes of the ordinance provision.

This is an unusual situation where a land lot which previously subdivided into two abutting land lots, and again, those continue to appear as one lot to the general public. We are the owner of both lots, and so the only argument that we could think of that this potentially goes against the interests of the ordinance is to consider future scenarios where we sell the two different properties. If we were to merge the lots in the future, which we have considered, the variants would essentially be obviated as the accessory structure would then be located on the same lot as the principal building.

If the lots remained separate, when we sell them, then we would make necessary adjustments to ensure that the pool is still compliant with the towns ordinances or we would remove the above-ground pool as it is a non-permanent accessory structure. Finally, the proposed use is a reasonable one because, in general, installing an above-ground pool on properties, such as ours, is a reasonable use. Installing it behind our barn on 27 Beaver Lane and within the boundaries of our barn lot is the best location for it from all the different perspectives that we analyzed, including from the perspective of what we perceive to be providing the most privacy to and from our neighbors. Then finally the pool will be minimally visible from the road, if at all visible, which was another consideration in choosing the location.

Chair Morin: Thank you. Let me open it up to the board members. Len, do you have any questions?

Mr. Green: What I gather you could merge the lots. This is more of a want rather than any specific need because if you merged the lots, you wouldn't need our approval, correct?

Mrs. Brodsky: Can you hear me?

Chair Morin: Yes.

Mrs. Brodsky: That is correct. However, when we initially investigated the scenario, we were informed that the process of merging the lots can be extremely time-consuming.

Mr. Brodsky: It would take us into not being able to enjoy the pool this summer. We had lined up a pool company that's ready to install the pool. It probably would push us into next year.

Chair Morin: Thank you. Dave.

Mr. Gilbert: I don't have any questions right now.

Chair Morin: Elizabeth?

Ms. Jude: I don't have any questions.

Chair Morin: Neal.

Mr. Casale: I have some questions. Jillian, could you put up the plot on the Zoom, please? Do we have the one of just 29? There, yes. Okay. Thank you. For the Brodskys, I see on the prior diagram for a lot outline, it looked like that square in the very north party of property that was colored. Is that where the fire pit and playset are? What's that square?

Mr. Brodsky: That is a shed that was on the property before we purchased the property.

Mrs. Brodsky: It has a foundation.

Mr. Brodsky: Yes, it has a foundation, and it's abutting the driveway that wraps around, behind the house.

Mr. Casale: Okay. All right, thank you. The exact location of the fire pit, the current fire pit, and the playset is to the north of the septic system?

Mr. Brodsky: Right. The firepit, you can see that the driveway wraps around a bit, at the very bottom right there. If you move the mouse down a little bit, right there.

Mr. Casale: In that area?

Mr. Brodsky: Yes, it's basically centered in that section, and the playset is north of that, straddling the line of the inner border.

Mr. Casale: Okay, and how big is this fire pit? The playset can be moved easily, but how big is the firepit?

Mr. Brodsky: Probably a six-foot diameter. Again, that was there before we purchased the property.

Mr. Casale: Okay. What are the upgrades for-- You stated that you've done substantial upgrades to the property at 27 including electrical service and a well. What are the purposes for that?

Mr. Brodsky: The barn that was on 27 when the town foreclosed on it was basically dilapidated, and there was graffiti inside. It looked like it had been vandalized. We stripped the barn down to the studs and we had it re-sited, a different roof, with new roofing. We put quite a bit of money into fixing up that barn to make it useable as a space for us for storage. We also had the landscape changed to make it flatter on the main portion of the 27 Beaver Lane lot.

Mrs. Brodsky: We had an additional well installed because we have a large family. We are utilizing the maximum that you can utilize from a well, and I wanted to be able to care for the property over there, the additional amount of yard and landscaping.

Mr. Casale: Okay. An electrical hook-up. Is any of this for future sale for this lot?

Mr. Brodsky: We were building it with the present and the future in mind. We were putting investments into it directed toward how we can enjoy it now. We have electrical hook-up so we can have power to it for the present and potentially for the future. We had water installed for the same purposes. We didn't have a septic installed because we weren't planning to put a bathroom or a sink into the actual barn. We stopped at that point but keeping our flexibility open for the future, if it would make sense to sell them separately. We don't know, we figured we might as well keep the flexibility if we can.

Mr. Casale: Okay, thank you.

Chair Morin: I have a few questions for you. Your electrical going in there, is that underground or above the ground?

Mr. Brodsky: I believe it's underground.

Chair Morin: By the plot plan of-- If Becky you could go back to the other plot plan, that shows where the pool is, behind the barn. Where is the well on that property?

Mr. Brodsky: The well is-- Looking at Beaver Lane, if you scroll down a little bit where the 78.03 number is. There's an access road, driveway, coming from Beaver Lane, and it's probably about-

Mrs. Brodsky: Halfway between the road and the barn.

Mr. Brodsky: -15 feet off the bottom right corner of the barn. Maybe 20 feet is the access to the well that is in our driveway. There's a covering over it.

Chair Morin: Okay. Becky or Jillian, I have a question for you.

Ms. Hebert: Go ahead.

Chair Morin: If we decide to-- This is for me anyway, if I decide to go forward with possibly approving this, can we put any stipulations on the variance, as to number one, say, right now the property has a barn and possibly a pool. If this property changes to something else, can we put a stipulation that this variance goes away?

Ms. Hebert: No, the variance runs with the land.

Chair Morin: Okay, I think I'd asked that question before. All right, those are my questions. Neal, go ahead I see your hand up.

Mr. Casale: Yes, along those same lines for Becky or Jillian, I'm envisioning some potential pitfalls if this were approved. Are there any substantial pitfalls that you can think of if this were approved, that it could be problematic down the road?

Ms. Hebert: I think where it's an above-ground pool, it's not a permanent in-ground pool. It's something that's easy to remove, so if the lot was repurposed for a single-family home, it is something that could be removed fairly easily by the property owner if they chose to do so, but I don't see pitfalls necessarily. It is an unusual situation where you have a lot that's being used for accessory structures by the property next door, but I understand why the homeowners would want to hang on to their two separate lots.

Chair Morin: Thank you. The other piece too that I'm looking at, is that if this is approved and normally we approve it per the plan, then that pool could only be in this location per the drawings. It would be for that property until the properties changed and then they might not need the variance anymore.

Ms. Hebert: You are approving the use, not the setback, so it's not a dimensional variance, it's a use variance. As long as the pool met the setback, I think you'd have a valid use on the property.

Chair Morin: Can't we approve it per the plan we're given?

Ms. Hebert: You can approve it per the plan, or alternatively you could just say it needs to meet the dimensional setbacks for 27 Beaver Lane.

Chair Morin: Because I think, and I don't know how the other board members are feeling, but if we make it as narrow as we can, which I am looking at, only because it's

such an unusual issue, if it's approved per the plan and the information given to us, then it's restricted to exactly what we're looking at.

Ms. Hebert: That's true. You would want to include that in your motion.

Chair Morin: Okay Thank you. Len, go ahead.

Mr. Green: This, again, is for Becky. The Brodsky's indicated that to merge the lots would be time-consuming and a drawn-out process. Could you briefly explain why that would take so much time, or what the process is?

Ms. Hebert: It's not a lengthy process. It involves filing an application with the planning board, the planning board members sign the application form and the lot merger form is recorded at the Registry of Deeds. It does undo the subdivision of the land. It would permanently dissolve the line that divides 27 and 29 Beaver Lane, and to reestablish 27 Beaver Lane, the owners would have to file a subdivision application with the planning board.

Mr. Green: This is something that could be done in a month or two, not six months or a year to go through the process?

Ms. Hebert: No.

Mr. Green: Thank you.

Mr. Brodsky: I'll just comment. I'm sorry if there was confusion earlier, but it was our understanding that it would take a few months to have that done, and that would put us probably closer to July, August where we would lose the use of this pool for this summer. That's what I was trying to make the point of. Sorry, if there was confusion.

Mrs. Brodsky: When I called the town office originally to ask about this process, and I explained that we alternatively had an option of merging the properties, I asked how long of a period that usually takes and they said it wouldn't be likely that it could be accomplished sooner than three or four months is what I was told. When I said a lengthy process, I was referring to after this upcoming summer was closed.

Chair Morin: Thank you.

Ms. Hebert: I'm sorry you got that information. It would take about a month probably from start to finish. Both properties need to be in the same form of ownership and encumbered by the same liens or mortgages. Perhaps if you hold them in different ownership, you'd have to resolve that issue on your end but really, it's just tracking down planning board signatures once we have the application form in hand.

Mr. Brodsky: Okay, and that would be a situation here where I'm the sole owner of 29 Beaver Lane, and we are both owners of 27 Beaver Lane?

Ms. Hebert: There may be some paperwork that you need to do on your end to get the application ready for the planning board's signature.

Mr. Brodsky: Okay. That's good to know for the future. Thank you, Becky.

Chair Morin: Board members, any other questions before I open it up to the public? I can't quite see you so if you do, please unmute. Seeing none. Before we open it up to the public, I do see somebody who's on a phone line ending with 5062. Could you please unmute and identify yourself, please?

Mrs. Allard: Hi, there. My name is Cindy Allard, and I'm at 22 Elk Drive.

Chair Morin: Okay. Just give me a moment so now we know who we are.

Mrs. Allard: Sure.

Chair Morin: I will now open this up to the public. Cindy, if you'd like to speak on this application, you can go ahead.

Mrs. Allard: I guess I just have a few questions. It is my backyard that abuts their backyard, so I wouldn't be seeing the pool if I went to the very back of my property. It doesn't bother me at all that they would be installing a pool there. That is fine. I guess the only question that I would have would be as far as the disruption in installing the pool, would it be moderate or major, will they be removing some more mature trees or vegetation, would there be any excavation work or blasting involved, and how long will the installation take? Will we be listening to heavy equipment for two weeks, four weeks? Just what we can expect as neighbors.

Chair Morin: Steven, if you can answer some of those questions. It'd be helpful.

Mrs. Brodsky: I've been dealing with the pool company directly so I'll go ahead and answer your questions, Cindy. Those are great questions. It's actually a very simple process being an above-ground pool. The ground back there is already level so they would simply be coming in with a mini dump truck. In one day, they lay down sand, smooth it out, and go ahead and install the pool, and it's done in a single day. There wouldn't really be any noise involved. The area is already cleared all the way around it so there wouldn't be any tree removal or anything like that.

Mrs. Allard: Okay, great.

Chair Morin: Anything else, Cindy?

Mrs. Allard: No, I think she answered all my questions. Thank you.

Chair Morin: Thank you. Hold on, Neal. Becky or Jillian, do we have any other public input via email or?

Ms. Hebert: I have not received any emails in regards to this application and I don't see any other members of the public joining by Zoom.

Chair Morin: Okay, thank you. Neal, Go ahead.

Mr. Casale: The question is for Miss Allard. Miss Allard, when you state that you're an abutter behind their property, is it 29 that you're referring to, or 27, or both?

Mrs. Allard: It's both. I can see the house, but I see more of the barn directly behind my property just because there's not many trees. If I go to the back of my property line, I look up a hill and I can see the barn. I will see the pool. It doesn't bother me that there's a pool there.

Mr. Casale: Right but you would see less of the pool if it were on the property at 29?

Mrs. Allard: That's correct. Yes, I have a clear view to the barn, that lot, and then where their house is, there's more trees and vegetation that blocks that view.

Mr. Casale: Okay, thank you.

Chair Morin: All right. Any other questions from the board? Seeing none. Steven or Lois, do you have any last items before we go into deliberation?

Mrs. Brodsky: No. Regardless of the outcome, I do want to thank everybody for their time. I know this was time-consuming for you all so I appreciate you.

Mr. Brodsky: Thank you very much.

Chair Morin: All right, so at this point, I will take a motion to go into deliberation with no public input.

MOTION by Mr. Gilbert to go into deliberations.

Chair Morin: Motion by Dave, do I have a second?

Mr. Casale: **Second.**

Chair Morin: Second by Neal. We'll do a roll call vote. Len?

Mr. Green: Aye.

Chair Morin: Dave?

Mr. Gilbert: Aye.

Chair Morin: Elizabeth?

Ms. Jude: Aye.

Chair Morin: Neal?

Mr. Casale: Aye.

Chair Morin: I'm an aye.

ALL IN FAVOR. MOTION CARRIES.

Chair Morin: Let me go through the criteria. Number one, **granting the variance would not be contrary to public interest, whether granting the variance would alter the essential character of the locality.** I personally don't see a pool on a property changing the essential character of the area. By our picture, one of our pictures, we do see another pool right next door, so personally, I don't see the issue. Seeing no other comment, whether granting the variance would threaten public health, safety, or welfare?

Mr. Green: No.

Chair Morin: I'm not seeing it. Len, you're the same?

Mr. Green: Yes.

Chair Morin: Number two, **the spirit of the ordinance is observed.** Neal?

Mr. Casale: Did I have a look? I don't think it is, and there are a number of alternatives that the applicants can pursue to alleviate the need for the variance, so I would state that it is not.

Chair Morin: Okay. Anybody else have a comment on that piece?

Mr. Green: Yes.

Chair Morin: Go ahead, Len.

Mr. Green: This strikes me, and it struck me from the beginning. This is a want, not a need. They want to have the advantages of a merged property but have also the option of selling which in Bedford now can be a very expensive lot. They want it both ways. That concerns me because I didn't think that's what variances were normally for.

Chair Morin: Okay, thank you. Anybody else on this piece?

Mr. Gilbert: I would say that I agree with what they're trying to do because I don't think it's our responsibility to tell them to split or merge the lots. This is kind of an unfortunate situation as far as the pool goes, but I don't see that they have much of a choice on their land because of where their septic is, where the other existing pieces are, like the fire pit or the kids' playset. If you try to put it back there, you're encroaching on the wetlands, possibly. On this particular area behind the barn, you're way away from everything, and your abutter doesn't really have a problem with it. I just find it hard to believe that we would try to force them to merge the lots because I think that I don't like that. I think we should leave it as it is and let them do this, in my opinion. That's all I have to say.

Chair Morin: Thank you. Anybody else? Neal, go ahead.

Mr. Casale: Again, I think that there are a number of alternatives. The merging of the lot is only one. They noted the exploration of looking at the land a little more carefully at 29 to find out where they could put this pool hasn't been done yet. It would be granting a variance when they're clearly-- It may not be as convenient or as cost-effective, but there are other options. Even if you don't merge the properties, I think at least from my perspective that moving a swing set area, a playground area, and maybe a 6 to 8-foot stone fire pit, if you need to, is not a huge deal as opposed to granting a variance under these circumstances. The 33-foot pool, at least by my research, is one of the largest above-ground pools that you can have. We haven't even addressed can we make it a smaller pool. We don't even know if it will appropriately fit in another square of the property. Again, the applicants stated that they haven't done a thorough investigation if they were to place it at 29.

Chair Morin: Thank you, Neal. Anybody else from the board on this one? All right, let's move forward. **Granting the variance would do substantial justice.** This is a piece of weighing the scales of justice per se. Go ahead, Neal. I'm sorry. Go ahead, Dave.

Mr. Gilbert: I think I'll go back to what I said before. You don't want to get near the septic. It's hidden from view, except for the one abutter. The other part of this that we have said is this is a temporary structure. This can be moved or taken down at any time. This is not an in-ground pool. That, to me, makes it a little different. I believe it does substantial justice.

Chair Morin: Neal, go ahead.

Mr. Casale: I disagree for the same reasons that I stated. I just think that there are alternatives here. Even though that this is an above-ground pool, it runs with the property and we don't know what kind of issues that may create down the road. If a variance were approved, I think that this leans, at least in my opinion, should lean more towards justice for the town versus, again, that the fact that the applicants have other options here that haven't been fully investigated.

Chair Morin: Okay. Anybody else on the board on this item? Seeing none, we'll move on. The values of the surrounding properties will not be diminished. We did not hear any expert testimony on that so we move on to number five. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship. Special conditions of the property diminish it from other properties in the area. I really don't know if there's a special condition to the property except that there's not a house on it. The lots, basically, the neighborhood runs the same-- It looks like it just happens to be that this lot when it

was subdivided didn't have a house on it. To go to the two pieces, denial of the variance would result in unnecessary hardship because first part, no fair and substantial relationship exists between the general public purposes of the ordinance provisions and the specific application of that provision to the property. I think folks have talked to this question already on both sides. If there's nothing additional, going to the last piece that the proposed use is a reasonable one. Putting a pool is reasonable depending where you're putting it. With that, I'll accept a motion.

MOTION by Mr. Gilbert that the Board approve the variance request from Article 1 Section 275-6 to construct an accessory structure above-ground pool in a lot where the principal use (house) is an abutting lot at 27 Beaver Lane lot 31-23-1. We could also put in there that we adhere to the dimensional restrictions in the application, and it would be in our deliberations.

Mr. Gilbert: Did I miss anything?

Chair Morin: No, that sounded fine. Do I have a second?

Ms. Jude: I second.

Chair Morin: Elizabeth with a second. We'll do a roll call vote. Len?

Mr. Green: No.

Chair Morin: Dave?

Mr. Gilbert: Aye.

Chair Morin: Elizabeth?

Ms. Jude: Aye.

Chair Morin: Neal?

Mr. Casale: No.

Chair Morin: What I'm going to say is with the way the motion was presented and per se, the restriction that's put on it by the presentation of that motion, I'm going to say yes. Aye. That motion passes 3 to 2.

Chair Morin, Mr. Gilbert & Ms. Jude voted Aye. Mr. Green & Mr. Casale voted Nay. MOTION PASSES 3-2.

Chair Morin: I'll take a motion to go back into public input.

MOTION by Mr. Casale to go back into public input.

Mr. Gilbert: Second.

Chair Morin: Motion by Neal, seconded by Dave. We'll do a roll call vote. Len?

Mr. Green: Aye.

Chair Morin: Dave?

Mr. Gilbert: Aye.

Chair Morin: Elizabeth?

Ms. Jude: Aye.

Chair Morin: Neal?

Mr. Casale: Aye.

Chair Morin: I'm an aye so we are back in public input.

ALL IN FAVOR. MOTION PASSES

Chair Morin: You guys are all set. Thank you very much.

Mr. Brodsky: Thank you.

Chair Morin: All right. Let's see where am I here. Our next item, it is that time of the year, May, it's time for our annual election of officers, our chair and vice-chair. Right now we have a total of 246 members, we're still having two alternates. Neal and Elizabeth were brought up to the regular voting membership. At this point, let's go for vice-chair first. Do we have any motions?

MOTION by Mr. Green that Neal Casale be named vice-chairman.

Chair Morin: We have a motion. Do we have a second?

Chair Morin seconded.

Let's do a roll call vote. For vice-chair for Neal, Len?

Mr. Green: Aye.

Chair Morin: Dave?

Mr. Gilbert: Aye.

Chair Morin: Elizabeth?

Ms. Jude: Aye.

Chair Morin: Neal?

Mr. Casale: Are you allowed to do that? I guess I'm an aye. I can't say yes. Aye.

Chair Morin: Sue Thomas is with us. You are part of this, Sue.

Ms. Thomas: Good. Aye.

Chair Morin: Aye. I will vote aye also.

ALL IN FAVOR. MOTION PASSES.

Chair Morin: Neal will be the vice-chair for the next year. Lucky guy.

Mr. Casale: Yes. Thank you. Just don't ever be a no-show.

Chair Morin: Don't worry.

Mr. Casale: Then I'll be just fine.

Chair Morin: I try for at least one year. Now for chair. Do we have a motion for chair?

MOTION by Mr. Gilbert to nominate John Morin.

Chair Morin: Thank you, David.

Ms. Jude: Second.

Chair Morin: A second by Elizabeth. We'll go through the group. Len?

Mr. Green: Oh, yes, aye.

Chair Morin: David.

Mr. Gilbert: Aye.

Chair Morin: Elizabeth.

Ms. Jude: Aye.

Chair Morin: Neal.

Mr. Casale: Aye.

Chair Morin: Sue.

Ms. Thomas: Aye.

Chair Morin: I'll abstain, just because I can.

[laughter]

Mr. Casale: I wanted to do that.

ALL IN FAVOR. One abstention. MOTION PASSES.

Chair Morin: I asked you. All right, so me and Neal will be sitting in the big chairs when we get to the big chairs again. Becky, you wanted to talk about getting back to the BCTV in person meetings?

Mr. Gilbert: Can I mention something before Becky. In our last town council meeting, we interviewed a potential candidate for planning and/or zoning, and since the planning was completely filled, I know if Sue agrees, but I think this particular person would be a good fit as an alternate for zoning.

Ms. Thomas: Oh yes, excellent.

Mr. Gilbert: We have to vote on that at our next meeting. Then, also at our next meeting, we're going to have at least one more candidate apply for an alternate on the zoning board.

Ms. Hebert: Oh, that's great. Thank you.

Mr. Gilbert: We'll let you know when that happens.

Chair Morin: Okay.

Ms. Hebert: Thank you.

Chair Morin: The big thing is once they are voted in to remind them that they got to get to the town clerk as soon as they can so they can get in the next meeting. We hate to waste any time. Becky, you wanted to talk about getting back to the building.

Ms. Hebert: Sure. I just wanted to gauge everyone's comfort level, and we can do this with a quick discussion now or you can email me your thoughts on getting back to an in-person meeting at BCTV or following the governor's new guidelines and the CDC

guidelines very carefully, and we find that all of our boards are exploring options for getting back to an in-person meeting. I wanted to hear your thoughts on this. We're happy to keep you on the Zoom schedule for a little bit longer, but I think that you're a small board and you could fit around the horseshoe at BCTV fairly comfortably. I know Sue and Dave are meeting in person with town council. If you had a really large agenda or an application item that was going to draw a big crowd, we might have to revisit that, but for your average agenda, I think we can probably accommodate an in-person meeting. I just wanted to hear what your thoughts were, and if you are more comfortable emailing me, that's fine too.

Chair Morin: Let's go around the table. Len, any comments?

Mr. Green: Yes. I can't wait to get back to in-person meetings. I think if we have an item that we feel will have a huge turnout such as a power or something of that nature, we can always reschedule it for bigger locations, can we not?

Ms. Hebert: You can.

Mr. Green: I think we have a pretty good handle as to whether we're getting anybody other than the one or two people who are presenting it or if you have a whole neighborhood up in arms because somebody wants to do blasting, or build a 10-story building, or put up a cell tower. I'm all in favor of getting back.

Chair Morin: Dave, any comments?

Mr. Gilbert: I'm all in, let's go. I'm ready.

Chair Morin: Elizabeth.

Ms. Jude: Yes. I'm fine with it. Just full transparency, I do have a small child that is not eligible to be vaccinated. Even though I'm vaccinated, I'm still around someone who can't have it. That's just something that I want my fellow members to be aware of. I'm sharing with everybody who comes in contact with me because I just don't want to be that person.

Chair Morin: Right. Thank you. Neal.

Ms. Hebert: Go ahead.

Mr. Casale: Well, I'm fully vaccinated so I don't have an issue for it, but I'm very sensitive to others that may have some issues and may not be fully disclosing. Elizabeth was forthcoming, but I see both sides. There's some people who are still very scared of this. I would opt for this not to be the final answer and maybe we just allow people to separately email planning. Then, if it's an issue, maybe planning can send email to everybody, or if we need to do it in an open meeting, do that, not identify a person or

persons, just say, "Hey, there is an issue here, and here's what we're facing if we go back to the town. We have one or two people that may not be comfortable with it."

Chair Morin: Okay.

Mr. Gilbert: Can I chime in? Excuse me. In our town council meetings, we've had the seven councilors, and at the last meeting we had a delegation of the house of representatives there and a couple of managers of the town, and they were pretty well spread out in the room. We were spread out around the horseshoe and we kept our distance. I just want to say it worked very well. If somebody wanted to come in and wear a mask, which a couple of people did who came in to speak, that's fine also. It worked out pretty well.

Chair Morin: Okay.

Ms. Thomas: Sorry I dropped out there for a minute. I thought it went fine but I certainly do understand what Neal said too and Elizabeth because there is that concern, but everyone was well spread out. We had eight people, I think, joining the meeting in addition to the councilors.

Mr. Gilbert: Exactly, yes.

Ms. Thomas: Yes.

Chair Morin: I agree with everybody. I'm ready to go back. We just got to look at, as Neal brought up, look at the agenda to see if it's going to be a hot topic because I don't think we're to the point that we want to show that room at full capacity. Some of our meetings can easily get there plus. Depending what it is and where it is and those types of things, we'll just have to watch that closely and make a determination on location at that point. Let's do this, everybody when you get a chance send Becky and Jillian an email. Let them know your thoughts, what you're looking at, and then I'll talk with Becky and Jillian and find out where we're at, and we will decide when we want to go back if it's June or if it's July. I do see us getting there.

Ms. Hebert: We would want to develop very clear protocols for the meeting room, for all of our boards, and that's something that we can talk about further. Your feedback and your thoughts will play into that plan. I'll wait for your emails, and then we can keep talking about it.

Chair Morin: Okay. Sounds good. Everyone, good with that?

Members: Yes.

Chair Morin: All right. Very good. Thank you all. With that, I don't see any other-- do you have anything else for us, Becky or Jillian? I see no head nods, so that's good. I'll ask for one last motion, please.

MOTION by Mr. Gilbert to adjourn.

Chair Morin: Dave with the motion, do I have a second?

Mr. Casale: **Second.**

Chair Morin: I think I'll go with Neal on that one. Let's do the roll call vote. Len.

Mr. Green: Aye.

Chair Morin: Dave.

Mr. Gilbert: Aye.

Chair Morin: Elizabeth.

Ms. Jude: Aye.

Chair Morin: Neal.

Mr. Casale: Aye.

Chair Morin: Sue.

Ms. Thomas: Aye.

Chair Morin: I'm an aye, so we're officially adjourned.

ALL IN FAVOR. MOTION PASSES.

Chair Morin: Thanks, everybody. We'll see you next month.

Ms. Thomas: Thank you. Thanks all.

Mr. Casale: Take care.

Chair Morin: All right. Bye-bye.

The meeting adjourned at 7:58pm.

The next meeting of the Bedford Zoning Board will be Tuesday, June 15, 2021.

Respectfully submitted:

GoTranscript &

Edits: Christine Szostak, Jillian Harris