

**Town of Cornish, New Hampshire
Zoning Board of Adjustment
Case 18-01
Case 18-02
Public Hearing
May 7, 2018**

The Cornish Zoning Board of Adjustment met on Monday, May 7, 2018, at 6:30 pm in the Cornish Town Offices. Members present were Caroline Storrs, Chair, Bill Balch, Jason Bourne, Kate Freeland, and Dale Rook. All present were voting members.

Also present were Karl Brewer, Anthony Harling, Andrew Johnson, Buzz Lord, Jan Lord, Mary Ann McGrath, Heather Meeks, Michael Meeks, and Heidi Jaarsma (recording secretary).

Caroline Storrs called the meeting to order at 6:32 pm.

Case 18-01

Mary Ann McGrath has applied for a Special Exception concerning Article 7, Section B, of the Cornish Zoning Ordinance. The applicant proposes to build a tool shed on property located at 606 Center Road in Cornish, New Hampshire, Map 7, Lot 44. The application does not meet setback requirements. Mr. Balch read the notice.

Background

Mary Ann McGrath asked for a special exception to the setback from the waterway. She presented a map of the property and pointed out the setbacks. She would like to construct a 12'x16' garden utility shed that would be 35 feet from the stream bank. Caroline Storrs stated that this was an undersized, one-acre lot, so that Article VII, Section C, would apply. Ms. McGrath added that the utility shed would be 10 feet back from the existing porch. Kate Freeland asked about a structure on the plat. Ms. McGrath stated that it was an existing structure. Ms. Freeland pointed out that the structure appeared to be closer to the stream than the proposed tool shed.

Ms. Storrs suggested that the Board review the applicable sections of the Ordinance and asked if any members of the Board had questions for Ms. McGrath. Jason Bourne asked regarding the setback from the road right-of-way. He said that the measurement should not have been from the center of the road but from the edge of the right of way. In terms of the plan, the setback number should be corrected, and asked if the applicant should ask for a variance from the setback from the road right-of-way. Dale Rook said that he was comfortable with the proposal because the proposed structure was further away from the road and the stream to the house. Ms. Storrs asked what would be stored in the shed. Ms. McGrath stated that the shed would contain garden tools.

Ms. Storrs asked if any abutters would like to comment. Jan and Buzz Lord, abutters, had no objection to the proposal.

Closed Discussion

Ms. Storrs asked for a sense of the Board. No members had a problem with the proposal. Mr.

Bourne stated that the size of the shed was reasonable and that the structure was further away from the stream and road than the existing structures.

Dale Rook made a motion to approve the Special Exception as presented. Kate Freeland seconded the motion, and the vote of the Board was in the affirmative, 4-0.

Case 18-02

Jennifer Caver has applied for a variance concerning Article 5, Section C-2, of the Cornish Zoning Ordinance. The applicant proposes to establish a chicken coop on the property located at 802 Center Road in Cornish, New Hampshire, Map 7, Lot 54. The application does not meet setback requirements. Bill Balch read the notice.

Background

Ms. Caver showed a picture of the chicken coop. The coop will contain the birds. The property is a long, narrow piece that is just over an acre. There are several large rocks on the property. Ms. Caver also described drainage pipes on the property and the septic mound. She stated that the coop could not be placed on either the drainage area or the septic area. The ledge prevents fencing. The proposed coop is right against the rock wall which is the property line. Ms. Caver stated that the coop will prevent the chickens from encroaching the neighbors' property. The coop is two feet from the boundary line. Ms. Caver hopes to allow the birds to free range in the evening. Ms. Caver currently has 40 fowl. She expressed frustration that she could not construct fencing on the ledge. She said that one of her neighbors was frustrated that the poultry crossed the property line onto her lawn. The chicken coop is currently in place.

Ms. Storrs said that she did not realize that the property was a non-conforming lot. Mr. Bourne asked about the notations on the plan regarding setback. Ms. Caver said that due to the shape of the lot, nothing could meet the setback requirement beyond the point she showed on the map.

Andrew Johnson asked if Ms. Caver had a plan for disposal of manure. Currently the manure is being dumped across the street on his property. Ms. Caver said that there would be a compost pile on her property. Ms. Caver pointed out the place on the plan. Karl Brewer asked regarding the stream on the property. Mr. Brewer asked if the coop was considered a permanent structure and whether the current structures on the property would remain. Ms. Caver said that the structures would remain. Ms. Freeland asked regarding the play house. Ms. Caver noted that the play house was a former horse barn. Ms. Freeland asked regarding the setback, and Ms. Caver responded that it was 30'. Ms. Storrs summarized a letter from Cynthia Esty which expressed concern about the crowing of the rooster, the free ranging chickens, and the disposal of the waste at the property line. Ms. Caver responded that she has eliminated several of the roosters from the flock, but she maintained that the roosters served a purpose in the flock. She stated that Ms. Esty's house is very far away from hers. Ms. Caver stated that the coop will address the problem of free-ranging chickens, and she also stated that she has been considering a compost bin. Ms. Freeland asked if the waste could be located away from the stream. Ms. Caver replied that the waste likely will end up by the garden. Heather Meeks, who was not an abutter, asked, regarding a recent bear issue, if the animals were fed inside the structure. Ms. Caver stated that the chickens were fed in the coop and that any scratch feed fed outside is immediately consumed.

Closed Discussion

Ms. Storrs stated that the structure was a non-conforming one. Ms. Storrs suggested that one of the conditions could be that the location of the waste/compost area would not be near the water. Mr. Bourne said that he did not have a good image from the plan showing why there was no space between the playhouse and the shed. Ms. Caver stated that the map was not drawn to scale and that there was no room in that area. Bill Balch mentioned that he had told Ms. Caver that the map did not need to be to scale. Ms. Caver asked if there would be a setback for the compost from the property line. She said that it would need to be close to Mr. Brewer's line. Mr. Brewer said that he did not have a problem if the compost did not encroach on the wall.

Mr. Bourne asked Mr. Brewer about his concern regarding groundwater. His concern was regarding the road area, not the site of the chicken coop. Kate Freeland stated that she would like to see wording in any condition requiring a bin or containment system. Ms. Caver said that she did not expect to have a lot of waste and that it will be composted and put directly into the garden. She described several plastic bins that she is currently using. She added that since the horses were gone there was a lot less waste. Jason Bourne referenced the criteria for a special exception and asked to hear the entire letter from Ms. Esty so that he could decide whether the application would adversely affect the neighboring property. Ms. Storrs read the letter, on file. Bill Balch stated that agriculture is allowed in all zones by right and that the Board cannot regulate it. Mr. Bourne agreed that it would not diminish the use of a property and felt that the rooster should not be part of any condition. Regarding the unsightly fence referenced in the letter, Mr. Bourne questioned Ms. Caver about the statement that fencing could not be constructed. The fully enclosed coop contains a run, and she felt that the coop and run would address this concern. Ms. Caver said that she intends to free range the birds in the evening and did not believe that they would wander over the property line. Kate Freeland asked regarding the number of poultry that the coop could support. Ms. Caver stated that some of the birds are in a portable coop and she intends to rehome some others. There were no further questions from the Board. Bill Balch stated that the only condition would be regarding the waste.

Kate Freeland made a motion to approve the application as presented with the condition that the waste be contained in a compost bin on the north side of the property. Bill Balch seconded the motion, and the vote was in the affirmative, 4-0.

Other Business

Bill Balch expressed several concerns that he and Caroline Storrs had brought to the Selectboard regarding uses that had lapsed. They had been informed that counsel would be contacted, but they had not heard back. Because of the lack of response, they were reporting the matter to the Board.

Jason Bourne made a motion to adjourn. Dale Rook seconded the motion, and the vote of the Board was in the affirmative.

Respectfully submitted,
Heidi M. Jaarsma