

NOTICE OF DECISION - GRANTED

You are hereby notified that the application for a Variance concerning article 4 “Districts and District Regulations”, Section 3.1.2 “Setbacks” of the zoning ordinance has as been **GRANTED** by the affirmative vote of at least three members of the Zoning Board of Adjustment.

Vice Chairperson, Zoning Board of Adjustment

Frank Benesh

December 25, 2022

This approval shall be valid if exercised within 2 years from the date of final approval and shall not expire within 6 months after the resolution of a planning application filed in reliance upon this decision, as per [RSA 674:33, IV](#).

Note: The selectmen, any party to the action, or any person directly affected has a right to appeal this decision. See New Hampshire Revised Statutes Annotated, [Chapter 677](#), available at (insert location where statutes can be reviewed). This notice has been placed on file and made available for public inspection in the records of the ZBA on Monday Dec 26th. Copies of this notice have been distributed to the applicant, Planning Board, Board of Selectmen, Town Clerk, Property Tax Assessor.

FINDINGS OF FACTS

Zoning Board of Adjustment,
Town of Jackson

Hearing held at 7:00 pm, Wednesday December 14th, Jackson Town Offices, 54 Main St., Jackson

concerning a request by Robert Vaillancourt, Box 667 Glen, Town of Bartlett, NH 03838 for a Variance

concerning article 4 “Districts and District Regulations”, Section 3.1.2 “Setbacks” of the zoning ordinance.

Applicant proposes to:

construct a 41 ft. x 28 ft. garage and an 8 ft. x 22 ft. mudroom, a portion of which would be within the proscribed setback of 25 feet from any abutter property line or sideline of any public or Private Road that does not provide access to the lot and/or 50 feet from the centerline of a public or Private Road on property located at 10 Tyrolean Drive, Jackson (Zoning Map V10, Lot 302) in the Residential zone.

Summary of the facts of the case discussed at the above public hearing:.

1. The Applicant proposed structure will be six 6 feet within the proscribed setback at its Northeast corner (19 feet vs. a setback of 25 feet). The applicant's proposed structure will be 35 feet from the property line or 10 feet outside of the proscribed setback at its Southeast corner.
2. The structure on parcel R14, L29, which is Vaillancourt's abutter to the East, is within the proscribed setback at its Southwestern corner, where Vaillancourt's proposed structure is furthest from the property line. The Board finds that if Vaillancourt re-sited the proposed structure to comply with the setback requirements, the proposed structure would then more significantly interfere with the views from his abutter parcel and result in a greater fire hazard by having the structures closer together for a greater distance.
3. In view of the above finding, the Board finds that granting the variance will not be contrary to the public interest, the spirit of the ordinance is observed, and substantial justice is done.
4. The Board further finds that owing to the special conditions (the siting of the abutter's structure and location within the proscribed setback) that distinguish it from others, no fair and substantial relationship exists between the general public purposes of the setback provision and its specific application to Vaillancourt's property AND that the proposed use is a reasonable one.
5. The abutter (R14, L29) did not attend the hearing or provide any prior comment to the board. The Applicant testified that he was told orally by his abutter that "he had no issue with the proposed garage".
6. In view of the above, the Board finds that values of the surrounding properties will not be diminished.

By a vote of 4-0, the Board granted the requested variance.

Zoning Board of Adjustment,
Town of Jackson NH

MINUTES OF DEC. 14, 2022 ZONING BOARD OF ADJUSTMENT MEETING

Members present:

Frank Benesh, Vice Chair
Dave Mason, Secretary
Dave Matesky
Huntley Allen

Others present:

Robert Vaillancourt, applicant
Ginger Bailey, abutter
Hank Benesh, videographer

Frank Benesh called the meeting to order at 7:00 PM. He explained Mr. Vaillancort's right to have his variance request heard by 5 members. Mr. Vaillancort elected to proceed with the 4 members present.

Mr. Vaillancort explained the purpose of his request. He sketched the location of various impediments to construction on his lot and answered questions from the members.

Frank Benesh explained the 5 criteria that would be examined and voted on by the Board. The Board considered each criteria and voted as follows:

- 1 - The variance will not be contrary to the public interest. Voted 4 in the affirmative.
- 2 - The spirit of the ordinance is observed. Voted 4 in the affirmative.
- 3 - Substantial justice is done. Voted 4 in the affirmative.
- 4 - The values of surrounding properties are not diminished. Voted 4 in the affirmative.
- 5 - Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Voted 4 in the affirmative.

Frank Benesh then moved that the variance be granted. Voted 4 in the affirmative.

Respectively submitted,
Dave Mason, Secretary