

**TOWN OF EPPING, NEW HAMPSHIRE  
ZONING BOARD OF ADJUSTMENT MEETING**

**Wednesday January 21, 2015**

**PRESENT:** Dave Mylott, Joe Bodge, Mark Vallone, Charlie Goodspeed; Alternate Kim Sullivan; Secretary Phyllis McDonough; Planner Brittany Howard.

**CALL TO ORDER:** Chairman Mylott called the meeting to order at 7:00 P.M. and appointed Sullivan to sit as a voting member.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**BRUCE & RITA CROCKER** – Chairman Mylott read notice for a Special Exception concerning Article 2, Section 1.5, and a Variance concerning Article 2 Section 1.2. Parcel is located at 5 Fisher Drive (Tax Map 023 – Lot 074) located in the Highway Commercial Zone.

Attorney Derek Durbin came before the Board with the proposal. He explained the lot that exists is a single family home in the Highway Commercial district. He explained where this is located is somewhat like a residential island. He stated the closest property for commercial use appears to being used as sand storage. Attorney Durbin explained the Fisher Drive subdivision was approved by the Planning Board in 1988 and the zoning for that went into effect into the Highway Commercial district in 2000.

Attorney Durbin showed on the plan a large area of wetlands located on the south easterly line of the property. He explained the existing home is located approximately 62 feet from the center line of Fisher Drive and approximately 38 feet from the edge of Fisher Drive. Durbin explained looking at the tax map all the other homes that are situated are not 100 feet back from the centerline of fisher Drive.

Attorney Durbin explained there is an extremely deep slope at the point of the house that goes down into the back yard and water runs down the Crocker’s driveway, and noted there are structural issues with the house. He explained to rebuild the home in its present location and to add the back and a sunroof to the right side of the home.

Chairman Mylott asked if the front setback will stay the same. Attorney Durbin stated that is correct, and noted the side and rear will comply with all setbacks. Attorney Durbin informed the Board the home design will be more attractive and will fall more in line with the other homes in the neighborhood.

Attorney Durbin gave his argument on the **Special Exception** –

**“Public health, safety and welfare will not be impacted by the re-construction of the home on the property. All applicable health, safety and welfare regulations will be followed by those working on the Property.”**

**“The use of the Property is grandfathered from Section 1.3 of the Ordinance and thus is protected under state and local law. Notwithstanding, the use will be compatible with the surrounding neighborhood in the zone in which it is located.”**

**“Fisher Drive is a private Right-of-Way (“ROW”). The ROW does not have any traffic, so ingress and egress from the Property is not at issue. Further, by having a driveway on the Property, there is ample room for off-street parking.”**

**“The use is not permitted in the HCZ District per Section 1.3 of the Ordinance, but is already grandfathered and thus, protected. Otherwise, the use conforms with all other applicable regulations.”**

**“No site plan approval from the Epping Planning Board is necessary for the proposed project, but the Applicant does agree to any stipulation to obtain such approval should it be determined that it is necessary.”**

**“The existing use is non-conforming for the HCZ District. No hazardous use of the Property will be made. It is anticipated that the re-construction of the home on the Property will actually increase surrounding property values, rather than decrease them.”**

**“A “Dual Use” Special Exception is not being applied for. Therefore, in order to obtain a Special Exception, the use does not need to be permitted in the HCZ District.”**

Attorney Durbin addressed the five criteria for Variance:

**1 & 2. Public Interest / Spirit of the Ordinance -**

**“The reconstruction of the Property that is being proposed would create no greater impact under the ordinance than what exists now and would be more consistent with the general character of the neighborhood while protecting light, air and space for abutting landowners.....”**

**3. Diminution of Property Values -**

**“The values of surrounding properties will not be diminished. Rather, the value of surrounding properties should be increased in value. A new, well-constructed home on the lot that is in keeping with the general character of the neighborhood can only serve to increase property values.”**

**4. Substantial Justice -**

**“The hardship to the Applicant in the instant case by not being able to re-construct his home where it presently exists outweighs any perceived public benefit by denying the project. The Applicant is sustaining frequent damage to his home from water runoff into the lower level of the residence. In addition, he is plagued by the home’s lack of functionality and poor building design.”**

**5. Hardship -**

**“The lot cannot feasibly accommodate a home in a different location, due to the location of the wetlands on the Property and the present siting of the well and septic system, which are interrelated. It is also the Applicant’s contention that the Property cannot be used in strict conformance with the Ordinance due to its unique conditions.”**

Sullivan asked if the reason for not moving the house to another location because of the topo of the land. Attorney Durbin stated the TOPO does make it hard to move to another location.

Goodspeed asked what the depth to the season high water table is. Peter explained 2 test pits were done. Test pit number one is 72 inches, and test pit number 2 is 17 inches and is about 4 feet above the seasonal high water table. Goodspeed asked what the soil conditions are. Peter stated they are all fine, sandy loam.

The Board addressed the criteria for a Special Exception – There were no comments

The Board addressed the criteria for a Variance – There were no comments.

Vallone moved, Bodge seconded the motion to approve the Special Exception. The motion carried unanimously.

Bodge moved, Vallone seconded the motion to approve the Variance. The motion carried unanimously.

**STEVEN CARTIER, CARTIER’S ADVANCED AUTO** – Chairman Mylott read notice for a Variance concerning Article 6 Section 6. Parcel is located at 25 Depot Road (Tax Map 027 – Lot 179) located in the West Epping Business Zone.

Steven Cartier came before the Board to explain his proposal. He stated secure parking area for 15 vehicles, and is looking to cut the added expense and explained with the towing it allows for new customers.

Cartier addressed his responses to the 5 criteria for **Variance**:

1. **Will not be contrary to the public interest –**  
**“Fences in the pre-existing parking area is for vehicles.**
2. **Spirit of the ordinance is observed –**  
**“It is a pre-existing business and in need of a service parking area.**
3. **Substantial justice –**  
**Would like to add towing to the business.**
4. **Values of surrounding properties are not diminished –**  
**“This is a pre-existing business of 14 years in this location and nothing is changing except the addition of a tow truck on the property parked out of site of the neighbors.**

**5. Result in unnecessary hardship –**

**The nature of the business is necessary to tow vehicles in and out of the shop, and the added expense of having to hire tow trucks makes it cost prohibited and I lost out on additional new clients, and in this business environment it is essential to secure new clients.**

Bodge asked if the area for parking will be fenced in. Cartier stated it will be for security.

Mylott noted he visited this site and stated it is immaculate. He explained there is a preexisting business that can't be seen from the street and a fence will be put in the front and asked how high this fence will be. Cartier noted it will be approximately a 6 foot chain link fence.

The Board addressed the 5 criteria and had no comments.

Vallone moved, Bodge seconded the motion to approve the variance for repair only with a maximum of 15 vehicles. The motion carried unanimously.

**MINUTES OF NOVEMBER 17, 2014 FOR APPROVAL** – Bodge moved, Vallone seconded the motion to approve the minutes. The motion carried unanimously.

**MINUTES OF APRIL 15, 2014 FOR SIGNATURE** – The minutes were duly signed.

**ADJOURNMENT:** Goodspeed moved, Vallone seconded the motion to adjourn at 8:00 PM. The motion carried unanimously.

**APPROVAL NOTIFICATION: January 21, 2015 - Minutes of November 17, 2014 were approved. Minutes of April 15, 2014 were duly signed.**

Respectfully submitted,

Phyllis McDonough,  
Zoning Board of Adjustment Secretary