



**Zoning Board of Adjustment
Town of Eaton
Evans Memorial Building
Eaton, NH 03832**

November 6, 2023

The Zoning Board of Adjustment met on Monday, November 6, 2023 at the Town Hall. Present were Chairman Steve Larson, Megan Hoffer, John Border, Stan Dudrick and Pam Burns. The meeting was called to order at 6:00 pm.

Review of Minutes

Steve Larson made a motion, seconded by John Border, to waive the reading of the Minutes and to adopt the Minutes of June 19, 2023 as amended. Motion unanimously carried.

Chairman Larson read the Public Notice for tonight's meeting. Chairman Larson gave an overview of the Public Hearing procedures and stated that any decision of the ZBA can be appealed as set forth in RSA 677.

Case # 202304 – Malkin – Special Exception/Variance

Chairman Larson opened the Public Hearing on an application from Matthew Malkin for a Special Exception as provided for in Article VI, Section 5 and/or a Variance to Article IV, Section C of the Zoning Ordinance to allow the construction of a 6x6 shed within the setbacks on a non-conforming lot at 2029 Eaton Road (R02-004).

All notices required by Statute have been posted and abutters notified. There were no conflicts of interest. No correspondence has been received.

Matthew Malkin explained that the lot slopes off behind the house and that the shed is for a snow blower and shovel, which should be accessible from the driveway. Chairman Larson questioned whether there is room behind the house. Matthew Malkin stated that the shed would still be within the setback. Stan Dudrick noted that the rear of the lot is close to a 10-foot drop. Pam Burns questioned whether there would be any lighting. Matthew Malkin stated that there may be a motion-sensor light on the shed. Chairman Larson questioned whether the shed will be behind the front of the house. Matthew Malkin stated that the shed will be pushed back out of the driveway behind the front of the house.

Chairman Larson opened the Public Hearing for comments. Abutter Brian Hebert stated that the shed is next to his property boundary and that there is no problem with the proposed placement. There being no further comment, Chairman Larson closed the Public Hearing.

The Board moved forward with the Finding of Facts:

- a. The non-conforming structure is not in the Wetlands, Floodplain or Shoreland Water Quality Protection District.
- b. The non-conforming structure is not a dwelling, so septic system design requirements are not applicable.
- c. The non-conforming structure is situated in a way that respects the intent of the setback requirement as much as reasonably possible. Chairman Larson noted that the shed cannot be placed behind the house. John Border noted that the shed cannot be placed closer to the house due to the min-splits in that location. Brian Hebert noted that the septic and well is located to the rear of the house, so relocating to the back of the lot is not feasible.
- d. Public health, safety and welfare is not adversely affected.
- e. Traffic, parking, noise and lighting is not unreasonably increased.
- f. The encroachment will not have any adverse effect on neighboring properties. The Board noted that the abutter directly affected supports the proposal.
- g. The owner demonstrated that the location of the structure in conformance to the Zoning Ordinance is not reasonably possible. John Border noted that the intent is to protect the abutter, who is in favor. The Board noted that placement of the shed in another location is not reasonably possible.

Chairman Larson made a motion, seconded by Pam Burns, to approve the Special Exception for the shed as proposed as the owner has met the side setback as much as is reasonably possible, with the condition that the shed meet the front setback. Motion unanimously carried by roll call vote.

Case # 202303 – Parilla – Special Exception/Variance (Continued)

Chairman Larson re-opened the Public Hearing on an application from Thomas & Heidi Parilla at 74 Breezy Point Road (R01-032).

Mark McConkey distributed updated plans and noted that the proposed residence has been moved further away from the lake. Chairman Larson questioned whether this is the applicant's best effort to meet the intent of the setback as much as is reasonably possible. Mark McConkey stated that it is as much as his clients would allow at this time and gave an overview of the plan.

Mark McConkey noted that the residence is approximately 65-feet wide and that the buildable area of the lot is no wider than 15 feet. Chairman Larson noted that no portion of the residence is within that buildable area (zoning envelope). Mark McConkey noted that a portion of the garage to be constructed behind the residence is within that buildable area. Pam Burns questioned whether the driveway is shared with the abutter. Mark McConkey explained that the driveway is located on the abutting parcel.

Mark McConkey addressed the conditions for the Special Exception:

- a. The property is within the State Shoreland Protection area. John Border noted that the proposed residence is within the State's permissible building area. Mark McConkey noted that the structure is within the 250-foot area monitored by the State.
- b. Mark McConkey noted that a new septic design has been submitted to the State for approval.
- c. Mark McConkey noted that the existing residence is 42-feet from the lake and that the new residence is proposed to be 66 feet from the shoreline. Mark McConkey stated that this is a good faith compromise. Chairman Larson questioned who the compromise is with and stated that the Town's setback is 125 feet and the Board is tasked with making sure the setback requirement is met as much as is reasonably possible. Mark McConkey stated that the compromise is between what is reasonable and the intent of the setback. Mark McConkey stated that the owner has a grandfathered right at the current located but is trying to improve the lot and the abutter's viewshed by moving the house farther from the lake. Mark McConkey noted that the structure will not fit in the permissible building area of the lot. Chairman Larson stated that the owner has the right to continue with the grandfathered structure at its current location but has chosen to move the location of the residence. Pam Burns questioned why the building was not moved further back into the buildable area, which would line up with the abutting houses. Mark McConkey stated that it hampers the view of the lake if moved farther back on the lot.
- d. Mark McConkey noted that the public health, safety and welfare is not adversely affected.
- e. Mark McConkey stated that the property will remain a single-family residence with no new parking area.
- f. Mark McConkey stated that by moving the building further back from the lake, it actually opens up the view for the abutters.
- g. Mark McConkey again stated that the structure cannot fit within the buildable area of this lot. Mark McConkey noted that a list of conditions could be placed on any approvals, such as installation of the new septic system and obtaining a State Shoreland Permit.

Chairman Larson opened the Public Hearing for public comment. Thomas Parilla stated that the new structure has been moved to the center of the lot away from the neighbor and back from the lake almost in line with the abutters. Thomas Parilla stated that moving the building back 24 feet from the shoreline and installing a new septic system in an attempt to make the property better is not an unfair request. There being no further comment, Chairman Larson closed the Public Hearing.

John Border stated that the proposed residence is now moved further from the abutters and the lake, which is an improvement, but it still does not meet any setback requirements.

Pam Burns stated that the intent of the setback would be more effectively met if the building were moved further back into the buildable area. John Border stated that at least a portion

of the structure should be within the buildable area of the lot. Chairman Larson stated that “reasonably possible” would have at least a portion of the structure within the buildable area. Stan Dudrick noted that the primary reason the building was not moved further away from the lake is the view. John Border stated that the building could be moved further away from the lake and still maintain the view.

After conferring with the property owner, Mark McConkey stated that he is not opposed to moving the proposed residence back another 10 feet.

The Board moved forward with the Finding of Facts:

- a. The non-conforming structure is in the Wetlands, Floodplain or Shoreland Water Quality Protection District. John Border noted that the State wetland buffer is 100 feet. Chairman Larson noted that the structure is within the State’s 250-foot Shoreland Protection area but building is permissible outside of the 50-foot buffer. Chairman Larson noted that a condition of approval could be approval of a Shoreland Permit by NHDES.
- b. The applicant has submitted septic system plans to the State.
- c. The non-conforming structure is not situated in a way that respects the intent of the setback requirement as much as reasonably possible. All members of the Board expressed a desire to see the building set back further and partially within the buildable area of the lot. Chairman Larson stated that not enough effort has been made to meet the intent of the setbacks.
- d. Public health, safety and welfare is not adversely affected.
- e. Traffic, parking, noise and lighting is not unreasonably increased.
- f. The encroachment will not have any adverse effect on neighboring properties.
- g. The owner did not demonstrate that the location of the structure in conformance to the Zoning Ordinance is not reasonably possible. The Board stated that even with the additional 10 feet proposed by the owner, the structure could still be placed further from the shoreline.

Mark McConkey noted that a new design could be submitted based on the Board’s concerns. ***Chairman Larson made a motion, seconded by John Border to recess this Public Hearing until Monday, December 18, 2023 at 6 pm. Motion unanimously carried by roll call vote.***

Chairman Larson made a motion, seconded by Megan Hoffer, to adjourn the meeting. Motion unanimously carried. The meeting was adjourned at 7:35 pm.

Respectfully submitted

Lianne M. Boelzner

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