

Town of Hinesburg
Development Review Board
January 7, 2020
Approved January 21, 2020

Members Present: Ted Bloomhardt, John Lyman, Jonathan Slason, Bryan Currier (alternate), Dick Jordan, and Greg Waples.

Members Absent: Dennis Place, Sarah Murphy

Applicants: Rolf Kielman, Geoff Gevalt, Mary Provencher, David Bertrand

Public Present: Bill Baker

Also Present: Mitchel Cypes (Development Review Coordinator) and Kate Kelly (Recording Secretary)

Dick J. called the meeting to order at 7:30 PM.

Agenda Changes: None.

Review minutes of the December 17, 2019 meeting: Greg W. **made a motion to approve the minutes of December 17, 2019 as amended.** John L. **seconded the motion.** The Board **voted 6-0.**

United Church of Hinesburg/Rolf Kielman:

Greg W. recused himself. Dick J. said this is for a variance for a very small lot. Rolf Kielman handed out photos of the vestry building. It is a small building, just shy of 1300 sq. ft. The zoning for this part of the village requires a 6000 sq. ft. minimum area, and a minimum width of 40 ft. This building is 2,800 sq. ft. and 29.5 ft. wide. Mitchel C. clarified that the town regulations say the minimum lot width is 60 ft. but from state requirements that is reflected in Town requirements, states that an existing property which is less than 1/8th of an acre in size or less than 40ft in width can't be development, so the Applicants are looking for a variance for existing small lots part of the Town regulations.

Rolf K. introduced himself, and said a small group of Hinesburg citizens, encouraged by the Town's effort to preserve and sell the old police station, would like to do the same for the Vestry building. A feasibility study had been done by a preservation consultant. It is one of the older buildings in town, built around 1840. It was built with components of a demolished church from 1810, and has a Palladian window on one side that is now covered to protect it. They have a good understanding of what needs to be done/what's wrong with it. To renew the building would likely be cheaper than building a new one of the same size. They feel it plays an important role in historic part of town. They believe it could serve important community functions (small scale meetings, musical events, poetry readings). They are requesting a variance because they feel the structure is important enough to the community to re-use. The United Church is willing to sell it to them for \$1, and otherwise doesn't have the means to rehabilitate the structure.

Dick J. asked how this differs from replacement of a house on the lake. Mitchel C. replied that this is different in that a regulation in section 5.11 of Hinesburg zoning regulations, which says that if it is an existing lot that is less than 1/8 of an acre or less than 40 feet in width, you can not develop it without a variance. The definition of land development in the Hinesburg Zoning Regulations includes anything that requires a permit, including reconstruction, or change of use. This would be a change of use (from storage to

community use). A variance is required to do anything on this lot: they will have to come back to the Board for conditional use and site plan.

Ted B. said the existing building is grandfathered, so all non-conformances are grandfathered. He asked if this section applies to both building and change in use. Mitch C. said it does; it applies to anything that requires a permit. John L. asked about what the potential use will be. Jon S. said they'd have to come back for conditional use and site plan review.

Dick J. said that criterion number 4 (will not substantially impair neighborhood character) would be the most difficult one, as we don't know what the potential use will be. Mitch C. confirmed that any community use would require the Applicant to return before the board to apply for conditional use.

Jon S. said he reads this criterion (#4 as referenced above), a large neighborhood/district, as including much of 116, so he didn't see a problem with #4. Some asked about parking along 116. Rolf K. said you could potentially fit three cars in there.

Bill Baker, who owns the house next door, argued that a utility pole in front of the building would impede parking, and there's probably only space for 2 or less cars. People already block his driveway when there's a funeral. He was concerned about what goes in next door. He felt granting variances can be a slippery slope. He appreciated wanting to save an old building but was concerned about himself. He asked if Rolf K. was aware of the deed issue; Rolf K. said they are, but it can be resolved. The United Church owns the building, though it was leased to the town for a long time.

Rolf K. said, as with any non-residential building in town, the ability of certain uses to get along with others is crucial. He understood that they'll have to work out these relationships with everyone. Bill B. said he'd like to stop the water coming off the roof into his backyard; improving the building would only benefit him.

Geoff Gevalt, interested in the building, said this is a classic catch 22. The building can't be saved without a permit, and they can't get a permit without a variance. No one is taking responsibility for the building given deed/building issues. It is a difficult decision before the Board, because the Applicant can't involve the neighbors/neighborhood, because they don't know if they can do anything. He felt this is what a variance is for (unusual situations). If the DRB doesn't grant the variance, it seems like there's nothing else that can be done with the building.

Ted B. asked if any proposed use would require conditional use and site plan. Mitchel C. said there are some uses that could just be a permit and a site plan. Ted B. said we could limit it to a community purpose, so as to avoid other uses, and assure that it comes back before the board. He said that in his history on the board, it is very difficult to meet the 5 criteria on most variances. He felt this meets the 5 criteria. If we condition it on community purpose, he could see this working.

Jon S. said he doesn't have a problem with granting the variance without any conditions, looking at the neighborhood around (there are many different uses within the neighborhood of Hinesburg village).

Greg W. (as a member of the public) spoke to Dick J.'s point that this is a non-conforming structure, and normally rebuilding would be a conditional use before the board. Legally speaking, the small lot regulation would be considered to trump the non-conforming structure regulation. When he joined the board in 2000, the practice was to not pay close attention to the strict variance criteria. In the 19 or 20 years on the board, he's voted for 1 variance, which still didn't meet the criteria. He felt this easily fits within the variance criteria. But that said, you don't have to grant a variance without knowing what will be there. You could let the Applicant know that a variance will be granted when they come in for conditional use approval.

Jon S. stated that he doesn't read this as the neighbors, but rather as the larger district, and doesn't want to set precedent.

Dick J. said he is fine with proceeding if there is a conditional use review that comes back to the board to review lighting, etc. John L. asked if it's safe to say that a variance requires nothing further. Mitchel C. suggested that the Board review the five criteria for a variance.

Dick J. reviewed the five criteria.

- 1) Unique physical circumstances or conditions. This is a unique lot, predating any regulation.
- 2) Necessary for reasonable use – building is falling apart, so needs to be refurbished for reasonable use.
- 3) Hardship not created by the Appellant – this was a situation created a long time ago (not by the Appellant)
- 4) Will not substantially impair the neighborhood – discussed already. Building in the middle of town has uses that are not out of the ordinary.
- 5) Represents minimum variance that will afford relief – not changing property line distances.

The Board agreed with Dick J.'s comments.

Bill B. disagreed with Jon S.'s point of view, and said that he is a neighbor, in the neighborhood, so his view counts. He asked what if someone wanted to do something else with it, once the variance is granted. Dick J. replied they would have to come back to review again. Mitchel C. said the only thing he could think of that wouldn't come back to the Board for review would be a single-family residence.

There was no other comment from the public.

Jon S. asked the Applicant how they felt about the restriction to community use. Rolf K. said as far as variances and constraints on those variances, he's not conversant on that. To curtail the use on the variance, they'd rather have the door wide open. If residential is the only thing that would not require site plan review, why not use language like "any non-residential use".

Jon S. said he'd prefer not to constrain the use/language. Rolf K. clarified they didn't double stage this because it was the softer way to go, rather because they are doing it themselves and hoped they could get the variance first.

Ted B. felt they should limit the Applicant's proposal. John L. agreed he is reluctant to leave it open. Dick J. asked if there will be a written decision; Mitchel C. confirmed there will be. Dick J. also agreed to limit the use.

Dick J. made a motion to close the public hearing and ask staff to write up a variance approval with conditions for community use. Ted B. seconded the motion. The Board voted 5-0.

Mary Provencher:

Dick J. said Mary Provencher's application is conditional use for expansion of a non-conforming structure. She couldn't meet the criteria last time, so she's coming back to make some modifications.

Mary Provencher and David Bertrand introduced themselves. Mary P. said this camp on Lake Iroquois has been in her family since 1952. She had received permission to renovate. She gutted the upstairs, wood used was from a church in Charlotte. The upstairs wall was moldy. She had wanted to expand upwards and build out over entry. All the builders said this wouldn't work, and she couldn't save it. The neighbors said they could do whatever they want, but requested they not do it in the summer. She decided to tear it down.

Now she's asking for a 1 foot widening of the entire structure to go from 23 feet to 24 feet (because 24 feet is cheaper to build). The building will move over 1 foot from the narrower part to the south. David B. said they are moving it 1 foot away from the cottage to the south (which was 17 feet away, now will be 18 feet). They had Suzanne Mantegna (Zoning Administrator) and Mitchel C. visit this morning. Mitchel C. described that the footings are formed but not yet poured. It is 62 +/- feet to the centerline of the road. The structure is shorter, so the distance from lake is improved (changed from 33 to about 40 feet). It also lengthens the distance to the property line to the south by about 1 foot.

The Board asked about the cantilevered deck. Mitchel C. described the stairs and deck that existed. Mary P. commented that the property to the north has decks all over, down to the water. Mitchel C. displayed a photo showing the cliff/drop down to the water. Dick J. asked about the deck, and if it falls under this application. It does, and is proposed to be a 12' wide deck that would span the width of the residence. Mitchel C. said there will be a landing and stairs going down, which is outside. He clarified that the landing needs to be less than 20 square feet. The landing in the diagram has been taken off because it was larger than 20 square feet. The applicant understood that it needs to be less than 20 square feet.

There was no public present. John L. asked if they've discussed neighbors; Mary P. confirmed she has talked with neighbors and they approve, and they'll be done construction in May.

Mitchel C. commented on two sections that need to be reviewed: 5.10.3, and 2.5.1 criteria (water quality protected, structure not in floodplain, expansion isn't going to affect adjoining property uses). These need to be in the decision as finding and completions.

Ted B. made a motion to close the public hearing and direct staff to draft conditions of approval for conditional use proposed expansion. Greg W. seconded the motion. The Board voted 6-0.

Other Business:

DRB 2020 organization: Mitchel C. said this first meeting of the year is when the Board can either reappoint or choose other chair/vice chair/secretary. Mitchel C. said Dennis P., who had to miss this meeting since he is away on business, is willing to continue as chair.

Dick J. made a motion to reappoint all three (Dennis P. as chair, Dick J. as vice chair, Sarah M. as secretary). Jon S. seconded the motion. The Board voted 6-0.

Decision Deliberations

Stephen Martin:

Greg W. made a motion to approve the decision as written. Jon S. seconded the motion. The Board voted 6-0.

Roger & Lisa Daggett:

Greg W. gave Mitchel C. a few minor edits. Jon S. asked about finding 13, and requested clarification about if this references the road or intersection. They discussed the language of road grades and language regarding upgrades, and that they'd like to potentially bring back town road standards by the Select Board and/or Planning Commission. They also discussed wells.

Ted B. made a motion to approve the decision as amended. Greg W. seconded the motion. The Board voted 6-0.

News/Announcements/Correspondence:

At next meeting (Jan. 21), Mitchel C. said the Board will have a subdivision revision, and the Select Board is delegating water and sewer allocation to the DRB. There will be a prescribed process. Alex W. will come to the next meeting to present on this. Haystack will potentially be at the first meeting in February.

Also, the Board received a letter from Hans Jenny saying that after their wetland delineation, they discovered they weren't going to be able to develop as they wanted to, so they won't continue with the subdivision process.

The meeting adjourned at 9:10 PM.

Respectfully submitted,
Kate Kelly, Recording Secretary