



TOWN OF HARRISON

HARRISON BOARD OF APPEALS MEETING MINUTES JUNE 23, 2022

Board Members Present: Robert McBride, Douglas Wall, Jonathan Whitney, John Strickland, Lisa Villa

Board Member Absent: None

Staff Present: Secretary Kristen MacDonald, Asst. CEO Jim Fahey

Public Present: Robert & Nicole McEwan, Les Havok, Chip Tuomi, Steve Depoian, Jim & Ellie Califano

Chairman McBride called the meeting to order at 6:00 pm. A quorum was determined. A site walk was held prior to the meeting by the Board.

Application for Variance–Robert & Nicole McEwan–91 Pinecroft Rd. Map 33 Lot 56

Applicant has met the timing deadline for filing their appeal.

Robert McEwan gave an overview of what they are looking to do, which is to remove their existing structure and then rebuild and make it more conforming to the sideline set back requirements.

They have presented to the Planning Board which accepted their application as complete but denied their application because the Planning Board can not grant sideline variances. The applicants are requesting a 4 ft. variance from the normal 20 ft. on the southern side and a 16 ft. variance on the northern side.

Harrison Shoreland Zoning Ordinance section 16-G-2-a grants jurisdiction to hear a variance request for relief from dimensional standards to the Board of Appeals.

Applicants have submitted a copy of a Quit Claim Deed dated November 10, 2018.

Ellie Califano, an abutter, spoke as to her only concern being that she prefer that the stairway be facing toward the water frontage, but she is ok with it if that is not possible.

The question was asked if there is a distance requirement for how far two wells have to be apart from each other. CEO Fahey stated there are requirements on leach fields, but not wells.

Lisa wanted to express a concern about the 100 ft. setback, which she knows that it cannot be met, but she is worried about the damage that could be done to the land. McEwan reassured her that they are putting in a lot of money to their certified landscaper to make sure that they are not creating any problems and revegetation is done, as well as buffers etc.

CEO Fahey replied that the Planning Board has already set the shoreline setback, that it was not updated on the application.

Board member Jonathan Whitney stated that they added the stairs on the side so what they gained for setback on one side they added to the other. When it was designed that way, what was the motivation? Mr. McEwan replied that they did not want to go towards the lake and going back into the hill, there are less stairs. Jonathan replied your moving closer to the sideline instead of making the house 4 ft. more narrow? Mrs. McEwan replied that they could only go so far back because of water run-off and they assumed its better to be further from the lake according to the shoreland zoning ordinance. Also, making the house narrower would make it longer in order to get the square footage we are entitled to. They have gone through many plans in order to find the least intrusive way to build.

Chairman McBride read the 4 justifications that need to be met and the Board voted:

1. The land in question cannot yield a reasonable return unless the variance is granted.

Applicant response: The land in question currently has a primitive cottage with a dug basement located 35' from the Mean High Watermark (MHW) and encroaching 6" on the northerly lot line. To yield a reasonable return on the land we would like to replace the cottage with a modern building with concrete foundation.

Doug Wall moved, John Strickland 2nd that the land cannot yield a reasonable return unless the variance is granted. All were in favor.

2. The need for the variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

Applicant response: The lot was created as part of an approved subdivision plan drawn in 1943 and registered in 1959 at 65' wide as there were no setback rules in place at that time. The narrowness of the property creates unique circumstances that do not allow for sideline setbacks to be met. Additionally wells on adjacent properties to the south and east, and a ravine to the north create unique circumstances constraining the location of the subsurface waste system to its current location. The location of the subsurface waste system in turn constrains the placement and type of structure that can be built while complying with shoreland height restrictions.

Doug Wall moved, John Strickland 2nd that the need for the variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood. All were in favor.

3. The granting of the variance will not alter the essential character of the locality.

Applicants response: Granting this variance will allow the construction of a new building 7.5' further back from MHW, 4' from the northerly lot line and 2.5' narrower than the existing structure. The new structure will be constructed with the same height, similar shape and placement to maintain the essential character of the locality.

Doug Wall moved, John Strickland 2nd that granting the variance will not alter the essential character of the locality. All were in favor.

4. The hardship is not the result of action taken by the appellant or prior owner.

Applicants response: This hardship is the result of the original approved subdivision with the preexisting cottage in its current state. The current owners are not creating a hardship by rebuilding as they are entitled to do so in order to yield a reasonable return on their land.

Doug Wall moved, Lisa Villa 2nd that the hardship is not the result of action taken by the appellant or prior owner. All were in favor.

Findings of Fact/Conclusion of Law:

1. Applicants state the lot was created as part of an approved subdivision plan drawn in 1943 and registered in 1959 at 65' wide by 186' in length as there were no setback rules at the time. It is an existing non-conforming grandfathered lot with a cottage constructed circa 1930. Property is comprised of lots 24 and 19a as recorded in the Cumberland County Registry of Deeds book 69 page 27.

2. The McEwan lot is bordered on the southerly side by a "right of way" lot owned by Califano. McEwan lot includes deeded right to this parcel both as a lot in the approved subdivision plan and in specific language conveyed in the deed of lot 24.

3. The cottage has a dug basement located 35 feet from the MHW line and the structure encroaches 6 inches on the northerly lot line. It is approximately 36.5' x 36' and 24' in height.

4. Lot size is given at 0.29 acres (12,787 sf.) and the building is said to be 1792 sf. with 1792 sf. of existing structures within 100 feet of the MHW of Long Lake and 1474 sf. being less than 75 feet from MHW.

5. Proposed new building is 1785 sf. located 42.5' from MHW line (7.5' further back than existing building) and 89' from Pinecroft Rd. It is planned to be 4' from northerly lot line and 2.5' narrower than the present structure. New building will be constructed with the same height, similar shape and placement.

6. Application states that percentage of site proposed to be covered by non-vegetated surfaces is 30.8 %.

7. A copy of the Shoreland zoning permit application dated April 4, 2022 was submitted as a part of the record.

8. In 2015 the applicant installed an approved 4-bedroom septic system. Applicant states the leach field is constrained to its current location by a well to the east, a well to the south, the ravine to the north and the lake to the west.

Doug Wall moved, John Strickland 2nd approval of a 4 ft. variance from the normal 20 ft. on the southern side. All were in favor.

Doug Wall moved, Jonathan Whitney 2nd approval of a 16 ft. variance on the northern side. All were in favor.

Jonathan Whitney moved, Lisa Villa 2nd to adjourn at 6:48 pm. All were in favor.

Chairman Robert McBride

Secretary Kristen MacDonald

