

Town of East Kingston, New Hampshire  
Zoning Board of Adjustment Meeting Minutes

March 28, 2019  
7:00 pm

MINUTES

*Case #18-02.* Continued Public Hearing for Bernard Cyr, 1 Buddy Lane, East Kingston, NH (MBL 04-02-2002).

The applicant is seeking a variance from the provisions of Article IX. C – Setbacks for a proposed addition.

**Members Attending:** Dave Ciardelli, Tim Allen, Frank Collamore and Ed Robbins.  
**Also Attending:** Applicant Bernard Cyr

Mr. Ciardelli called the public hearing of the East Kingston Zoning Board of Adjustment into session at 7:07 pm.

This hearing is to evaluate the application for Bernard Cyr, 1 Buddy Lane, East Kingston. Mr. Cyr desires to construct an addition approximately 10 feet into the setback required by Article IX. C of the East Kingston ordinances.

Mr. Ciardelli summarized the evolution of the application from the date of submission until today.

He asked Mr. Cyr who he had approached to proceed with the addition. Mr. Cyr had spoken to the Building Inspector, who said he needed to have a certified foundation plan to know just how far the house was from the property lines. After the certified foundation plan was completed, it showed Mr. Cyr did not even meet the 25' setback. The person conducting the foundation plan noted he would need a variance to go forward.

Mr. Cyr submitted his variance application and the Board met on December 27, 2018. That meeting was postponed due to a medical emergency of the Chairman and the hearing was continued to the January 24 meeting date.

In the meantime, Mr. Cyr spoke to Mr. Daly regarding the variance application, and Mr. Daly sent him some additional information to help him complete a new application. Mr. Cyr submitted an amended application which the Board has in front of them at this time.

Before the January 24 meeting, Mr. Cyr had spoken to Mr. Daly and requested a continuance to the March 28<sup>th</sup> meeting. At the January 24<sup>th</sup> meeting, the Board continued Mr. Cyr's application to March 28.

Mr. Ciardelli noted that after review of Mr. Cyr's application, in his opinion it was insufficient for the Board to act upon and should be rejected due to inadequate information.

Mr. Ciardelli pointed out the notation at the bottom of the application which states: "A petition may be tabled or rejected for inadequate information or form."

Then he explained there were three outcomes that could happen with this application:

- The Board could accept or reject the application – it was noted that all the points would need to be met to receive the variance. The burden of proof is on the applicant to show why he should be getting a variance.
- The applicant could retract the application. With either a rejection or if the applicant retracted it, there was the ability to reapply.
- If the Board accepted it and it was denied, the applicant’s only recourse was to appeal the decision or go to court.

Mr. Ciardelli asked the Board members if they thought there was enough information included on Mr. Cyr’s application to accept it.

- Mr. Robbins noted the application was insufficient in some areas and he did not feel comfortable accepting the application with the information as submitted.
- Mr. Allen agreed and noted the burden was on the applicant to provide information which the Board could interpret to show he met the points of the variance.
- Mr. Collamore opined there was not enough information included to move forward with the application.

Mr. Cyr replied he was not a legal expert, just a homeowner. Even after speaking to Mr. Daly and reviewing the information he provided him, he had filled out the application to the best of his ability, but still did not understand the questions. He did not know what they were looking for.

He had gotten a certified foundation plan of his property, and the neighbors had no objection to what he wanted to do. He found the process very frustrating.

Mr. Ciardelli noted that all variance cases were required to provide the same information and the Board could only do so much to help the applicants. In the end the applicant had the burden of proof to show the Board how he met the variance points.

Mr. Ciardelli asked for a **MOTION** on the application.

Mr. Allen **MOVED** to reject the application for Bernard Cyr, 1 Buddy Lane for a variance from the provisions of Article IX. C – Setbacks; second by Mr. Collamore with a unanimous vote.

The meeting was adjourned at 7:15 PM.

Respectfully submitted,

*Barbara White*

Barbara White  
Recording Secretary

John Daly  
Chairman