

TOWN OF EAST KINGSTON, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT MEETING MINUTES

February 26, 1998

FILE

AGENDA

7:30 Frances M. & Ronald Rutledge – Variance from Article VI.C (1998-02.)

Members attending: Chairman John V. Daly, David C. Boudreau, Edward Cardone, and Alternates Charles F. Marden and Peter A. Riley. **Absent:** David Ciardelli and Norman J. Freeman.

Others attending: Glenn P. Clark, Building Inspector, and Ronald & Frances M. Rutledge.

Frances M. & Ronald Rutledge– Variance from Article VI.C: Chairman Daly opened the public hearing for Frances M. & Ronald Rutledge at 7:34 p.m. The applicants are seeking a variance from Article VI.C of the East Kingston Zoning Ordinance:

...Every residence shall be at least 25 feet from adjacent side and rear property lines. All other buildings (garages, sheds, etc.) shall be at least 10 feet from adjacent side and rear property lines.

The applicants propose the replacement of a 12' x 70' mobile home with a 28' x 56' mobile home.

Chairman Daly informed the applicants that certain criteria must be satisfied in order for the Board to grant this variance request.

Mr. Rutledge stated that he and his wife propose to replace their current 12' x 70' mobile home with a double wide mobile home. In doing so both side property setback requirements can not be met. There will be only 22 feet on each side of the house where 25 feet is required. This proposal is 3 feet short on both sides.

He addressed the five criteria as follows:

- 1. The proposed use would not diminish the surrounding property values because it will be an upgrade from the existing dwelling. The dwelling will be considered a permanent structure v. a mobile home. It's a brand new home and it will look better.*
- 2. Granting the variance would be of benefit to the public interest because it will look better and it will improve the appearance as well as raise the value of the surrounding properties. There is the only existing mobile home on the street.*
- 3. Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property that distinguish it from other properties similarly zoned because the lot is already a nonconforming lot with only 1.4 acres. They will be replacing a three-bedroom with a three-bedroom. The existing mobile home was manufactured in 1978. It is old and they are putting too much money into it.*

At Chairman Daly's inquiry, Mr. Rutledge stated that the existing mobile home would need to be replaced at some point.

- 4. Granting the variance would do substantial justice because none of their abutters are opposed to their proposal.*
- 5. The use is not contrary to the spirit of the ordinance because this was an existing lot prior to the 2-acre minimum lot requirement.*

Chairman Daly stated that this is a pre-existing nonconforming lot. He then asked if any other variances are needed to execute this proposal.

Building Inspector Glenn Clark stated that trailers *do* wear out. All other setbacks can be met.

In responding to the Board's questions, Mr. Rutledge stated that the new proposed mobile home will be placed basically in the same location as the existing one. It will just be sitting at a different angle. The existing well and septic are up to code and will accommodate the new home.

He continued to say that the existing mobile home does meet the side setbacks now as it is only 12 feet wide. The newly proposed home will sit lengthwise on the lot as it will be built like a new house with a pitched roof and a full foundation. Although it is considered a mobile home, its appearance is that of a regular house and he and his wife prefer the front of the house facing the road.

Mr. Riley stated that he could be satisfied that the hardship criteria is met by reason of the lot being a pre-existing nonconforming lot as well as taking into consideration the shape of the lot.

At Mr. Boudreau's inquiry, Mr. Rutledge stated that the Darling's house is 10 feet or less from their side boundary and the Haley's house is at least 25 feet from their side boundary. All these houses predate the zoning ordinance.

Mr. Boudreau responded that the original intent of the 25-foot setback to adjacent side property lines was to ensure a total 50 feet distance between neighboring houses. With the Darling's house so close to the property line and the Rutledge's proposed new home close to the property line, this 50 foot fire protection setback cannot be met.

Mr. Rutledge stated that the fronts of the neighboring houses are not in line. They are staggered in their closeness to the front property line, thus not being as close as presumed.

Building Inspector Glenn Clark questioned what the neighbor's house's location has to do with the Rutledge's request. They are only asking for three feet.

At this time the Board entertained the possibility of shifting the proposed new mobile home's location to maintain a larger distance from the neighbor's house which was less than 10 feet from the boundary. The Board concluded that because the abutters have already agreed to the plan as proposed, it would be unfair to change it.

Mr. Rutledge offered to move the house farther back from the street, keeping a reasonable distance from the septic.

Chairman Daly then reviewed the five criteria as presented.

1. Upgrading the house is beneficial to the surrounding properties thus #1 is satisfied.
2. Improving the appearance and condition does benefit public interest, #2 is satisfied.
3. Hardship, based on the shape of the lot and it being pre-existing nonconforming, #3 is satisfied.

Mr. Boudreau inquired if the Rutledge's considered turning the new house sideways as this would meet the setbacks and a request for variance would not be needed. He stated that he did not feel the hardship criteria has been met as there are other alternatives.

Mr. Riley again stated that the lot is a pre-existing nonconforming. Given it's shape, it does meet the hardship criteria.

Building Inspector Glenn Clark responded that the ordinance reads that houses must be within reasonable proximity to the other houses on the same street. This is the only trailer on the street. Other than the side property line distance, they can meet all the other requirements.

Mr. Riley stated that the shape of the property and given the costs involved to placing the new home at the very back of the property, does meet the hardship requirement.

4. In light of the minimal nature of the variance requested, #4 is satisfied.
5. For the same reasons as noted above and to allow more room, #5 is satisfied.

Mr. Marden offered that the 25-foot side property setback may have been for fire protection reasons, but given the size and flatness of the lot, fire protection does not appear to be a problem.

MOTION: Mr. Cardone motioned to Grant Frances M. & Ronald Rutledge's request for variance from Article VI.C for property located at 11 Rowell Road, MBL# 10-01-04. Mr. Marden second. With no further discussion, the motion passed 3-1, (Mr. Riley, Mr. Cardone and Mr. Marden in favor. Mr. Boudreau opposed.)

February 12, 1998 Zoning Board Minutes: With no corrections or objections, Mr. Boudreau motion to approve the February 12, 1998 Zoning Board of Adjustment Minutes. Mr. Cardone second. The motion passed unanimously.

This February 26, 1998 Zoning Board of Adjustment meeting adjourned at 8.00 p.m.

Respectfully submitted,

Catherine Belcher
Minutes completed and on file February 27, 1998.