

Town of Bedford
October 19, 2021
Zoning Board of Adjustment
Minutes

A regular meeting of the Bedford Zoning Board was held on Tuesday, October 19, 2021, at the Town Meeting Room at BCTV, at 10 Meetinghouse Road.

Present: Bill Greiner (alternate member), Len Green (regular member), Bob MacPherson (voting member), Neal Casale (Vice Chair), John Morin (Chair), Dave Gilbert (regular member), Sue Thomas (alternate member), Becky Hebert (Planning Director).

Absent: Elizabeth Jude (regular member)

Call to Order and Roll Call

Chairman Morin called the meeting to order at 7pm and introduced members of the Board.

Approval of Minutes August 17, 2021

MOTION by was made by Mr. Greiner to approve the minutes of the August 17, meeting of the Bedford Zoning Board of Adjustment with one correction - name on page 8 should be Mr. Morin (not Moran). Ms. Thomas duly seconded the motion. Roll call vote was taken - ALL IN FAVOR – unanimous. MOTION carries.

Rules of Procedure Chair Morin stated we will have a presentation by each applicant. We will have public input for those in favor and in opposition for the applications. There'll be no debate allowed between parties. I would ask all testimony is directed towards the Board. You can wait for the vote this evening after the hearing. Or you can contact the Planning Office tomorrow morning after 8:30. I'd ask everyone to please silence their cell phones. It makes it a little easier, so we don't have to stop. For a rehearing, 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 such requests per RSA 677:3, tomorrow being day one. All requests must be in writing and must contain new evidence. Please point out any errors you believe the Board has made in its decision. For the criteria for granting the variance: I'm not going to go through the five criteria. We're going to ask each applicant to address that criteria when they present their application. Also, for a motion to pass, there must be three affirmative votes and that's per RSA. I'll ask all that are going to testify this evening to please stand to be sworn in. Even if you're not thinking of standing to get sworn in but you might want to say something, let's get it done now so we don't have to stop and do it again.

Please raise your right hand. Do you all swear to tell the truth, the whole truth and nothing but the truth in these hearings tonight? Room affirms. Chair Morin says thank you.

Old Business & Continued Hearings None

New Business

Scott and Judy Crandall – Request for a variance from Article IV, Section 275-28 to permit the construction of a shed 13.6 feet from the edge of wetland where 50 feet is required, at 37 Church Road, Lot 14-56, Zoned R&A.

Earl Sanford Testifies: Good evening, Mr. Chairman. My name is Earl Sanford of Sanford Surveying & Engineering. I've prepared the plan and am here to present on behalf of Judy and Scott Crandall for the site that you just read into the record. Beside me is Mr. Crandall. That's my introduction. Do you want me to proceed with the presentation? Chair Morin said sure, go ahead.

Mr. Sanford continued, the Crandalls have a lot that's been in existence for a long time before the wetland ordinance was brought in. It's up on the screen. It's off of Church Road not too far, I guess that would be west of the Presbyterian Church. I'm showing the existing house with the brown shading. So far, if I can figure out the best way to zoom on this, (zooming in on the projection). Starting again, it's a 3 point (approximately) 8-acre lot where they have their existing house. This is existing conditions. They have a wetland which runs on the east side of the lot, which is represented by these triple dot lines that's been flagged and delineated. With the 50-foot setback, they've done additions and they've honored that 50-foot setback. They're right up against it. I don't know if you can see easily, but I'm running my cursor along the 50-foot setback line. So far, for the major construction, it's all in adherence with the 50-foot setback. A little background: they've had professional plowing. They've had issues. They have some very, I would call it, high-end landscaping that you can't really see from this picture, that tends to get torn up a bit with plows. It's a fairly tight driveway. Scott purchased a tractor to be able to more surgically remove the snow and avoid the repairs every spring. There really isn't room for him to both garage his vehicles and the tractor in the garage. One option was to just build a little peninsula here and park it out in the open--which you could do without any variance or anything—and expand the driveway. He would like to have a shed to house it. When I first was hired, it's like well we know we've got to make sure that there isn't a viable location that you can use, in order to move forward with the variance. We explored, could he get outside the setback in this island? That's a ledgy slope that goes up about 4 feet up off the pavement. It really is not feasible to put it there. We also had another two possible alternatives. We could get outside the setback, but it would mean extending the driveway within the setback area. It would be considerably more impervious area—more so than what we're proposing. There's quite a slope. You're going up 6 to 7 feet from the driveway up to where it would be beyond the setback. There was also a comment, why can't you minimize (it would be within the setback) but just put it here? Well, he still needs access to the back, and to get around to the back would also require additional fill and it would be, in our opinion, more impact to the environment to do any of these two options. These are the options we went over with the Conservation Commission and got an agreement, and hopefully that's in the package that they unanimously were okay with us using the location that we chose. This way we're allowing the passage to continue to the well for any maintenance there and access into the backyard. It's very brushy and steep in this area. Right now, there's this bouldery slope. We're proposing to use that, create a pad underneath that. The pad is legal. This is a prefab shed, but it's customized to fit with the architecture of the house. That was the other issue. If you're going to get a variance, you want to make sure you minimize the impact. So, get the smallest garage you possibly can to fit your tractor in. This was the size, the smallest that has the height and could make it work—a Reed's Ferry shed. So, basically, the proposal is to put it off the corner of the driveway over where there is, I think five to seven boulders right now in that

area. Also, to help mitigate, because the major concern is that the impervious that you create. So, we are proposing, because it is on a sloped surface now, to get it level, we're going to create a varying depth, go from zero to like four feet on retaining blocks around the three sides required for the pad. We're going to in-fill it with crushed stone that can receive the water from the eaves and help to infiltrate it in its size so that even in a 100-year storm the capacity is there within that stone rather than just having it spill off and go directly into the wetland. These are the things that we presented at the Conservation Commission. They came up with a requirement that they probably put in writing that we're 100 percent on with, that this floor would need to be sealed. So, if there is any spillage or anything of oils or hydraulic fluid, it's going to stay within that building, which is another advantage to having it within a structure as opposed to just on a little peninsula that would be legal, but I don't think is environmentally friendly as what he's trying to do. I think that's what we're trying to promote. A couple things, one is this is not a large impact. It's a very modest shed. We've done our best to keep it away tucked up right against the existing pavement. There's very minimal grading required beyond grading that pad. It's going to be set right at the, maybe an inch or two, above the pavement so that it's a drive in, drive out without any ramp or anything. So, that's, I mean, there's more I could go into. It's a pretty simple request—a lot less impact than some of the ones presented here before. I'll be glad to answer any questions.

Chair Morin asked could you just go through the criteria really quickly? That way we have it on record. Mr. Sanford said sure, I dropped my vehicle off for servicing and I failed to grab my reading glasses, but I think I can struggle through.

A variance is required from Article IV, Section 275-26.A of the Zoning Ordinance to permit and we're trying to place within the 50-foot wetland setback, a 12' by 16' 192 square foot shed on blocks at the edge of the driveway. The primary purpose of the shed is to house the owner's tractor. The tractor is essential for the precision plowing required to clear snow on the 250' of driveway and around the extensive planting and hardscaped areas.

Variance is not Contrary to Public Interest.

The architecture and placement of the minimally impacting shed is consistent with the character of the neighborhood. The Reeds Ferry shed is proposed to be placed on blocks on crushed stone. The crushed stone has adequate capacity to infiltrate roof drainage from extreme rain events, so there is no threat to the adjacent brook or public health. The shed is specifically chosen to be the smallest structure capable of housing the owner's tractor. A garaged tractor lessens the threat of pollutants to the environment and protects contents from environmental factors.

The Spirit of the Ordinance.

The proposed structure is placed as close to the house and as far away from the wetland as feasible. The proposed structure will be placed on the existing boulder embankment with no disturbance to existing trees and wetlands on site. It would minimize the impervious area required within the 50-foot setback by allowing the entrance to the shed to be placed right at the existing pavement.

Granting the Variance Would Do Substantial Justice.

This would allow the shed to be placed in the most feasible environmentally friendly area and protect the snow plowing tractor. It would also represent keeping impervious surfaces down to a minimum. If the shed were to be placed in the backyard and outside the 50-foot wetlands setback, the access road would represent 443 square feet of new, impervious surface in the setback as opposed to the 192 square feet that would be the result of placing the shed at the edge of the driveway—less than half.

Values of Surrounding Properties Would Not be Diminished.

The shed has minimal visibility and is tastefully done to complement the existing professionally landscaped gardens, trees, shrubs and granite landscapes. The architectural aspects would blend with the existing house and neighborhood.

Special Conditions of the Property Distinguish it From Other Properties in the Area.

Because the only conforming feasible area for the shed is in the backyard 40 feet or more from the existing driveway and up a 14 percent slope. As previously stated, it would require at least 320 square feet of additional impervious driveway within the 50-foot setback, to reach a conforming shed location. The wetlands delineated on this lot severely restrict building placement on the east side of the lot and the steep slope severely restrict building on the west side of the lot. The existing house and additions to date have honored the 50-foot setback. It is worthy of note that this lot was created on or prior to 1960, several years before wetlands were protected and well before any setbacks were in place. This special condition distinguishes this site from other properties in the area.

Denial of the Variance Would Result in an Unnecessary Hardship.

The general public purpose of the ordinance is to protect wetlands by providing a separation between buildings and wetlands. Per the ordinance, Section 275-24H, “providing all subdivisions approved subsequent to adoption of this article, sufficient lot size to place a house and septic system. Again, there is some, that word subsequent—I don’t know. It gets overlooked sometimes, I think. But this was not subsequent—the house itself—but without locating them in wetlands, note that this lot predates this ordinance, so this wording does not apply. The next item, section 275.24:I very much applies to this site in that this site truly has a unique burden due to it predates all wetlands regulations and falls under the category of needing the ZBA to (written in the ordinance) “minimize the restrictions which may be placed on such properties.”

The Proposed Use is Reasonable.

The minimal shed, on blocks, is a reasonable expansion of real estate in the Town of Bedford and in this neighborhood. The chosen location avoids any direct impact to the wetlands.

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:

Strict conformance would result in the needless tearing up of the backyard area to build more driveway up a steep slope to get outside the 50-foot setback. It would result in a greater square footage of impervious area than simply allowing the shed to be placed at the edge of the existing driveway. Therefore, this variance is necessary to allow reasonable use of the property.

Chair Morin said thank you. Any questions from the Board? Bill? Mr. Greiner said thank you Mr. Chairman. So just to be clear, the peninsula itself is permissible. If you put a structure on there, you’re not infringing more than what you can do, permitted. And, in fact, it’s environmentally friendly to do that. If we said no and you built that peninsula and paved it, there’s a negative impact to the wetlands potentially, which violates the spirit of the ordinance as you stated. So, I personally have no issue with it. I think it’s a reasonable use and you can do it anyway and what you’re doing is actually enhancing and protecting the wetlands. Chair Morin said thank you, Len? Mr. Green said no questions at this time. Chair Morin asked Bob? Mr. MacPherson answered, yes, if I heard you correctly, you said the only thing

that would be stored in the shed is the plow? Do I understand that correctly? Mr. Crandall answered that's correct, but I also have a log splitter and I have some other garden tools that I'll keep in the shed. Mr. MacPherson said I also heard in the presentation, regarding spillage or oil and hydraulic fluid. Will any of your oil, fluids, gas, be stored in that shed? Mr. Crandall answered I likely will keep some diesel fuel for the tractor in the shed, and, as recommended by the Conservation Commission, will be putting an impervious floor coating on the shed and also have instant absorbent available as recommended by Chairman Carter at the Conservation Commission meeting. He wanted those two provisions added to the approval. Mr. MacPherson said thank you.

Chair Morin said Neil? Mr. Casale answered no. Chair Morin asked Dave? Mr. Gilbert answered No. Chair Morin said Sue? Ms. Thomas answered No. Chair Morin said I have no questions. Anyone from the audience that would like to testify? Nobody's running, so that's good. Any last items before we go into deliberation? Mr. Sanford said I would just give a shout out if you looked at the property you could see they're very good stewards. They've put some excellent land cover that protects the wetlands along the edge of the driveway, and it was nice working with something where there's a consciousness for creating as stable an environmental surface with growth and plantings on there. Chair Morin said thank you.

MOTION by was made by Mr. Casale to go into non-public input for deliberation. Mr. Greiner duly seconded the motion. Roll call vote was taken - all in favor. Motion carries.

Chair Morin continued alright, let's go through the application. First item.

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. Casale said there's no evidence to that.

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

Consensus of the Board is no.

2. The spirit of the ordinance is observed because:

Chair Morin said I think through the presentation, what Bill brought up, the way they're constructing it, how they're setting it up so it can deal with all the moisture that comes down from that shed and be able to filter prior to getting to the wetland, seems like a very good plan. Mr. Green said it still has to go to the Historic District, does it not? Chair Morin said yes. Mr. Greiner said but from an environmental piece, it's met the spirit. Chair Morin said right.

3. Granting the variance would do substantial justice because:

Chair Morin said again, it would give them the opportunity to store the tractor in an enclosed area. Board agrees It seems to be the best of the options presented.

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

Board agrees there's no concern of this.

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:

Chair Morin said just looking at the plan and looking at the slopes and all the different things there, it makes it very difficult to try to move it in a different location. Again, they've given us those options that they looked at, which was good.

(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:**

Board agrees it would be an unnecessary hardship.

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

The Board agrees in this application, the proposed use is reasonable.

(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: Mr. Casale moves that the Zoning Board grant the request for a variance from Article IV, Section 275-28 to permit the construction of a shed 13.6 feet from the edge of wetland where 50 feet is required, at 37 Church Road, Lot 14-56, Zoned R&A as per our deliberations. Mr. MacPherson duly seconded the motion. Roll call vote was taken – ALL IN FAVOR. Motion carried 5-0.

Chair Morin requested a motion to go back into public input.

MOTION by Mr. Gilbert to move back to public input. Mr. Casale duly seconded the motion. Roll call vote taken – all in favor. Motion carried 5-0.

Chair Morin said alright, back in public. You guys are all set.

Rick and Linda Martin – Request for a variance from Article IV, Section 275-28 to permit the construction of a garage 30.8 feet from the edge of a wetland where 50 feet is required, at 177 County Road, Lot 22-84, Zoned R&A.

Chair Morin asked, Becky, before we get going, was there some type of, I wouldn't say issue, but... Ms. Hebert said there was a concern with this application that I would just like to announce for the record. The legal notice that went out to the abutters went to all your abutters correctly, but identified your street address as 177 Patten Road, and identified the structure as a shed not a garage. So that was a mistake on the Planning Department staff's part. We want to make sure that it's clear in the record that you're in fact at 177 County Road and that your request is for a variance for a proposed garage. Mr. and Mrs. Martin both said that's correct.

Mr. Greiner asked, Becky, there's no... we're okay hearing that as long as they're okay? Ms. Hebert said I believe, as long as you're okay, I do not see anyone from your neighborhood in the audience speaking for or against this application. If this were a highly controversial application, you would, of course, want to consider whether or not you want to have the project re-noticed. But all of your abutters did receive a notice that something was happening out here at the site and the legal lot number was correct and otherwise the description was accurate. Mrs. Martin said alright, thank you, appreciate that clarification. Mr. Casale asked there's no potential issue down the road for us, that abutters feel it's a different address and they don't show up because of that? Ms. Hebert said there is that potential. They did receive notice. The lot address was correct. There were aspects of the legal description that accurately described what was going on, including Rick and Linda Martin. The direct abutters included one, two, three, four, I think you had probably a handful of abutters. I can take a peek at that. You're really proceeding at your risk. If an abutter felt aggrieved by this particular error, they could file an appeal based on procedural mistake. It could cause an issue where the Board's decision may be overturned. But this is not an application that's drawing a lot of public interest. So, it's something that you should be aware of. It's something that I was made aware of just a few days ago.

Mr. Casale said my two cents, I guess for them, is I don't know my neighbors' lot numbers. Nor do I know some of their names. I think they're new here, because I remember the prior applicants... so it hasn't been that long. There's a possibility somebody doesn't know the lot number, and they don't know the neighbor's names, and may overlook it. I see a potential issue. Mr. Greiner said, I can follow up with what Neal is saying. That exposure is there. It's really not on this Board. It's really on the applicant if something comes up, because theoretically it could get overturned. Is it still a 30 day, so even though there was a small glitch in that, there's still 30 days starting tomorrow? So, if nobody comes forward in 30 days, it's not like somebody could say hey, there was an error two years ago and then come undo whatever they might do. Is that fair to say? Ms. Hebert said that's correct. Mr. Greiner said so they'd still be in that 30-day appeal window anyway. We could do whatever we're going to do tonight, or not. There's that 30-day appeal period anyway, so if somebody didn't like it, they might appeal it anyway? Again, it's their risk of having to come back in here again and... Mr. Casale said I don't know if there's case law on it. So, then we extend the argument 30 days, and they still don't know that it's their own neighbor's home. That's all I'm saying. Ms. Hebert said well they would file a request for re hearing. It's something to consider. Ms. Thomas said I think, to Neal's point, will the abutters be informed, maybe? Mr. Casale added, well that's the issue. Thirty-one days from now they won't know any more than they know. Mr. Greiner said so could we then, maybe this is a little different than what we would normally do as a Board, whatever action is taken tonight, is it okay for us to then send notification to those abutters saying here you go, so that they are noted that something did happen on this property. Then they can't say I never heard about this. Ms. Thomas said well that's what I'm just wondering, if we could do that? Mr. Greiner asked is that fair Becky? Ms. Hebert said we typically leave it up to the applicant's discretion. Ms. Thomas said I understand, but this time it was not the applicant's fault, so can we mitigate? Mr. Greiner added by proactively saying heads up, this was approved or denied. Here's what happened. Ms. Hebert said we could do that. We could send a mailing out to the abutters to let them know that there was a mistake made, and that if they feel aggrieved, they could file an appeal? Mr. Green said if there's no urgency, could we just reschedule it and re-notice them correctly so that next month, I know sometimes in the summer, people wanted to get started building their swimming pools. But if there's no rush, wouldn't it be the safest thing to just re-notice them properly and presumably they don't show up and we go ahead. Then nobody's at risk. Ms. Hebert said yes, the Town will re-notice the abutters at our cost, if you're concerned about the notifications. Mr. Greiner said I feel okay leaving the risk up to them and proactively notifying them. Chair Morin said they

can make that decision if they want to move forward or table for a month. It's totally up to them. Mrs. Martin said this is the first we're hearing of that error. Mr. Martin said it would have been nice if we could have heard it 3 days ago. Ms. Thomas said if we do it today and notify the abutters that the clock has started, of the thirty days, and they're actually 30 days ahead, because if we postpone it for a month, then there's another 30 days after that. That's all I'm thinking. Mr. Greiner said I'm okay with doing that if they're okay with that. Ms. Thomas said maybe they have to come back if somebody has an issue with it, but... Mr. MacPherson said makes sense to me but, yes, Becky, so you sent out this original notice to the abutters. Did we get any feedback from anybody? Did anybody reply? Ms. Hebert said no. Mr. Casale said the point is that they may not have known what it was about. If they had the wrong address down and they didn't know the neighbor's names. Mr. Greiner said if we hear them tonight, maybe we do nothing? Maybe we take inaction and then we tell them correctly, hey Neil, this just happened four houses down from you. If you have an issue with it, then we'll say you can appeal, right. It gives him a chance to correct it. They're not stuck with having been not informed. If we're proactive. Mr. Casale said yah, I don't know. Ms. Hebert said the most conservative option, it is to postpone from tonight's meeting and allow us to renotify the abutters.

Mrs. Martin said we very much appreciate the discussion and certainly the comments made to make everybody involved aware. We're a little caught off guard, frankly. We're just hearing about it tonight. But even though we are relatively new to the neighborhood, we have met our neighbors and we have spoken about wanting to put a garage up. So, I think if it's alright with the Board, we would prefer to be able to make our case tonight and just explain what our plans are and what we'd like to do. But we certainly want to respect our neighbors' right to appeal or right to have their voice heard. Mr. Martin said with winter coming, we're not going to be doing this in the spring. Chair Morin said if you would like to go forward, we will go forward. Once a decision is made, if it's approved, then Becky's department will send out something to them so that, at least that way they have some information. They'll have 30 days in which to present something. If they don't, then. Mrs. Martin said I think if I were in one of my neighbors' shoes, I would appreciate that clarification, and if I had strong feelings against what the plans were, I would feel 30 days was adequate to speak up. Ms. Hebert said unfortunately Kathleen Ports prepared the agenda and the legal notice, and she's on vacation right now. I was away last week, so we sort-of crossed and she said oh by the way, we noticed this error. So, it really did just become... I just became aware of it. It's not uncommon for there to be minor errors in a legal notice, and it is a procedural error, so if it were to be appealed, the process would be to kind-of re-notice and re-hear the application. Mrs. Martin said well, if the Board is okay with hearing us... Chair Morin said that is fine if you want to go forward. Introduce yourselves and go ahead. Mrs. Martin said thank you.

Mrs. Martin testified. We don't have anyone speaking on our behalf, so this is us. Rick and Linda Martin. We reside at 177 County Road, and our home is situated directly across County Road from the backside of Peter Woodbury Elementary School. We moved in in June of 2019 and had a little bit of time to start to get to know neighbors just prior to things being closed down and people being at home during COVID. We are still pinching ourselves that we closed when we did on that home and not a year later. Without further ado, getting back to our application. We are requesting a variance from Article IV, Section 275-28 of the zoning ordinance to permit facing the road. Supporting the request:

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:

By granting this variance for a detached garage, there will be value added to the existing property, thereby increasing the tax value and overall appearance of the property. Basically, our home is an older ranch-style single-story home. There is no existing garage. There was no storage. There was no back door, other than through our bulkhead from the basement. When we began planning a garage, the issues that we were facing were considerable regarding re-engineering of the home, if we were to consider attaching the garage to the house—between carrying walls and the basement and what the existing structure could support. So, our original application is actually back last spring. So, we have been on this... we've been pursuing this for some time now. We appreciate the opportunity to speak tonight. The decision to have a detached garage, we felt, was certainly less cost prohibitive. Originally, our application stated that the garage would be perpendicular to the driveway. That really had more to do with the porch and what we were assuming we needed to have until we got clarification from the Conservation Commission. After we got approval from the Conservation Commission, we kind of went back to the drawing board and, with Kathleen's help, she did make a site visit out to our property to see what limitations were in regards to the wetlands, we were dealing with. A suggestion was made by one of the Conservation Commission members that we kind-of move the footprint of the garage to face the road. Once all of that was explained and we went back to our survey engineer to see if that could be done and still remain within the buffer zone that was approved by the Conservation Commission. Then we did put together a new application with that updated information. So, continuing on through the variance application

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

2. The spirit of the ordinance is observed because:

The spirit is observed because every effort will be made to adhere to the safety and maintenance of the existing wetlands bordering our property. The request is for minimal entrance within that buffer zone. I believe the map does show about approximately 31 feet as opposed to the 50-foot requirement. That does allow for us to remain beyond the 35-foot setback requirement from County Road.

3. Granting the variance would do substantial justice because:

Well, we are in a different demographic than the former owners. They were looking and had been previously granted approval for an addition to the home for their growing family. We, on the other hand, are looking to put a garage basically in almost exactly the same spot that they were looking to put an addition—right at the end of the driveway—just to allow for improved security of our vehicles and expand storage of lawn and snow equipment, as well as gardening and sports tools and equipment.

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

We are committed to working with our builder in order to maintain the appearance and integrity consistent with the home, and to improve the overall value of the property. The primary reason for us wanting the garage is for safety of our vehicles.

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:

Building it, as I said, separately from the home, would allow for the most cost-effective solution to vehicle security without having to re-engineer that end of the home. It is where the driveway presently sits, so it just makes the most sense to put the garage there. We're looking for safety and more security, as well as protection for the vehicles in the wintertime. We have a single-family residence. We're located on a private lot. There is no access to the wetlands by the general public. In addition to the wetlands that show up on this survey, we also have... there's a man-made pond that is there also. We have that fenced off. The general public would not be impacted. We do feel that it's a reasonable request. There will be minimal encroachment within that buffer zone. Since gaining the approval on August 24, from the Conservation Commission, they approved the garage to be within 28 feet of the wetlands, and, after having changed that footprint, now it would be approximately 31 feet. Entry by car will be easier now with the garage facing the road rather than perpendicular to the driveway. Anything else should be indicated on the survey map that was furnished by Allen and Major Associates. We've complied with the town's requirement of a 35-foot setback from the road. We also plan to adhere to the recommendation by the Conservation Commission to install a French drain in order to mitigate environmental concerns. Most of the garage will sit on what is now the existing driveway. We're certainly ready to answer any questions.

Chair Morin invited the Board to ask questions. Mr. Greiner and Mr. Green declined. Mr. MacPherson said I have just a comment. It seems that the Conservation Commission has recommended this twice. They're very qualified people to take a look at these things. No other comment. Mr. Casale said I have a couple questions. One is, you mentioned that the garage footprint was shrunk from what the Conservation Commission initially allotted. Why was it shrunk?

Mr. Martin answered it wasn't shrunk. It's now facing the road. We were going to put it on the side lot and have it face the side of the driveway. Mr. Casale said so they turned the building? Board agreed rotating the building lessened the wetlands encroachment by 3 feet. Mr. Casale said so it's over the driveway. When you're heading northerly, how far, because I don't see the dimensions, how far over the existing driveway are you? It doesn't just quite sit on the driveway. Mrs. Martin said I believe the map does ... Mr. Casale said and I'm asking it in the context of ... because this is a pretty large two-car garage. It's like, it's more than the norm, so that would be kind of a secondary question. Why do you need that much room? Why it can't be more in conformance with the setback? Because it's large, and so I'm curious as to what the dimensions are over the driveway as it's shown there.

Mrs. Martin said the map, I do believe, shows, well the edge of the pavement is the dotted. Mr. Casale said right, I just don't know what that represents, though, as far as distance. Someone asked... you want to know how far it is from the dot to the end of the building? Mr. Casale said right. Mrs. Martin asked from the dotted line to the end of the building? Ms. Thomas said it looks like about two or three feet? Mr. Casale said I can't see it. Ms. Thomas said two or three feet it looks like. Members in the room

agreed. Mr. Martin said when we had the approval from the Conservation Committee, the corner where the 30.8 line is, that corner was two feet further out. Mr. Casale said from the driveway... edge of the driveway? Mr. Martin said right. Mr. Casale said the corner. Mr. Martin said right. So, now it's two feet closer. Mr. Casale said okay, and aside from the two cars, because, again, this is a pretty large garage, what else are you storing in there? You'd only mentioned the vehicles.

Mrs. Martin said well, I believe I mentioned lawn and garden equipment, sports equipment, yah. Mr. Casale said, alright, thank you.

Mr. Gilbert and Ms. Thomas didn't have any questions. Chair Morin said I don't have anything. I'll ask the public, but they all left, so... don't have to worry about that. Any last items before we go into deliberation?

Mrs. Martin said well, I do have a question that speaks to Mr. Casale's comment. I'm not a builder. I'm doing the best of, you know, follow along, and listen to everyone's recommendations. If the decision is made to reduce the size of the garage, would we have to come through and go through the process all over again because the dimensions changed? Ms. Hebert answered you could not... your footprint of your garage could not be made larger in a way that it would be bringing it closer to the wetland. Mr. Greiner clarified the applicant is referring to if the Board decides to have the applicant reduce the garage size. Ms. Hebert said the Board could condition the approval on reducing the footprint of the garage, but you wouldn't have to reapply. Chair Morin said right, so what we'd basically do, if we're going to approve this, our approval will be for that distance, basically to the wetland. So, that's what we're pretty much looking at. Mr. Greiner said that's your footprint. Chair Morin said right, that's kind of your footprint. If you go further away from it, oh well, okay. But you can't go closer. Mrs. Martin said no, it would not go closer, sure. Okay. Chair Morin asked, anything else? Mr. and Mrs. Martin both said no. Chair Morin said okay. Then I will ask for a motion to go into non-public input for deliberation,

MOTION by was made by Mr. Casale to go into non-public input for deliberation. Ms. Thomas duly seconded the motion. Roll call vote was taken - all in favor. Motion carries.

Chair Morin continued alright, let's go through the criteria.

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. Green said it appears not. Chair Morin said I think that's about the only house that doesn't have a garage in that neighborhood. Mr. Green said there's one further down the road by the high-tension wires that was just built. Chair Morin said true. Because even the school across the street has a garage.

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

Consensus of the Board is no.

2. The spirit of the ordinance is observed because:

Chair Morin said I think it is. With working to keep it the furthest they possibly can with where they're restricted. If we approve it, we want to make sure that we do say something about the trench drains that was brought up in the Conservation Commission in the motion so that way they're held to that. So, I think we're good there.

3. Granting the variance would do substantial justice because:

Board agrees it would.

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

Board agrees there's no evidence of this. Mr. Green said in increases with the garage.

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:

Chair Morin said number one having a triangle is tough to work with. If you go by the house, it appears to be one of the smaller lots because of the way it's configured.

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

(iii) 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:

Chair Morin said love that one! That's got to be the hardest one to explain, but I think we've explained most of it in the last questions anyway. Board agrees.

(iv) The proposed use is a reasonable one because:

The Board agrees in this application, the proposed use is reasonable.

(D) 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: Mr. MacPherson moves that the Zoning Board accept the application for a variance from Article IV, Section 275-28 to permit the construction of an attached garage 30.8 feet from the edge of a wetland where 50 feet is required, for Richard and Linda Martin at 177 County Road, Lot 22-84, Zoned R&A with a provision that the recommendations from the Conservation Commission of August 24 to include a trench to direct runoff to the natural wetlands as per our deliberations. Mr. Gilbert duly seconded the motion. Roll call vote was taken – ALL IN FAVOR. Motion carried 5-0.

Mr. Greiner asked did you want to add to that the town will send out notification, or is that going to happen automatically? Chair Morin said I think that's just going to happen. Ms. Hebert said procedurally I will do that. There were four abutters and The Village Green Association that would need to be notified.

Chair Morin requested a motion to go back into public input.

MOTION by Mr. Casale to move back to public input. Mr. Gilbert duly seconded the motion. Roll call vote taken – all in favor. Motion carried 5-0.

Chair Morin said okay, we're back. You're approved.

Mrs. Martin said thank you very much. Chair Morin said Becky, do we have anything else for this evening? Ms. Hebert said I do not have any other announcements for you tonight. Chair Morin said alright. With that, one last motion.

MOTION: Mr. Green moves to adjourn the meeting. Ms. Thomas duly seconded the motion. Roll call vote was taken – ALL IN FAVOR. Motion carried 5-0.

The next meeting will take place on November 16, 2021.

Respectfully submitted,

Sue Forcier