

**MINUTES OF THE NEW CASTLE ZONING BOARD OF ADJUSTMENT
Tuesday, June 21, 2022 – 7:00 p.m. (Town Hall)**

Members Present: Todd Baker, Chair; John Fitzpatrick; Rebecca Goldberg; Ben Lannon; Margaret Sofio.

Members Absent: Mark Gardner; Alyson Tanguay; Matt Taylor.

Others Present: Robert DeFlorio; Larry Doyle; Sarah and Jeffrey Flause; Rita Fusco; Brendan McNamara, Brendan McNamara Residential Design; Betty Tamposi.

Chair Baker called the meeting to order at 7:01 p.m. Voting members of the Board are Chair Baker, John Fitzpatrick, Rebecca Goldberg, Ben Lannon, and Margaret Sofio.

1. Case 2022-03. Robert DeFlorio and Vicki Reed, owners of 42 Piscataqua Street, Map 18, Lot 24, have requested a variance for relief from New Castle Zoning Ordinance Article 4.2.1 Table 1, Row C, Footnote #3 in order to permit new structures within a 9'2" right side setback where 4'2" exists and 10' is required, also 5' rear and left setbacks where 10' is required and 3'5" front setback where 0.1' exists and 20' is required.

Brendan McNamara, designer, presented on behalf of Robert DeFlorio and Vicki Reed. The applicants have already received approval from the New Castle Historic District Commission. The property is 0.15 acres and contains an existing two-story house with attached decks, an enclosed porch in the front of the building, and a small shed on the Steamboat Lane side. There is a rear addition that was most likely added on when the main structure was built. The applicants intend to restore the main structure in a slightly new location but demolish the rear addition. The house would be raised one foot eight inches and moved back from Piscataqua Street approximately 3.5 feet, as well as slightly away from Steamboat Lane.

The applicants propose a new configuration of the house to reduce the imposition to the front yard setback. The current front left part of the house is on the property line, and part of the front steps are in the road. The house sits on a foundation and has a five foot clearance in the basement. The project will entail considerable digging to reconfigure the house and bring the basement down another foot approximately. The project also includes the replacement of the existing shed with a new boathouse that is 14 feet by 20 feet. The boathouse is intended to be used for storage but could fit a car. The driveway will not be extended to the proposed boathouse.

Mr. McNamara explained that by raising the house up, it will eliminate the current rot issue, and the nonconformities of the structure will be made less in many ways by relocating the house. The applicants have a corner lot, which makes it more challenging with the setback requirements. The home will be in keeping with the visual aesthetics and style of the existing home. The building will be restored with a historically accurate look and an appropriate grade at the rear of the house. All windows will be replaced and will maintain their original appearance.

Mr. McNamara went through the five criteria for zoning relief.

1. *The variance will not be contrary to the public interest;*

There is no change to the essential characteristics of the neighborhood. The proposal does not pose a threat to public health, safety, and welfare.

2. *The spirit of the ordinance is observed:*

The proposal moves the existing main house further away from the property lines along Piscataqua Street and Steamboat Lane, making the house more conforming to the ordinance. The house is being strategically placed to limit interference with neighbors' views as much as possible. The proposed use of the property is not contrary to the spirit of the ordinance.

3. *The values of surrounding properties are not diminished:*

The restoration of the main house structure and the construction of a new, aesthetically pleasing boathouse, along with the removal of the dated rear addition and shed, will enhance the neighborhood and have no negative impact on surround properties.

4. *Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:*

The lot is a corner lot, with existing nonconformance to the lot area. The property has very little buildable area within the setbacks. The house cannot be relocated to fit inside the setbacks due to the parcel geometry and topography. The house would not be a comparable size to the existing structure since the area is not wide enough. It would create unnecessary hardship to relocate the house inside the setbacks, and would change the historic character of the neighborhood.

5. *Substantial justice is done:*

There is nothing that the public would gain from a denial of the proposal, which restores or improves current structures and increases compliance with code requirements. Mr. McNamara added that the proposal does not introduce any new nonconformity, and the impervious surface coverage will be maintained.

Mr. Fitzpatrick asked about the location of the proposed shed. Mr. McNamara explained that the shed could be physically within the setbacks, but it would make the sightlines worse for neighboring properties. The current shed sits on a ledge, and the goal is to try to cut the ledge down as much as possible and pin the structure into the ledge with a concrete foundation. No blasting will be done. The house is on Town water and sewer, and only electricity will go to the proposed shed.

Chair Baker opened the public hearing at 7:17 p.m. Sarah Flause, 46 Piscataqua Street, spoke. Her lot is directly east of the applicants. Ms. Flause is opposed to the variance for the requested

shed. She has a large, old spruce tree in the back east corner next to the fence. She feels that if digging is required in that area, the tree will be threatened. Furthermore, the proposed shed would block views of the neighborhood, as well as airflow and sunshine for the Flauses. Ms. Flause added that she is disappointed by the plan to move the house given that it is historic and would change the aesthetics of the neighborhood. She feels that the 10 foot setback requirement needs to be upheld. Chair Baker clarified about the proposed shed location. Ms. Flause explained that she would prefer if the shed would be moved five feet further back.

Betty Tamposi, 12 Steamboat Lane, shared that she is overall in favor of the application but would like to have a planting buffer in the back to soften the impact of the shed's appearance. Mr. McNamara explained that if the shed is moved further out of the setback, it would be higher up and therefore more imposing given the ledge. Mr. Fitzpatrick and Ms. Sofio disclosed that they are friends with Ms. Tamposi, but did not feel that that would impact their decision on the case.

Larry Doyle, 17 Steamboat Lane, had questions about the proposed shed location. Chair Baker explained that the building envelope has 15 foot front and rear setbacks, and 10 foot side setbacks. If the shed is moved five feet to fall within the building envelope, the applicants would not need a variance. Mr. McNamara thought that the proposed location would be the least impactful because it would be lower and would not block river views. He is trying to tuck away the proposed shed as much as possible. If the shed is moved to be within the building envelope, it would be about one foot higher because of the ledge.

Board members asked about alternative locations for the shed that may satisfy all parties. Mr. McNamara explained that the goal is to dig down as much as possible and put the shed to the side of the raised lump on the lot, so that the shed is tucked away from Steamboat Lane. Putting the shed directly in line with the house would block the view of the river from the house, which is the biggest asset of the property. Mr. McNamara added that while he does not know if the construction would disturb the roots of the Flause's tree until the digging occurs, he felt that the shed foundation could be done without causing considerable damage to the tree.

Jeffrey Flause, 46 Piscataqua Street, spoke of his historic interest in the neighborhood. He felt that moving the house will not be good for the structure, and using a rock hammer will create contention with neighbors. Mr. McNamara responded that while the masonry will appear different with the new home, it will be well-insulated and very energy efficient, whereas the current house is not energy efficient.

Robert DeFlorio spoke about his desire to preserve the house as best as possible and to line it up with the Flause's house. Ms. Flause stated that this would change the streetscape. Mr. DeFlorio responded that this is the first he is hearing of these concerns, and he wants all neighbors to be happy. He hopes to accommodate all neighbors' concerns.

Rita Fusco, 33 Piscataqua Street, sympathized with the Flause's concerns about the possible impact on their property and trees, as she previously experienced a similar situation.

Hearing no further comments from the public, Chair Baker closed the public hearing at 7:54 p.m. and opened discussion back up to the Board.

Mr. Fitzpatrick felt that this was a tough case, and acknowledged the historic concerns voiced by some neighbors. However, this falls under the purview of the Historic District Commission and not the ZBA. Overall, he felt that the plan is reasonable and will be less nonconforming. Mr. Fitzpatrick wanted a stipulation that the shed would be 10 feet from the side setback as opposed to the five feet proposed.

Mr. Lannon understood that each neighbor has an opinion on the location of the proposed structures, but he hoped to find a common solution that satisfies all parties. He felt that the adjustments to the front of the house and the rear addition were reasonable.

Ms. Sofio felt that it is a positive step forward when finding a common solution for neighbors and the applicants. She had no issues with the other setbacks as a legal matter, but from a historic perspective, understood neighbors' concerns.

Ms. Goldberg appreciated that the applicant is willing to make some reasonable compromises with neighbors. She was in favor of the application with the side setback of the shed being increased as discussed, and with the stipulation that the only utility to the proposed shed would be electricity.

Chair Baker felt that the revised plan in which the shed does not encroach in the side setback would meet all five variance criteria.

Ms. Goldberg motioned to approve the application of Robert DeFlorio and Vicki Reed for the property at 42 Piscataqua Street, Map 18, Lot 24, as submitted, having met the five criteria for zoning relief for a variance from Article 4, Section 4.2.1 Table 1, Row C, Footnote #3. This approval is subject to the following conditions: 1) that the shed will not be built within the ten (10) foot side setback and the shed will not be built any closer than ten (10) feet from the rear property boundary; and 2) that no utilities other than electricity will serve the shed. Mr. Fitzpatrick seconded. Motion carried unanimously by a vote of five to zero.

2. Approve Minutes.

Mr. Lannon moved to accept the April 2022 minutes as written. Mr. Fitzpatrick seconded. The motion carried unanimously.

3. Set Date of Next Meeting.

Chair Baker announced that the next Zoning Board of Adjustment meeting will be held on Tuesday, July 19, 2022 at 7:00 p.m. at the Town Hall.

4. Adjournment.

There being no further business, Ms. Goldberg moved to adjourn the public meeting. Mr. Fitzpatrick seconded. The motion carried, unanimously, and the meeting adjourned at 8:05 p.m.

Respectfully Submitted,

Meghan Rumph
Secretary