

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
September 28, 2020**

Approved October 26, 2020

MEMBERS PRESENT: Bruce Kudrick, Chair; Dana Carlucci, Natalie Glisson, Paul Paradis

ALTERNATES PRESENT: Robert Bourque, Blakely Minor III

EXCUSED: Tom Hebert, Vice Chair

STAFF PRESENT: Dana Pendergast, Code Enforcement Officer; Susan Gifford, Recording Secretary

The clerk took the roll call and six members were present.

Chairman Kudrick called the meeting to order at 7:05 p.m. The meeting is being recorded. The clerk read the first case. Chairman Kudrick designated Blakely Minor to vote on Case #20-10-Z for a total of five voting members.

Case #20-10-Z

Applicant: Keith Stasny
206 Brickett Hill Road
Pembroke, NH 03275

Property Owner(s): Keith and Susan Stasny
206 Brickett Hill Road
Pembroke, NH 03275

Property Address: 206 Brickett Hill Road
Pembroke, NH 03275
Tax Map 563 Lot 35 in the LO Zoning District.

Present: Susan Stasny Keith Stasny

Case 20-10-Z A request has been made for a **Variance under Article V Dimensional and Density Regulations, Section § 143-22-B Accessory Buildings**. The applicant, Keith Stasny of 206 Brickett Hill Rd. Pembroke NH 03275 is requesting a **Variance** to construct a 12' X 16' (192 sq. ft.) shed on lot 563-35 with in 8' of the side and rear setback where 15' is required. The property is located at of 206 Brickett Hill Rd. in the LO Zoning District and is owned by Keith Stasny of 206 Brickett Hill Rd.

The clerk read the case description and the list of abutters. One of the landowners was not notified properly so the case is starting from the beginning with a new case number.

Chairman Kudrick opened the public hearing at 7:05 p.m.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments will be directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different from what was presented, the Board reserves the right to reconsider the approval.

Assessing cards and a sketch plan dated May 17, 2013 by Stonehill Surveying, Barrington NH were provided in the agenda packet.

Susan Stasny gave a detailed description of the proposal:

I would like to build a 12' x 16' shed in the corner back left side of my property. Susan provided a plan with the shed and retaining wall shown in the left rear corner. The shed will be used to store gardening equipment. I would like to build a retaining wall foundation that will consist of 6' x6' pressure treated timber and ¾" stone. This will be 8 feet from the neighboring property lines and the shed would be built on top of a retaining wall, for a total of ten feet away from side and rear property lines.

Susan Stasny addressed the Variance criteria:

1. **The variance will not be contrary to the public interest.** If granted, this variance will not alter the character of the neighborhood. This structure will not cause any risk or harm to the environment.
2. **The spirit of the ordinance is observed.** The Town of Pembroke provides zoning ordinance for the citizens to keep their property presentable. This variance will not violate the spirit of the ordinance.
3. **Substantial justice is done.** The granting of this variance will have no effect on the surrounding properties and neighborhood. If the variance is not granted, the structure cannot be built in the requested location.
4. **The values of surrounding properties are not diminished.** Granting the requested variance will not do harm or change the appearance of the surrounding properties.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**
 1. **For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:**
No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property; and: ii.
The proposed uses is a reasonable one.

The purpose of this variance is so that I may within reason get the most use out of my property. The portion of the property that I would like to add the shed to is not used to its potential. Once the shed is built, I will design plans for a future addition to the house at the location where the garage is now.
 2. **If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to make a reasonable use of it.**

This variance, if not granted, will not cause any hardship. The value of the properties in the neighborhood will not diminish due to this request.

Zeke Gable, 511 Pembroke Street, noted he is the abutter to the rear of the property. I have no problem with the location of the shed in relation to my property line.

Susan Stasny stated that the shed will look nice, and will be finished to look like the house.

Robert Barrows, 208 Brickett Hill Road, stated that granting a variance would allow Keith Stasny to remodel a non-conforming use by moving the contents of the garage into the shed. Mr. Barrows stated that Mr. Stasny plans to put an addition on the house to create more living space. Chairman Kudrick noted that we are not talking about the house in the case that is being heard.

Mr. Barrows said the garage has not been used as a garage for ten years, and now the applicant wants to build a non-conforming shed, which the applicant indicated will not affect drainage. Mr. Barrows stated I have running water in my yard in the spring. Mr. Barrows indicated that his lot is on the uphill side of the property under discussion.

Member Bourque asked what makes the shed non-conforming. Mr. Barrows stated the shed is not meeting the setbacks. Susan Stasny stated that abutters Mary Hamilton on the lot heading down the hill, and Zeke Gable behind the property had no objection to building a shed in the left corner of the lot. Member Glisson stated she wished that we had a map with elevation shown on it. Natalie asked what is the main reason for putting the shed in the requested location. Susan Stasny explained that there was a large maple tree in the middle of the yard, and the shed would be close to the garden area.

Robert Barrows, 208 Brickett Hill Road, stated there is room to move the shed where the gardens are located and keep the shed within required setbacks. Code Enforcement Officer Dana Pendergast stated that it is a smaller lot, 100 feet by 100 feet, and it predates zoning ordinance. Dana Pendergast reviewed the location of the shed that is proposed and it looks like an appropriate location with a variance. Dana Pendergast confirmed that the slope of the land follows Brickett Hill Road.

Zeke Gable, 511 Pembroke Street, stated we have 13 acres of land, behind and to the side of the Stasny lot. Most of the land is in current use, with conservation and forestry use. Kiaya Gable, 511 Pembroke Street, stated that there is enough dense forest that they will not see the abutting land. Kiaya Gable confirmed we do not have frontage on Brickett Hill Road.

Robert Barrows, 208 Brickett Hill Road, note the main drainage would flow to Lot 234. Susan Stasny stated that is Mary Hamilton's lot and Mary has no objection to the shed.

Natalie Glisson summarized the case. This is **Case 20-10-Z**, a request for a **Variance under Article V Dimensional and Density Regulations, Section § 143-22-B Accessory Buildings**. Member Glisson noted this is a rehearing of a case in June. The applicant, Keith Stasny of 206 Brickett Hill Rd. Pembroke NH 03275 is requesting a **Variance** to construct a 12' X 16' (192 sq. ft.) shed on lot 563-35 with in 8' of the side and rear setback where 15' is required. The property is located at of 206 Brickett Hill Rd. in the LO Zoning District and is owned by Susan Stasny and Keith Stasny of 206 Brickett Hill Rd. Susan Stasny went through the criteria. Abutter Zeke Gable spoke in favor of building the shed and says the location for the shed is a good spot. Abutter Robert Barrows spoke against the shed. He stated that the applicant wanted to remove a "non-conforming structure" and make "another non-conforming structure" Chairman Kudrick clarified that we have to focus on the shed and clarified where Mr. Barrows lived. Mr. Barrow expressed concerns about water drainage. Ms. Stasny stated that other abutters in the area have approved of the shed. Chairman Kudrick asked about placement of the shed. Ms. Stasny clarified and expressed making best use of her land. Mr. Barrows expressed feeling as though applicant has enough room on the property to place the shed somewhere else. Member Carlucci asked about abutters. Mr. Barrows shared that abutters Zeke and Kiaya Gable do not live near the property in question.

There being no further comment, Chairman Kudrick closed the public hearing at 7:27 p.m. The Board will decide all cases within 30 days.

Deliberations: ZBA members discussed the Variance criteria. Member Carlucci asked Dana Pendergast if note 5 would apply in this case. There are no links with other sheds in the LO district.

1. The variance will not be contrary to the public interest. Considering the lot size and amount of space, the application is not contrary to public interest.

2. The spirit of the ordinance is observed. Chairman Kudrick said it is a very small lot and applicant is here for a variance.
3. Substantial justice is done. Dana Carlucci stated that it would.
4. Property values are not diminished. No evidence presented on property values. Chairman Kudrick noted that sheds are taxed, so the shed would add to the property value.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Member Paradis stated true as this is a small lot.

MOTION: Dana Carlucci moved to approve **Case 20-10-Z**, a request for a **Variance under Article V Dimensional and Density Regulations, Section § 143-22-B Accessory Buildings** having been presented to the board. The applicant, Susan Stasny and Keith Stasny of 206 Brickett Hill Rd. Pembroke NH 03275 is requesting a **Variance** to construct a 12' X 16' (192 sq. ft.) shed on lot 563-35 within 8 feet of the side and rear setback where 15' is required having been presented to the Board Approval is subject to the following conditions:

1. Applicant will follow all state and local regulations.
2. Construction will adhere to site plan as submitted and shed will be 8 feet from side lot line and 8 feet from rear lot line.

Paul Paradis seconded.

VOTE: PAUL - YES BLAKELY - YES BRUCE- YES
DANA- YES NATALIE - YES

MOTION TO APPROVE VARIANCE WITH CONDITIONS PASSED ON A 5-0 VOTE

MINUTES OF PREVIOUS MEETINGS

MOTION: Paul Paradis moved to approve the minutes of August 24, 2020 as amended. Blakely Miner seconded.

VOTE: PAUL - YES BRUCE - YES
DANA- YES NATALIE - YES BLAKELY - YES

MINUTES OF AUGUST 24, 2020 APPROVED AS AMENDED ON A 5-0 VOTE.

OTHER BUSINESS /CORRESPONDENCE

Annual Training – Dana Pendergast noted that the State annual training for PB and ZBA would be in virtual format this year.

NEXT MEETING

Date of next ZBA meeting – Chairman Kudrick noted the next ZBA meeting would be on **Monday, October 26, 2020 at 7:00 p.m.**

ADJOURN **Motion:** Dana Carlucci moved to adjourn. Bob Bourque seconded. Vote was unanimous in favor of motion. Meeting adjourned at 7:35 p.m.

Respectfully submitted,
Susan P. Gifford
Recording Secretary