



TOWN OF
BROOKLINE, NEW HAMPSHIRE

BOARD OF ADJUSTMENT

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BOARD OF ADJUSTMENT

MINUTES

Wednesday October 12, 2011

Present:

Peter Cook, Chair
George Foley, Vice-Chair
Webb Scales, Clerk
Marcia Farwell, Member
Kim Bent, Member

Absent: **Joyce O'Connor**, Alternate and **Charlotte Pogue**, Alternate.

Appoint / re-appoint Chairman, Vice-Chairman, and Clerk

Marcia made a motion to elect Peter Cook as the Chairman. Webb Seconded. Vote yes 5-0.

Marcia made a motion to elect George Foley as the Vice-Chairman. Webb Seconded. Vote yes 4-0. George abstained.

Kim made a motion to elect Marcia Farwell as the Clerk. George Seconded. Vote no 3 to 2.

George made a motion to elect Webb Scales as the Clerk. Peter Seconded. Vote yes 3 to 2.

Case 361:

In attendance for this hearing **Mary Elizabeth Fields** (applicant), and **Cynthia Mobley** (abutter).

Peter read the hearing notice:

Notice is hereby given that a hearing will be held at or about **7:30 p.m.** on **Wednesday, September 14, 2011** in the Town Hall meeting room concerning a request for a **Variance** regarding **Section 603.02** of the Brookline Zoning Ordinance. Applicant **Mary Elizabeth Field** has requested to be allowed to put a 6x10 shed in the side setbacks on her lot L-18. This lot contains .13 acres and is 21 feet wide located on Mason Road in the Residential Agricultural district.

Peter asked if the fees have been paid and the abutters notified. **Kristen** said yes.

Mary Elizabeth said she has a long and narrow lot off Mason Road and it extends to the lake. The lot is about 20 feet wide. We have been parking up top and caring our chairs and boat down to the water and they would like permission to put a 6x8 shed in the clearing. **Mary Elizabeth** said they have had it surveyed and **Jerry Farwell** has cleaned up the lot and made a nice walking path down to the beach. **Mary Elizabeth** handed out pictures of the lot for the Board to review. They would like to put a shed on the property so they can store chairs, a blow up boat, and various other beach items that they have been dragging down to the beach from their

car. **Mary Elizabeth** said there is a small hallow where they can put the shed without having to cut any trees. You will not be able to see the shed from the road and it will face the Jones house. **Marcia** said Mr. Jones contacted her and was concerned that the shed would block the access to the back of his property. **Mary** said it would be closer to the lake and will not block his access to the septic in the back yard. **Peter** said Mr. Jones had emailed a letter with his concerns. **Peter** read the letter from Mr. Jones:

“My name is Ken Jones and I am one of the owners of the property on 27 Mason Rd .I received a letter as an abutter to lot #L-18 requesting a variance for Mary Elizabeth to put an 8x10 shed on her property. My only concern is the location of the shed due to the nature of the lots and the access to the rear of the property on 27 Mason Rd. I would like to see where the proposed spot is on the plot plan before agreeing to a variance that could possibly cause issues down the road.”

Peter asked if the location of the shed will interfere with access to the back of the property at 27 Mason Road (lot L-17). **Mary Elizabeth** said no it wouldn't. Both abutting house are closer to the road than the shed will be. **George** said they should look into the guidelines about how many feet back from the water they have to be. **Peter** said there concern is the side setbacks. **George** asked if this lot floods at all. **Mary** said no there has been no flooding. **George** said he would suggest staying at least 50 feet away from the shoreline. **Peter** asked if this will have a foundation. **Mary Elizabeth** said it will be movable. **George** said if this is going to be a temporary structure you may not need to be here. **Peter** said she is still going to need a waiver from the setbacks.

Peter went through the points in the variance application:

Question 1. Granting the variance would to be contrary to the public interest because:

Applicant Answer: “No major trees would be cut down. The small shed would not be seen from the road.

Question 2. If the variance were granted, the spirit of the ordinance would be observed because:

Applicant Answer: “I am asking for the variance so that I can use my land without intruding on my neighbors land. I need to store a small inflatable boat and chairs in a neat and safe manner without intruding on my neighbors.”

Question 3. Granting the variance would do substantial justice because.

Applicant Answer: “Both my husband and myself are getting older and each of us are having a more difficult time to drag beach items back and forth to the beach.”

Question 4. If the variance were granted, the values of the surrounding properties would not be diminished because:

Applicant Answer: “Each lot of land surrounding mine has either a house (Jones) or a large camp (Tomaso's on the beach), log cabin (Nancy Clough). A small shed should not make any impact if sheltered by trees.”

Question 5: Unnecessary Hardship.

A. Owing to Special Conditions of the property that distinguishes it from other properties in the area, 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:

Applicant Answer: “My husband is in late 80's and I am in my 70's. I have had back operations with the use of the small shed with no windows and approximately the size of 6x10 of less.”

Question ii: the proposed use is a reasonable one because:

Applicant Answer: This variance for me is reasonable because it will be situated on my path to the beach area and not in the sand. It will not obstruct any other view and it is contained on our property.

Question B: Explain how, if criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinances, and a variance is therefore necessary to enable a reasonable use of it.

Applicant Answer: "As stated above each abutting lot around my property, has a permanent structure on there property, theirs are larger than mine. Some of them if not grandfathered would need a variance if they were to be built today."

Peter said this situation is actually a hardship.

The Board agreed with all the above and had no issues or further comments.

Webb made a motion to Grant the request for a Variance, from Section 603.02 (b)of the Brookline Zoning Ordinance changing the 15 foot setback to 2 feet to allow a 6 x 10 square foot shed on lot L-18. Marcia Seconded. Vote yes 5-0.

Rules of Procedure

The Board reviewed the Rules of Procedure. **Marcia moved to accept the Rules of Procedure. George Seconded. Vote yes 5-0.**

Code of Ethics

The Board of Selectmen have asked that all Boards and Commission look into accepting the code of ethics recommended at the 2005 Town Meeting.

Marcia said we as a Board follow this anyways without it being written on paper.

George moved to accept the Code of ethics recommended at the 2005 Town Meeting. Peter Seconded. Vote yes 5-0.

Minutes

Marcia moved to approve the Zoning Board minutes from February 9, 2011 as written. George Seconded. Vote yes 5-0.

Marcia moved to adjourn at 8:45 pm. Kim Seconded. Vote yes 5-0.

Minutes submitted by Kristen Austin.

Peter Cook, Chairman _____

George Foley, Vice Chair _____

Webb Scales, Clerk _____

Marcia Farwell, Member _____

Kim Bent, Member _____