

**TOWN OF CORNISH, NH**  
**ZONING BOARD OF ADJUSTMENT**  
**CASE 09-01**  
**JULY 13, 2009**

**Members Present**

Karim Chichakly, Chair, Scott Baker, Bill Balch, Jason Bourne, Jim Brown, Dale Rook, Caroline Storrs, and Bruce Tracy  
*voting members: Karim Chichakly, Chair, Jason Bourne, Jim Brown, Caroline Storrs, and Bruce Tracy*

**Also Present**

Steven and Karen Cutter, applicants  
Heidi Jaarsma, recording secretary

The meeting was held at the Cornish Town Office and was called to order at 7:37 p.m.

**Case 09-01**

Steven and Karen Cutter seek a variance concerning Article V, Section C, of the Zoning Ordinance so as to build a garage to his/her house within 100 feet of a waterway.

**Background**

Mr. Cutter said that he would like to build a garage within an old barn foundation. He said that it was not clear exactly where the wetland starts and stops, but the proposed building site is within 100 feet of the wetland. The proposed garage will have no heat, plumbing or drainage. Karim Chichakly asked Mr. Cutter how he measured the distance between the proposed garage and the wetland. Mr. Cutter said that he used a measuring tape to the point where the ground was wet. The distance was stated on the plan as 50+/- feet. The garage would face the house and entry would be from that side. The existing driveway would be used. The Board located the property on maps generated for the Conservation Commission by the Upper Valley Lake Sunapee Regional Planning Council.

The Board asked Mr. Cutter about the slope of the location. Mr. Cutter stated that the proposed garage would sit within the old stone barn foundation. This site is approximately 4 feet below the grade level outside the old foundation on the side that faces the wetland according to Mr. Cutter. From the top of the old foundation wall, the land slopes downward towards the wetland. Mr. Cutter said the original barn had been taken down well over 100 years ago.

The board asked whether there were alternate sites on the ten acre property that would not violate setbacks and would not be in the not in the Wetlands Conservation Overlay District. Mr. Cutter said that to put the garage behind his house would ruin the lawn and landscaping.

### **Closed Discussion**

The Board reviewed the conditions necessary for the granting of a variance including recent changes to the area variance. Caroline Storrs said that she believed the difficulties were unique. The area is known as a wet one, but the house is on a gravel plateau. Karim Chichakly said that the property had to be unique, different from other areas. Ms. Storrs also said that the house is historic and that she liked the idea of going into the existing foundation. Jason Bourne said that the proposed site was the best place for a garage aesthetically and with regard the value of the property. His only concern was that the area is not unique from other properties containing wetlands. Jim Brown said that the old barn foundation made the lot topographically unique.

Karim Chichakly asked the Board if the applicants had a right to build a garage. Caroline Storrs said that a garage is a natural extension of living on and using your property. Jim Brown said that it would not be reasonable to put the garage in the backyard: it would detract from the value of the property. Ms. Storrs said that the request was reasonable with no impact on the wetlands.

Jason Bourne asked the applicants if they thought that the land was topographically unique. Mr. Cutter outlined the slopes and pointed out that the garage is 4 feet below the old foundation, creating a berm between the proposed garage and the wetlands. He said that the relative location his home to the wetland created a unique constraint.

1. *No diminution in the value of the surrounding properties would be suffered:* Caroline Storrs said that the garage would be an enhancement. Jason Bourne said that existing trees would screen the site.
2. *Granting the variance will not be contrary to the public interest:* Dale Rook said the cars in the driveway, without a garage, detract from the historic nature of the stone house.
3. *Literal enforcement of the ordinance will result in unnecessary hardship:* Caroline Storrs said that the applicant addressed the unique character of the grade and that building in the backyard was not reasonable. In addition, there would be added cost to moving the driveway.
4. *By granting the permit substantial justice would be done:* Without the variance the applicant would not get the full use of the property, and the garage is not detrimental to the public interest. Jason Bourne said that given the unique grade of the land, it would be an injustice to deny the use.
5. *The use must be consistent to the spirit of the Ordinance:* Caroline Storrs said that the wetlands would be protected.

Caroline Storrs made a motion to accept the application as submitted by Steven and Karen Cutter and that the variance be granted so that the applicant can build a garage as shown on the plan submitted. Bruce Tracy seconded the motion. Bruce Tracy made a motion that there be no floor drains in the proposed garage. Jim Brown Seconded the

motion. The vote of the Board was 5-0 in favor of accepting the condition. A vote was made on the main motion:

The application be accepted as submitted so that the applicant can build a garage as shown on the plan submitted with the application with the one condition that there be no floor drains in the garage.

The vote of the Board was 5-0 in favor of the motion.

Other Business

The need for a special exception for a deck recently constructed on Town House Road was discussed.

A junk car situation will be referred to the Selectboard.

Bruce Tracy made a motion to nominate Karim Chichakly as Chair and Caroline Storrs as Vice Chair and Clerk for a one year term. Dale Rook seconded the motion, and the vote of the Board was in the affirmative.

The meeting was adjourned at 9:45.

Respectfully submitted,  
Heidi M. Jaarsma