

Minutes-Kennebunkport Zoning Board of Appeals
April 28, 2014 Susan Rees- Variance

Members present: Mark Messer, Chris Perry, Jim Fitzgerald, Paul Cadigan, Herb Cohen others: Werner Gilliam

The meeting began at 7pm and a quorum was established.

Susan Rees introduced herself as the applicant for the variance. It was explained to her that her application request would require four separate votes under the variance statute.

During the Public Hearing, abutter Anne Campbell (80 Pier Road) expressed concerns about the plan, particularly parked cars which may block access to her driveway. Mr. Messer suggested that a parking area for the Rees' might alleviate that concern. Mr. Gilliam explained the history of the triangular area which is now town property and lies between the Rees and the Campbell properties. Mr. Perry asked about street parking and it was explained that there was parking allowed along that stretch of road in front of 78 Pier Road. Mr. Gilliam explained that it is not town policy to promote street parking which could block one's access to their own parking area. Peter Bates, who lives at 78 Pier Road, explained that people would not be likely to park on the street if they saw an active parking area. Mr. Cohen asked about alternatives to parking and it was explained that there were none. Mr. Fitzgerald discussed winter parking limitations. Mr. Gilliam explained that the LUO requires a residence to have two parking places. Mr. Cadigan asked about any changes precipitating this application and was told that former parking privileges were rescinded. Mr. Perry suggested moving the parking area to the back of the house accessed by the ROW. It was explained by Mrs. Rees that an easement lies there, and only one car would be permitted to use it. Mr. Gilliam added to the new changes: the town disallows parking on grass, since the property was purchased.

The board moved to the variance criteria in the LUO.

After discussion involving "reasonable return", which included aspects of the value of a property without off street parking. Mr. Fitzgerald suggested that a house with no parking has much less value than one with parking. Mr. Cadigan explained that the new change regarding parking limitations in the LUO should result in an acceptance of this standard. Mr. Pen-y made a motion to accept that in this situation the land in question cannot yield a reasonable return unless the variance is granted. Seconded by Mr. Fitzgerald, it passed unanimously.

The board discussed the "unique circumstances" standard. Mr. Perry discussed how the situation in regards to the permission to park for the Rees' has changed

over time. Mrs. Rees described how it is the only house in the area without adequate parking. Mr. Pen•y made a motion that in this case the need for a

variance is due to the unique circumstances of the property and not the general conditions of the neighborhood. Seconded by Mr. Cadigan, it passed unanimously.

The board addressed the "essential character" standard. Mr. Cadigan inquired as to whether we would create an impropriety if we allowed a new parking area which leaves less on street parking. Mr. Gilliam explained that a resident would have the right to their own parking and that the town would not be an obstacle to such a change. It was a general consensus that the neighborhood would not be significantly altered. Mr. Perry made a motion that the granting of a variance will not alter the essential character of the locality. Seconded by Mr. Cohen, it passed unanimously.

The board addressed the "self-created hardship" standard. Mr. Cadigan explained that the house needs off street parking constructed due to recent changes in the LUO which limit parking. Vehicles may no longer be allowed to park on grass. Mr. Messer noted that when the property was purchased there was parking allowed and that Mrs. Rees did not create the hardship; the Francis' did by rescinding their permission. Mr. Perry made a motion that the hardship is not the result of action taken by the applicant or a prior owner. Seconded by Mr. Cadigan, it passed unanimously.

C The board determined that with the passage of the previous four standards, the parking plan is granted.

The board discussed the Minutes of July 22, 2013. A few changes were made, and Mr. Cadigan made a motion to accept the Minutes as amended. Seconded by Mr. Perry, it was approved unanimously, 4-0. Mr. Fitzgerald abstained.

The board discussed the Minutes of March 24, 2014. A few changes were made, and Mr. Perry made a motion to accept the Minutes as amended. Seconded by Mr. Perry, it passed unanimously, 3-0. Mr. Cadigan and Mr. Fitzgerald abstained.

Mr. Fitzgerald made a motion to adjourn, and it was seconded by Mr. Cohen, and passed unanimously.

Mark Messer