

PRESENT: Pelczar, Vice-Chairman; Thorpe, Goodheart, Clark, Flanders, Edney, Code Enforcement Officer, Tivnan, Clerk

Clark moved, Goodheart seconded, THAT WE APPROVE THE MINUTES OF OCTOBER 13, 2011 as amended.

PUBLIC HEARING

2970: DAVID M. DOLAN ASSOCIATES, PC FOR SANDRA L SABUTIS TRUST 2006: An appeal for a VARIANCE (ARTICLE V, SECTION D- 4B) to construct a garage with a 7' side setback, 20' required and a 6.3' rear setback, 30' required, Tax Map S16, Lot No.13, located at 91 Bonney Shores Road in the Shoreline District.

Dave Dolan – This property has about 110' of frontage on Lake Waukegan. The lot was created in 1963 as part of a subdivision. This is the smallest remaining unmerged lot that was created as part of that subdivision. The existing house was built around 1965 and in 2008 some modifications to the house were completed. A septic system was installed in front of the house. (Pointed to a plan showing location of tanks and leach field.) The garage we are proposing is 24' x 24' with a side setback of 7' and a rear setback of 6.3', 30' required. I met with Bill Edney to discuss a previously proposed location so this plan has been modified slightly to move the garage further from the road. We are trying to keep some separation between the house and the garage. I have spoken to Mike Faller and he has no problem with the location. The location has been staked. We have submitted a Shoreline Permit. The lot coverage is 26.5% which complies with the Zoning Ordinance.

1. Granting the variance would not diminish the values of surrounding properties because it is an improvement to the property and typically this would not have an adverse affect on the abutting properties.
2. Granting the variance would not be contrary to the public interest because it is located in an area that will not affect views or access of abutting properties.
3. Granting the variance would do substantial justice because the majority of the homes in the neighborhood have garages, some of which are located within the required setbacks. It would allow the property owner equal use of the property as neighboring properties.
4. Granting the variance would observe the spirit of the ordinance because the proposed garage is accessory to the residential use of the property and is a permitted use in the district per the Zoning Ordinance.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the lot was created as part of a subdivision that occurred in 1963. This lot is the smallest lot at this end of Bonney Shore Road and has a limited available building area based on required building setbacks and the location of the existing septic system. The request is a reasonable use considering the year round use of the property and is consistent with the use of neighboring properties.

Clark – I am wondering what alternatives were considered prior to asking for the variance?
Dolan – There is no place to put this garage on the lot that would not require a variance. We had it closer to the road to keep it further from the side setback but it was suggested that we keep it further away from the road based on my discussion with Bill Edney. If you move it up and it complies totally with the road setback and puts it tight to the building and it gets closer to the side property line. There is no practical way to attach it to the building and access the building the way the house is laid out. Clark – So there is no way to have it touch the house.
Dolan – It could be attached but there would be no practical access. Clark – It would seem to me for it to be possible to have it abut the house without having a passage way. I am having trouble understanding why having it touch the house would be a hardship. Dolan – To have it touch the house it would be corner to corner. If you move it back, it goes closer to the side setback and you have the septic tanks to contend with as far as the setback distance. Clark – I will accept that as your attempt to answer the question. Donald Trudeau – I am in support of this application. Cheryl Gallagher – I am here to support this application. John Valpey – I am two houses down and own land directly across the street. What is the basis to not only consider but grant a variance to the 30' setback? There has been one variance that was granted with a 1.7ft setback. There was another with a 6.3' setback. Why do you not require compliance with recorded deed restrictions? We are subject to covenants and restrictions. One prohibits the construction of a building within 25' of the road. How do they get this far? I know it's not your duty to enforce the deed restrictions but I would think it would influence your thinking. Dolan – As far as the deed restrictions go, it appears as though over the years they have not been enforced. Edney – We have a number of issues with private covenants. The Town of Meredith is not obliged to deal nor can it deal with private covenants. Members of the association would have to take that up amongst themselves. Clark – The reason a Zoning Board exists is to ensure that through the creation of a Zoning Ordinance we don't inadvertently and illegally deprive someone of the lawful use of their property in conflict against the Bill of Rights. We are a relief valve for this. There are 5 criteria which Mr. Dolan went through. It is up to this Board to decide if he has met all 5 of those criteria. Unless we can find three people on the Board that believe that all 5 criteria have been met, we are obligated to vote against the variance. If on the other hand we believe the 5 criteria have been satisfied, then we are obligated to grant the variance. It turns out the amount of variance doesn't really weigh into it though; it would weigh into whether or not the various criteria have been met. Valpey – The restrictions have been enforced though not recently. I understand the desire to have a garage but I wish there was a way to figure it out so it is less intrusive on the setback. I am not opposed to this application. I would just like it better if there was a way to do this and make it more compliant. Liz Lapham – I would like you to consider that the Sabutis's are now fulltime residents and both have become very active in a number of things within the town. I know this is not a criterion for a variance but I do think there is some consideration to be shown to those who move into our town and are asking for a variance for a garage. Hearing closed at 7:25 PM

2971: GEORGE AND SANDY SCHUSSEL: An appeal for a SPECIAL EXCEPTION (ARTICLE VII, SECTION B-3) to construct a 22' x 36' boathouse with a 4' x 11' foot entry, Tax Map U37, Lot. No.3, located at 41 Advent Cove Road in the Shoreline District.

Carl Johnson (Advanced Land Surveying Consultants) - There is a specific set of criteria identified in the Zoning Ordinance that relates to the construction of a boathouse that need to be met for the granting of a Special Exception . There is also the general criterion that needs to be met. I will go down the specific criteria and demonstrate to the Board that we meet all of those. This property has 2166' of shorefront on the lake. This is a boathouse with a single slip. The site engineer is Paul Fluet. He has designed several boathouses within the Town of Meredith. The first criterion is boathouses shall be not greater than 32 feet in height as measured from the mean high water mark. This boathouse will be 20 feet high as measured from the mean high water mark which is within the allowed 32 foot criteria. The boathouse width will be 22 feet, 36 feet permitted and the boathouse will have at least 75' of dedicated shoreline frontage which has not been designated for any other shoreline structure. Boathouses shall have pitched roofs with a minimum pitch of 5/12. This boathouse roof will have 2 different rooflines with the minimum roofline pitch meeting the allowed minimum pitch of 5/12. This prevents anything from happening on the roof of the boathouse. The boathouse has been designed for use of docking boats or similar craft and will not include a dwelling unit, bunkhouse, heli pad or other uses associated with the shore. The exterior lighting planned for the boathouse will be such that it will not be offensive or otherwise disruptive to the neighborhood by virtue of light intensity or direction. The exterior lighting will be downward shining and no spot lights are planned. (Presented pictures of proposed lighting.) There really aren't any abutters close by. The nearest abutters are across the cove and two abutters directly across the cove each have a boathouse. If the construction of a boathouse necessitates physical alteration and/or dredging of the natural shoreline, an Erosion Control Plan shall be prepared by a Licensed Professional Engineer and approved by the Meredith Planning Board or their duly appointed representative prior to consideration and the cost of the review shall be the responsibility of the applicant. Mr. Edney is the duly appointed representative of the Planning Board and those plans were submitted to him. Paul Fluet, a licensed engineer has prepared the plans. Boathouses shall be sited so as to minimize environmental impacts. This boathouse was sited taking into consideration soils, slope, hydrographic mapping and vegetation, as well as consideration paid to other properties in the cove. The proposed boathouse will be the only boathouse on this property as set forth by the Ordinance. Evidence of acceptable surety and site access to guarantee performance associated with site work stabilization shall be provided prior to issuance of the building permit. That means you post a bond. General criteria that the use is not detrimental to the character or enjoyment of the neighborhood. It is on an 80.7ac. piece of property. As I said before, the two closest abutters across the cove each have boathouses. The use will not be injurious, noxious or offensive and thus detrimental to the neighborhood for the same reasons and it is not contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life and property, unsanitary or unhealthful emissions or waste

disposal or similar adverse causes or conditions. I think my presentation points out none of those are being affected by this application. Hearing closed at 7:50 PM

DELIBERATIONS

2970: DAVID M. DOLAN ASSOCIATES, PC FOR SANDRA L SABUTIS TRUST 2006:

Clark – My understanding is in order for there to be a hardship, other alternatives must be considered and found to be unworkable. In this case, I do not believe other alternatives have been considered. When I provided the applicant the opportunity to tell me why it wouldn't work to move the garage away from the street and also the side, to the point where it would touch the house, all I heard was we don't really feel like doing it that way. I didn't get anything that was clear. In my mind, the applicant has failed to meet the criteria on hardship and the unwillingness to consider alternatives to me flies in contrast to the spirit and intent of the Zoning Ordinance which is supposed to provide for reasonable space between the road and the buildings and between the side of the building and the adjacent property. I would say those two criteria have not been met. Thorpe – I am going to speak contrary to Warren's comments. The alternatives would be possible but I don't see how any of them are going to materially improve the situation. As Mr. Dolan pointed out, if he slides it back and connects it to the house, the side setback will not improve by much nor would the front. I feel a two car garage in this climate is a reasonable request and given the neighborhood and other buildings in the area, I do think there is a hardship here and the hardship has been met and satisfies the spirit of the ordinance. Flanders – I tend to agree. If you look on the plan the buildable area is barely big enough for a house. The location of the septic tanks was an issue. This is a tough lot to meet setbacks. Goodheart – I agree with Brian and Dave. I don't know where else you could put it. On Warren's behalf they could move it a little but I still think they will come before us again because they will never meet all the setbacks. Clark – In spite of my comment earlier where I said the amount of variance doesn't enter into whether or not it is approvable. I will say the fact the applicant has not done everything they could to mitigate the amount flies in the face of their obligation to consider the spirit and intent of the Zoning Ordinance.

1. Granting the variance would not diminish the values of surrounding properties: All agreed it would not.
2. Granting the variance would not be contrary to the public interest. All agreed it would not.
3. Granting the variance would do substantial justice. Clark- Disagreed. All else agreed.
4. Granting the variance would observe the spirit of the ordinance. Clark- Disagreed. All else agreed.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary. Clark- Disagreed. All else agreed.

Thorpe moved, Flanders seconded, IN CASE 2970, DAVID M. DOLAN ASSOCIATES, PC FOR SANDRA L SABUTIS TRUST 2006, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V, SECTION D- 4B) TO CONSTRUCT A GARAGE WITH A 7' SIDE SETBACK, 20' REQUIRED AND A 6.3' REAR SETBACK, 30' REQUIRED, TAX MAP S16, LOT NO.13, LOCATED AT 91

BONNEY SHORES ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 4-1 in favor.

- Thorpe – Yes
- Flanders – Yes
- Goodheart – Yes
- Pelczar – Yes
- Clark - No

Pelczar - Thirty day appeal period.

2971: GEORGE AND SANDY SCHUSSEL:

Thorpe- Seems to me the requirements of the Town and State are so well defined and it appears as though every one of those has been met. Clark – I agree with Dave. Flanders – I agree with Warren.

Clark moves, Goodheart seconded, IN CASE # 2971, GEORGE AND SANDY SCHUSSEL, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION (ARTICLE VII, SECTION B-3) TO CONSTRUCT A 22' X 36' BOATHOUSE WITH A 4' X 11' FOOT ENTRY, TAX MAP U37, LOT. NO.3, LOCATED AT 41 ADVENT COVE ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE GENERAL AND SPECIFIC CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

Pelczar - Thirty day appeal period.

Meeting adjourned at 8:00 PM

Respectfully submitted,

Christine Tivnan
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on February 9, 2012

Mike Pelczar-Vice-Chairman