

**City of Laconia**  
**Zoning Board of Adjustment**  
Monday, March 21, 2022 - 6:30 PM  
City Hall in the Armand A. Bolduc Council Chamber

*Accepted April 18, 2022*

3/21/2022 - Minutes

1. CALL TO ORDER

The meeting was called to order by S. Bogert at 6:32PM

2. ROLL CALL

Present: S. Bogert; G. Ober, M. Foote; R. Maheu; J. LaRoche; M. Dellavecchia (7:42 PM)

Absent with Notification: M. Hayward

3. RECORDING SECRETARY

K. Santoro, Zoning Technician

4. STAFF IN ATTENDANCE

D. Trefethen, Planning Director

5. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

5.I. Zoning Board Of Adjustment Minutes January 18, 2022 (PDF)

M. Foote made a motion to accept the minutes of January 18, 2022 as presented.

R. Maheu seconded the motion.

All in favor (5-0)

G. Ober asked to reopen the approval of the minutes; it was clarified that the condition of approval in question was in the minutes. Motions stands as originally made.

6. CONTINUED PUBLIC HEARINGS, CONSIDERATION AND POSSIBLE VOTE Note: The Purpose Of This Agenda Section Is For The Board To Continue The Public Hearing For The Applicant And The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

6.I. ZO2021-0060SE 23 Summit Ave Special Exception Application - WITHDRAWN BY APPLICANT (PDF)

7. PUBLIC HEARINGS, POSSIBLE CONSIDERATION AND VOTE Note: The Purpose Of This Agenda Section Is For The Board To Have A Presentation From The Applicant And Open A Public Hearing For The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

7.I. ZO2022-0008VAR Race Point Rd Variance Application (PDF)

Attorney for the applicant, Phil Brouillard, and Jessica Bailey, a certified wetlands scientist, of Bryan Bailey Associates presented the application to the Board. They explained that the lot is primarily wetlands, there is one small area that is not in the wetlands that could be utilized for constructing a house. P. Brouillard noted that they have applied for a Conditional Use Permit (CUP) to build in the buffer area. The application was reviewed by the Conservation Commission and their recommendations have been incorporated into the proposed conditions and into the deed as deed restrictions.

They outlined the application, they are requesting a variance for the side setback to allow the construction of a home outside the wetlands. It would be in the buffer, which is why they have applied for a Conditional Use Permit. If the variance to encroach into the side setback is granted it would allow a small buffer from the wetlands and the enhancement of a planted buffer including the construction of a rain garden. P. Brouillard informed the Board that the encroachment totals approximately 250 square feet.

P. Brouillard went over the recommendations made by the Conservation Commission and informed the Board that they are included in the deed restrictions on the property.

J. Bailey noted that the wetlands are not high functioning; and that there is a catch basin on the property that is not functional due to it being full of sediment. It was noted that the structure would be 49' away from the nearest structure on the neighboring property.

D. Trefethen, Planning Director, informed the Board that he went out to the site last week on a warmer day where the snow was melting. He noted that the drainage ditch, which is located on Ferncroft property, has not been maintained and is now a wetland. He noted very little water was moving, the surrounding properties may contribute some water but not a lot. He noted that this proposal does not disturb the wetland and the is does not disturb the existing flow.

The Board asked who owned the roads, and who is responsible for maintenance of the catch basins. D. Trefethen informed the Board that the road is private and Southdown and the different villages are responsible for the maintenance of the drainage systems.

G. Ober asked about the proposed covered walkway from the garage. It was clarified that it is a walkway, not enclosed, it provides relief from the weather when coming from garage to the house. P. Brouillard added the house is a modest two story house, there are no accessory structures such as sheds per the Conservation Commission recommendations. G. Ober asked if the lot was designed as a building lot. D. Trefethen stated that it is a lot of record.

At 7:07 PM S. Bogert opened the public hearing.

James Wason, a Racepoint resident, addressed the Board. He noted that he was not there to object but to understand what was going on. He stated that the catch basins were cleaned and that there was water running out. He also noted that the drainage ditch is on Ferncroft.

Rhonda Hokanson, of Exeter Place, addressed the Board. She stated that she was told the property was a wetland. She is not opposed to a house being built, she is opposed to a house being built in the wetlands.

At 7:12 PM with no additional speakers for or against the applications, S. Bogert closed the public hearing.

J. Bailey responded to the concerns raised by the abutters. She reiterated that the house is not being built in the wetlands, this request is to encroach in the setback to allow for a buffer to the wetlands, even if it is small. There is no other place on the lot outside the wetlands.

J. Bailey went over the buffer that would be enhanced with plantings. She provides a list of plants that can be used. Due to fluctuations in the nursery stock a list to pick from is provided. After a year they do a monitoring check to see if plants have rooted, are growing etc.

The drainage system was discussed again. S. Bogert asked audience member James Wason, who is a member of the board in Southdown, to clarify about the maintenance. J. Wason noted that a scope had been put through the culvert in fall of 2021.

G. Ober asked M. Foote for a comment as he is on the Conservation Commission. He commented that this lot has a lot of challenges for development and that this is the best option available. It takes into consideration the concerns of the Conservation Commission.

G. Ober made a motion to approve Application ZO2022-0008VAR for a variance from Article VI Section 235-35B Side and Rear Setbacks to allow for the construction of a new home, a portion of the home and garage would encroach into the side setback.

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

Granting the variance would not be contrary to the public interest because the property was an approved building lot. The abutting property owners understood it was an approved building lot that would be built upon someday. The lot has also taken drainage from surrounding properties, which is a hardship to this lot.

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

If the variance were granted, the spirit of the setback and wetlands buffer ordinances would be observed because there would be a reasonable distance of 49 feet from the proposed house to the nearest abutting home and a reasonable distance to the delineated wetlands that allows wetland buffer enhancement area, signage and deed restrictions to protect and preserve the wetlands.

3. Granting the variance would do substantial justice because:

Granting the variance would do substantial justice because it would not alter the character of the neighborhood, nothing would change. The house would be similar in size to Ferncroft units and other homes on Race Point. It would be nestled into and surrounded by wetlands.

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

If the variance were granted the values of surrounding properties would not be diminished because construction of a new single-family home of modest size similar to abutting Ferncroft Units would not alter the character of the neighborhood. Nothing would change, the new home would be roughly the same size as abutting Ferncroft Units and other homes on the street.

5. Unnecessary Hardship:

Literal enforcement of the provisions of the side setback provisions would result in unnecessary hardship, literal enforcement of the regulations would not allow the property owners to utilize their property and build a home that has a setback from and protects and preserves the wetlands with landscaping enhancement planting area, signage and deed restrictions to preserve and enhance the wetlands area.

Conditions of Approval:

- All Conservation Commission recommendations must be adhered to
- A copy of the one-year monitoring report on the buffer and rain garden to be provided to the Planning Department.

R. Maheu seconded the motion.

All in favor (5-0)

7.II. ZO2022-0009VAR 36 Orchard St Variance Application (PDF)

Applicant Brian Taylor outlined his application to the Board. He would like to put a small addition to the house, to keep in line with the main house, the addition would have a minor encroachment into the front setback. The applicant noted that the addition is for a first floor bedroom and clarified it is a one story addition.

At 7:31 PM S. Bogert opened the public hearing.

At 7:31PM with no one to speak for or against the applications, S. Bogert closed the public hearing.

G. Ober made a motion to approve Application ZO2022-0009VAR for a variance from Article VI Section 235-35A Front Setback to allow for an addition on the home, a small portion will be in the front setback.

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

The addition is not contrary to the public interest and it is consistent with the rest of the neighborhood.

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

The project is reasonable, and the minor encroachment in the front setback would not interfere with the City's right of way.

3. Granting the variance would do substantial justice because:

The variance would do substantial justice as there is no detriment to the public, the addition would enhance the house.

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

There is no negative impact on the surrounding properties, values would not be negatively impacted and the project is in harmony with the neighborhood.

5. Unnecessary Hardship:

The main portion of the house, built prior to zoning is in front setback, to stay in line with the existing house would require a minor encroachment into the front setback. The house will remain a single family. The request is reasonable, it is a modest addition and in harmony with the other homes in the neighborhood.

M. Foote seconded the motion.

All in favor. (5-0)

7.III. ZO2022-0011VAR 59 Clinton St Variance Application (PDF)

The applicant's representatives, Attorney Shawna Bentley and Nick Skeggell of Dubois & King addressed the Board. There are two applications for the same property, and with the agreement of the Board they presented them both at the same time.

Shawna explained that they are asking for a Variance to allow parking within the side setback area and a Special Exception for the use of the property as an artist colony.

S. Bentley outlined the proposed use, it would help serve the performing arts at the opera house and serve as a place for artists to meet; go over demos; etc. She then read the parameters for the special exception.

(M. Dellavecchia arrived 7:42 PM. J. Laroche remained seated as a voting member.)

N. Skeggell went over the design of the parking lot for the variance application. The existing structure would be torn down and a smaller, more conforming structure would be built to the rear of the property. The parking area would be to the front of the structure, there would be a fence and a landscape buffer between the parking and the residential use next door.

It was noted that the fence in the front setback area cannot exceed four feet in height per the existing ordinance.

At 7:57 PM S. Bogert opened the public hearings for both applications.

At 7:57PM with no one to speak for or against the applications, S. Bogert closed the public hearings.

The board discussed the possibility of overnight accommodations at the studio. It was noted that artist may come to perform at the Lakeport Opera House and be looking for a place to stay. This would be different than offering it to the public for short term lodging.

M. Foote made a motion to approve Application ZO2022-0011VAR for a variance from Article VIII Section 235-48E Design Requirements (parking) to allow for parking within the side setback area in a residential district.

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

There would be no effect on the general public. The parking area will be screened with fencing and landscaping. Adjacent areas on abutting parcels are currently being used for parking.

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

The spirit of the ordinance would be observed because it will provide adequate on site parking for the proposed use. Fencing will be utilized to provide a visual barrier. Parking demand in the winter is reduced and adequate snow storage can be accommodated within the proposed parking area.

3. Granting the variance would do substantial justice because:

There is a general lack of parking in the vicinity. Additional parking would provide some relief to the existing parking shortage in the neighborhood.

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

Surrounding property values would not be diminished. The project includes high quality materials and professional landscaping. Although the area is a residential zone, the surrounding area includes a mix of uses. The parking area is consistent with the parking areas provided on adjacent lots for multifamily residential uses.

5. Unnecessary Hardship:

There is a parking shortage within the Lakeport Square neighborhood and maximizing the parking potential of the property will help alleviate parking shortages in the neighborhood. The parking area will be adequately screened and is similar in nature to parking areas on adjacent parcels in the area. The lot configuration results in a narrow access from the street, such that configuration of parking and driveway access for the proposed is limited if the setback area is maintained.

R. Maheu seconded the motion.

Four in favor; one opposed (G. Ober)

M. Foote made a motion to approve application ZO2022-0012 SE for a special exception for Article V Section 235-26 Uses Permitted by Special Exception to allow for use as an artist studio.

a. The use requested is specifically authorized in this chapter.

The use as an artist studio is specifically authorized under the Table of Permitted uses in the RG Zone with a Special Exception.

b. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.

The proposed use will not create any undue traffic congestion or unduly impair pedestrian safety. The property will allow artists performing at the Lakeport Opera House a place to wait before or after their performance. The property is within walking distance to the Lakeport Opera House with well marked pedestrian crossings and sidewalks.

c. The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets.

The proposed use will not overload any public water, drainage or sewer system or any other municipal system nor is there any change that would increase stormwater runoff.

d. The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.

The requested use will have little or no effect on the demand for municipal police, fire protection, schools or solid waste disposal.

e. Any special provisions for the use as set forth in this chapter are fulfilled.

There are no special provisions.

f. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood.

The requested use will not create hazards to health, safety, or general welfare of the public. The adjacent neighborhood has a variety of mixed uses e.g. restaurant, entertainment venue, church, park. The use therefore is not out of character for the neighborhood.

g. The proposed location is appropriate for the requested use.

The location is appropriate for the requested use as it lies adjacent to the Lakeport Opera House. The property is a short distance from the Lakeport Opera House, and the use of the property as an Artist Studio is a natural extension of the opera house and will complement the neighborhood.

h. The requested use is consistent with the spirit and intent of this chapter and the Master Plan.

The requested use is consistent with the spirit and intent of this chapter. The adjacent neighborhood contains a variety of mixed uses.

J. Laroche seconded the motion.

All in favor (5-0)

## 8. OTHER BUSINESS

K. Santoro informed the Board that she has been offered employment in another municipality and will be leaving the City of Laconia.

8.I. 41-63 Elm Street; Paugus Elm1 LLC, Abutter Appeal On An Administrative Decision - REMANDED  
PER COURTS ORDER

Due to ongoing discussions between the two parties, the remand of the abutter appeal will be postponed to the April 18, 2022 meeting.

9. ADJOURNMENT

At 8:22 PM G. Ober made a motion to adjourn.

R. Maheu seconded the motion.

All in favor. (5-0)