

Town of Jackson Board of Adjustment

Notice of Decision

Case 2013-01: Bradley Boehringer Variance concerning Map R18, Lot 23

Decided May 15, 2013, Decision Published May 22, 2013

Background

- Bradley Boehringer (the "Applicant") is owner of an approximately 0.21 acre parcel located at Map R18, Lot 23 at 6 Spring Street.
- The surrounding parcels are similarly sized with three of the adjacent parcels being .32 acres, .28 acres, and .38 acres, and this is typical of most of the surrounding area.
- The exact dimensions of the lot are uncertain, but a preliminary unsigned survey by Ammonoosuc Survey suggests the lot approximately a rectangle with sides of 100 ft., 106 ft., 100 ft., and 80 ft.
- Most of the existing structure is within the proscribed setback of 50 ft from a property line adjoining a road and 25 ft from a property line not adjoining a road.
- The Applicant has applied for a variance to increase the building height an unspecified amount and increase the footprint in an approximate 8 ft by 9 ft area, or approximately 72 sq. ft. Most of the increased building height and some portion of the increased footprint would be within the proscribed setbacks.

Findings

- The Board unanimously finds that granting the variance would not be contrary to the public interest, given the Applicant's assertion to that fact, and the Board's finding that it, if granted, it does not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public. It is noted that one abutter did express concern about granting a variance.
- The spirit of the zoning ordinance is observed for the reasons cited above.
- Substantial justice is done, as the Board of Adjustment found that the loss to the individual is outweighed by a gain to the general public by a vote of 3-2.
- The Board of Adjustment unanimously determined that the values of the surrounding properties are not diminished.
- The Board of Adjustment unanimously determined that literal enforcement of the provisions of the ordinance would NOT result in an unnecessary hardship. In reaching this conclusion, the Board made the following finding:
 - The Applicant failed to identify any special conditions of this property that distinguished it from others in the neighborhood. The Board was also unable to identify any special conditions for this property that distinguished itself from the area. It was noted it was on the smaller than the average property in the area,

but there were other similarly situated properties of similar size or smaller in the area.

Finding that there were not special conditions of this property that distinguished it from others in the neighborhood, the Applicant did not meet this criterion for a variance.

Decision

The Board of Adjustment denied the requested variance by a vote of 5-0.

Note that the Selectmen, any party to the action or any person directly affected has a right to appeal this decision during a 30 day period following the date of the board vote.

The Applicant is cautioned that this Variance relates only to the cited portion of the Town of Jackson Zoning Ordinance

Copies of this decision are provided to the Applicant, the Planning Board, Board of Selectmen, Town Clerk, Assessor, and Building Inspector.