

Town of Jackson, NH

Zoning Board of Adjustment

Notice of Decision

Case 2019-02: Application for a Variance to allow razing of an existing structure, and construction of a new structure with additional floor area. Location of the new structure will decrease the encroachment upon the side yard setback from that of the existing structure. The proposed work is located on the property owned and occupied by Pete Stuben LLC, d/b/a The Wildcat Inn and Tavern (The Applicant). The property is shown on Map V9; Lots 13 and 14 – recently legally consolidated as a process of this application.

Four of the five members of the Board were in attendance – requiring three affirmative votes to pass any action. The Applicant agreed to proceed as such.

Background

- 1) The Applicant are the owners of the above-referenced parcel which has an existing structure. Approximately thirty per cent of this existing building house is within the side set-back of of the property.
- 2) The Applicant plans to demolish the existing structure and construct a new building similar in nature to the existing. As a part of the new construction the Applicant plans to add a new additional square footage and relocate the building footprint approximately 8 feet farther away from the property line; thereby partially mitigating the setback encroachment.

Submittals in Record

- 1) Letter from the Building Inspector of the Town of Jackson; denying the building permit based on non-conformance to the Jackson Zoning Ordinance, Section 4.3.1.2 regarding setbacks. This communication was dated 9 May 2019
- 2) Filing from the Applicant, requesting a variance to the above Section.
- 3) Construction Documents, including a proposed site plan.
- 4) Asbestos Survey Report produced by Desmarais Environmental.
- 5) A list of abutters.

Public Testimony

- 1) The Applicant described the reason for, and nature of the proposed construction, including the relocation of the building footprint.

Findings

- 1) The Board finds that the grant of the variance would not be contrary to the Public Interest - given the location of the building at the rear of the lot and the increased size of the consolidated

lots.

Voted: 4-0 in favor.

- 2) The Board finds that the Spirit of Ordinance would be observed.

Voted: 4-0 in favor.

- 3) The Board finds that the benefit to the applicant in replacing the existing structure would constitute Substantial Justice and would not be outweighed by any harm to the general public or other individuals.

Voted: 4-0 in favor.

- 4) The Board finds that the new construction will not diminish the value of surrounding properties, as it is less of an encroachment on the side yard setback.

Voted: 4-0 in favor

- 5) The Board finds that literal enforcement of the zoning ordinance (to wit., the prohibition of construction within the various setbacks) would result in an unnecessary hardship, given the existing location of the proposed structure on the Applicant's lot. The specific application of the Ordinance in this case does not have a fair and substantial relationship between the purpose of the Ordinance and its specific application to this property.

Voted: 4-0 in favor.

Decision

Given the findings cited above, by a vote of 4-0 in favor, the Board of Adjustment grants the requested variance from Section 4.3.1.2 to permit the demolition and construction of the above-referenced structure, within the proscribed setback.

This decision may, for 30 days, be subject to a motion for a re-hearing from any party of interest or the Selectmen. It should not be considered final until lapse of that period.

Copies of this decision will be provided to the Applicant, the Planning Board, Board of Selectmen, Town Clerk, Assessor, and Building Inspector. Pursuant to 674:33-I-a, this variance shall be invalid if not exercised within 2 years of the date of final approval.

ZBA Members in Attendance

Frank Benesh,
Huntley Allen
Dave Matesky
James B. Gleason, Chair