

TOWN OF OSSIPEE ZONING BOARD OF ADJUSTMENT

Meeting Minutes
March 12, 2024

Minutes have been recorded and summarized by Laura Nash, Boards & Commissions Secretary. Recordings are deleted once the written minutes are board approved; any amendments to the minutes are noted in ***bold & italic*** type.

Call to Order: Dan Fischbein called the meeting to order at 7:00 p.m. and requested all cellphones to be silenced.

Pledge of Allegiance: was recited by all in attendance.

Roll Call: Daniel Fischbein, Roy Barron, Dallas Emery, and Daniel Karl

Absent: Jonathan Smith, (Zoning Officer)

Meeting Minutes:

- Review to Approve Meeting Minutes of December 12, 2023

Emery noted edits on page 2: Paragraph 6 – “habitable” should be “the bunkhouse will be ***uninhabitable*** because it...”

Emery noted edits on page 3: Paragraph 8 – “but was not acknowledging that fact that by paving...” should be “but was not acknowledging ***the*** fact that by paving...”

A **Motion** by Barron to approve the minutes of December 12, 2023, as amended. Emery seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

New Business:

- Chairman Fischbein asked if there had been any decision from Kate Alexander for wanting to be on the Board. The secretary stated that Ms. Alexander had decide to become a candidate for the Planning Board and the Budget Committee at Town election. With no further action needed Chairman Fischbein moved onto the next case.

Chairman Fischbein read the description for the next case prior to presentation.

- **Case #24-01-V:** Owner, Lisa Jordan c/o Mark McConkey & Associates for 60 Bay Point Rd. Tax Map: 022 Lot: 023 is seeking a Variance from Articles 6.4.2 (a) Side Setback and Article 8.2 Greenspace to construct a 26 ft. x 18 ft. garage within 13 ft. of the right (easterly) side setback area. Shoreland Permit will be needed.

Chairman Fischbein ***addressed the Applicant (under RSA 674:33) – noting since there is not a full 5-member board, with no alternates to serve. The applicant has the option of postponing the hearing until all members are present. If the applicant chooses to proceed with the hearing, he/she should be advised that a 3- or 4-member board will not be grounds for an appeal hearing in the event the application is denied.***

Chairman Fischbein asked Mark McConkey if he wished to proceed. Mark McConkey as representing agent confirmed he wished to proceed.

The Board reviewed the application for completeness.

Mark McConkey presented on behalf of owner; Lisa Jordan noting the location of the proposed garage is to not crowd the area around the house, so the plan is to place the garage within 13 ft. of the property line. Through a previous survey the lot is known to have a slope. H.E.B was brought back into place the missing pin from the survey. The garage will have no sleeping quarters, and will be used only for storage of kayaks, canoes, etc.... Mark McConkey states the neighbors are in agreement with the proposed plan. The design was generated by Jacob McConkey but they used the existing survey that was done 4- years prior. Mark McConkey described pictures that were included in the application packet; that show how the property slopes, the neighbors garage, and the proposed location of the garage in relation to the road, driveway, and the location of the septic system. The septic system was built to H-20 standard so vehicle traffic can go over it and a recent inspection was done to ensure it's in working order.

Barron inquired if the corners were going to be pinned by satellite. Mark McConkey stated they will be pinned by a surveyor.

Emery stated it looks to be a shared driveway and then they're going to add a 26 ft. garage. When he visited the site; it looks like anyone coming down Bay Point Rd. is going to drive right into the garage and there won't be a driveway. Mark McConkey pointed out on the map that the Jordan's and Therrien's share the entrance but each have their own driveway. Mark McConkey confirmed that the Jordan family would be using their own driveway.

Fischbein inquired if there are doors on both ends of the building. Mark McConkey noted there is only a door on one side with stairs leading and a retaining wall.

Barron inquired if the Board received any letters of opposition. Chairman Fischbein stated no, but he did have an abutter's letter in favor of the proposed plan.

Discussion ensued over how close together these properties are in the area.

Mark McConkey proceeded to read the 5 criteria.

Chairman Fischbein acknowledged receipt of letters from abutters in favor of the proposed plan. Barron noted he has no problem with it personally and the lay of the land is the problem and the hardship.

Chairman Fischbein stated they would move onto the Variance for Article 8.2 – Greenspace after the Board completes this variance request. Discussion ensued over if this application was for one variance or two. After discussion the Board determined that all remaining setback areas will remain greenspace. The Board discussed the project amongst themselves.

Chairman Fischbein called for a roll call vote for each Variance criteria noting a vote of Yes is a vote in favor and a No vote is to deny.

Vote by Criteria: Fischbein read each criteria.

1. The variance will not be contrary to the public interest:

Karl – Yes Emery – Yes (a) Barron – Yes (b) Fischbein – Yes

- a) Emery voted yes because it predates zoning and it's not contrary to the public interest.
- b) Barron voted yes because of the shape of the property and killing stuff I agree.

2. The spirit of the ordinance is observed:

Karl – Yes Emery – Yes (c) Barron – Yes (b & a) Fischbein – Yes (d)

- c) Emery voted yes because it would allow them a secure place to store their kayaks and other

belongings.

- d) Fischbein voted yes because it's a modest size garage to store their stuff away.

3. Substantial justice is done:

Karl – Yes Emery – Yes (e) Barron – Yes (e) Fischbein – Yes (e)

- e) Emery voted yes because it's not out waying the public interest and no injustice to the public it's actually being helpful by not having their equipment strewed around the yard.

4. The values of surrounding properties will not be diminished:

Karl – Yes Emery – Yes (f) Barron – Yes (g) Fischbein – Yes (h)

- f) Emery voted yes because it's staying consistent with the neighborhood and all the other properties.
- g) Barron voted yes because it will increase the value of the property.
- h) Fischbein voted yes because every other neighbor has a garage.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the "Special Conditions" of this property that distinguish it from other properties in the area are as follows:

(A) No fair and substantial relationship exists between the purposes of the ordinance and the specific application of that provision to the property because

Karl – Yes Emery – Yes (i) Barron – Yes (j) Fischbein – Yes (k)

- i) Emery voted yes because of the shape of the property and there's no other configuration to allow the proposed plan.
- j) Barron voted yes because of how the explanation is worded on the application.
- k) Fischbein voted yes because of the shape of the property.

AND

(B) Owing to the special conditions....:

Karl – Yes Emery – Yes (l) Barron – Yes (l) & (m) Fischbein – Yes (n)

- l) Emery voted yes because of the water mitigation system being installed and the septic system was designed for full loads.
- m) Barron voted yes because of what Dallas said and the neighbors are in favor.
- n) Fischbein voted yes because of no objections from the neighbors and a lot of modern features.

Fischbein stated based on the fact that the 5 criteria received 4 affirmative votes and the Board has granted the variance.

A **Motion** by Emery to for **Case #24-01-V:** Owner, Lisa Jordan c/o Mark McConkey & Associates for 60 Bay Point Rd. Tax Map: 022 Lot: 023 is Granted a Variance Approval from Articles 6.4.2 (a) Side Setback and

Article 8.2 Greenspace to construct a 26 ft. x 18 ft. garage within 13 ft. of the right (easterly) side setback area. With the subsequent conditions:

1. Shoreland Permit will be needed and provide a copy to the Board.
2. The foundation corners are to be pinned by a License Land Surveyor.
3. All remaining setback areas will be greenspace per Article 8.2.
4. All Federal, State and Local Regulations and Permitting shall be followed.

D. Karl seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

Chairman Fischbein ***Noted: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.***

- **ZBA Handbook:** updated 2023 revised laws were reviewed, and duly noted by all Board members. The secretary explained that the first few pages listed in red are the law changes that have been made in the past year. Discussion ensued over the new laws, time frame for retention and non-public sealed minutes along with needing to review for potential release from non-public status.

- **Annual Town Report 2023** received by the Board.

Any Other Business Which May Come Before This Meeting:

The Board discussed possible candidates to be an alternates for the ZBA.

Next Meeting: [April 9, 2024 @ 7:00 pm at the Freight House](#)

Adjournment:

A Motion by Fischbein to adjourn the meeting. Barron seconded. No discussion. A unanimous vote was taken. **Motion passed.** The meeting adjourned at 7:47 p.m.

Minutes were approved by majority vote of the Board:

_____	_____	Or	_____	_____
Daniel Fischbein, Chairman	Date		Roy Barron, Vice-Chair (In the absence of the Chairman)	Date