Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment (ZBA)
Meeting Minutes – **June 16, 2025 - Session #2**
Whitcomb Hall, Main Street, Swanzey, NH

Note: Draft Minutes are subject to review, correction, and approval by the Board. Review and approval of Minutes generally takes place at the next regularly scheduled meeting of the Board.

CALL TO ORDER:
Chair Adam Mulhearn called to order the meeting at Whitcomb Hall at 7pm. Other members present were Vice Chair Jay Ward, Ann Karasinski, and Lisa Thorne and Alternates Pete Delaney, Wayne Lechlider, Jessica Ramsey-Sanchez and Joe Parisi. Also present were Town Planner, Adam Paquette and Recording Secretary, Susan Ells.

ABSENT:
Bryan Rudgers

OTHERS PRESENT:
Nathan Jacobs, Danielle Jacobs, Richard Lane

MINUTES:
The meeting minutes of **May 19, 2025,** were considered. **Motion** was made by Karasinski to approve the minutes as presented. There was a second made by Ward. All were in favor. ***Motion passed.***

REGIONAL IMPACT:
Karasinski made a motion that there was no regional impact. There was a second by Ward. All were in favor. With no further discussion, ***Motion passed***.

PUBLIC HEARING:
ZBA Variance:

1) **ZBA 25-008: Variance** – (Rehearing) - Nathan Jacobs has requested a Variance pursuant to Section VIII, Article C of the Town of Swanzey Zoning Ordinance to build a structure within the Shoreland Protection District at 71 Wilson Pond Road. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District.
    a. Ward recused himself from the public meeting.
    b. Ramsey-Sanchez was seated for Ward
    c. Paquette read the variance application and the memo he sent the board.
    d. Chair Mulhearn asked if the board should not ask for State approval before granting a variance in the future; Paquette confirmed they don't need to ask for State approval. The State's approval comes after the Town's approval.
    e. Nathan Jacobs read his letter to the board requesting the variance which is being reheard. He reviewed the 5 questions and provided his answers.
    f. The Chair asked the board if they had questions for the applicant.
    g. Lechlider asked how many houses on the west side of the pond are in the shoreline protection and was told that most, if not all of them are.

h. Karasinski asked about the square footage of the buildings that have been removed which alleviates some impact on the property. The total of the shed, deck, and carport that removed were 448 square feet; 1202 square feet is size of the current house that will be removed. The size of the proposed house is 2066 square footage.
i. Karasinski has walked through the area since all the rain and witnessed a lot of surface water from the town road running onto the applicants' property. If they are granted permission to build, they would be capturing this water and that would be a protection of the pond.
j. Karasinski asked about a drawing on page 28 – Jacobs confirmed most of the house is outside the buffer.
k. Parisi referenced the Town's master plan from June 2022 regarding the Town's water resources which references a 125' primary structure setback. Many original houses were seasonal, now being renovated to full year use. This changes the impact on the pond.
l. Lechlider shared that at least 3 times in the last few years, cases like this one have been approved. He doesn't see a lot of difference between those cases and this.
m. Ramsey-Sanchez asked if the Jacobs observed the water that is running from the road onto their property. Jacobs said it's important for the water to permeate below the ground before it gets to the pond. Ramsey-Sanchez asked if that makes the property special because if they don't fix the drainage then the water would continue to run into the pond. Jacobs agreed.
n. Mulhearn asked if Jacobs feels that is different from the other properties; Ramsey-Sanchez clarified the question. Jacobs responded that it is absolutely different.
o. Mulhearn asked the public for comments; Richard Lane described two previous cases where the properties were required to stay in the same footprint, so they built vertically. He said he felt this was the same situation.
p. Ramsey-Sanchez asked for clarification on 'nonconforming use' versus 'nonconforming lot'. Paquette explained that this case is a 'conforming use' on a 'nonconforming lot'; that the owners are not able to expand the size of the building without the variance.
q. Jacobs said the State mirrors the town on this requirement.
r. Ramsey-Sanchez asked the size of this lot compared with others. This property is about double the size of the others. Delaney asked if that made the lot unique; Jacobs stated it did.
s. Parisi asked for water mitigation plans. Jacobs said the plans are not complete, but the plans are for roof water run-off which will funnel under the deck and into the ground; the front of the house the water from the driveway will go to the left of the house under the ground. Parisi clarified that there would be less run-off. Jacobs described what the requirements of the State are once the town approves.
t. Ramsey-Sanchez asked for a definition of a 'nonconforming lot'. Paquette explained that 1 acre needs 150 feet of frontage. This lot does not meet that definition.
u. Thorne asked if there is any information from the DPW that confirms the runoff from the road is worse than other properties. Jacobs replied that their property has 100 feet frontage versus the adjacent neighbors who have 50 feet, so he has twice as much road where water washes to his property. Karasinksi said there are a couple others down the street that have a lot of water which the Town might mitigate in the future.
v. Jacobs read his closing statement.

w. Mulhearn asked if there were any further questions. There were none so he closed the public hearing.
x. Mulhern asked if there were any discussions before the questions were deliberated.
y. Mulhearn said that Karasinski's comment about water runoff from the road was very relevant.

The Board deliberated the checklist for granting a variance.

1. **Could the variance be granted without being contrary to the public interest?**

- Karasinski - Yes
- Thorne – No – based on recommendation of the conservation committee and the master plan
- Ramsey-Sanchez – Yes
- Pete – Yes
- Mulhearn - Yes

2. **Would the spirit of the ordinance be observed if the variance were granted?**

- Thorne – No – the spirit of the ordinance was to protect the shoreland. If we grant for one, we need to for all. This applicant could stay within the footprint and go up
- Jess – Yes
- Pete - Yes
- Karasinski - Yes
- Mulhearn - Yes

3. **Would granting the variance do substantial justice?**

- Ramsey-Sanchez - Yes
- Pete - Yes
- Karasinski - Yes
- Thorne – No – previous rationale
- Mulhearn - Yes

4. **Could the variance be granted without diminishing surrounding property values?**

- Pete - Yes
- Karasinski - Yes
- Thorne - Yes
- Ramsey-Sanchez - Yes
- Mulhearn - Yes

5. **Do special conditions of the property exist that distinguish it from other properties in the area?**

- Karasinski - Yes
- Thorne - No
- Ramsey-Sanchez - Yes
- Pete - Yes
- Mulhearn - Yes

A.i. **Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?**

- Thorne – No – didn't find special conditions in the previous question
- Ramsey-Sanchez - Yes

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- Pete – Yes
- Karasinski - Yes
- Mulhearn - Yes

A.ii. **Is the proposed use a reasonable one?**

- Ramsey-Sanchez - Yes
- Pete - Yes
- Karasinski - yes
- Thorne - Yes
- Mulhearn - Yes

If the criteria in subparagraph A.i. and A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance in necessary to enable a reasonable use of the property:

- Not needed

Motion made by Delaney to approve ZBA 25-008 with the condition that the water mitigation is approved by the State and installed correctly. There was a second by **Krasinski**. Thorne opposed. The rest were in favor. With no further discussion, ***Motion passed***.

2) **ZBA 25-009: Variance –** Nathan Jacobs has requested a Variance pursuant to Section IV, Article B.3 of the Town of Swanzey Zoning Ordinance to build a structure 8' into the front setback at 71 Wilson Pond Road. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District.
   a. Paquette referenced the previous memo; he feels the applicant's request is reasonable. He said he had not received any comments from other entities.
   b. Ward asked to not be recused from this meeting and returned to the table.
   c. The Chair seated Ramsey-Sanchez for Rudgers.
   d. Jacobs read a letter explaining his request for a setback variance of 8 feet from the requirement of 30 feet to build his house further from the pond and closer to the road.
   e. Mulhern asked if there were questions from the board.
   f. Karasinski asked if the existing house is 30' from the road and was told it is.
   g. Mulhearn asked what material changes would happen if they didn't get the variance; Jacobs said one change would be that they might not be able to build a large enough garage to house their vehicles, bikes, etc.
   h. Ward asked if the house would be built closer to the pond if they don't get the variance. Jacobs agreed it would need to be.
   i. Ramsey-Sanchez asked for clarification on the map which Jacobs provided.
   j. Delaney asked how close the existing house is to the pond and was told 40 feet. The new house will be just about the same – 1.5 foot further from the pond but oriented differently.
   k. There were no other questions from the public, so the Chair closed the meeting to public comments
   l. Ward said this property is different from the others; some are closer to the road. It has more room, so even with the setback it would be further from the road than other houses.

The Board deliberated the checklist for granting a variance.

1. **Could the variance be granted without being contrary to the public interest?**
    - Karasinski - Yes
    - Thorne - Yes
    - Ramsey-Sanchez - Yes
    - Ward - Yes
    - Mulhearn - Yes
2. **Would the spirit of the ordinance be observed if the variance were granted?**
    - Thorne - Yes
    - Ramsey-Sanchez - Yes
    - Ward - Yes
    - Karasinski - Yes
    - Mulhearn - Yes
3. **Would granting the variance do substantial justice?**
    - Ramsey-Sanchez - Yes
    - Ward - Yes
    - Karasinski - Yes
    - Thorne - Yes
    - Mulhearn – Yes
4. **Could the variance be granted without diminishing surrounding property values?**
    - Ward - Yes
    - Karasinski – Yes
    - Thorne - Yes
    - Ramsey-Sanchez - Yes
    - Mulhearn - Yes
5. **Do special conditions of the property exist that distinguish it from other properties in the area?**
    - Karasinski – Yes
    - Ramsey-Sanchez – Yes
    - Ward – Yes
    - Thorne – Yes
    - Mulhearn – No – this is a larger property he feels it doesn't need the extra footage.

A.i. **Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?**

- Thorne - Yes
- Ramsey-Sanchez - Yes
- Ward - Yes
- Karasinski - Yes
- Mulhearn – No – same reasons as the previous question – the property lends itself to other designs that wouldn't need the exception to the setback.

A.ii. **Is the proposed use a reasonable one?**

- Ramsey-Sanchez - Yes
- Ward - Yes
- Karasinski - Yes

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- Mulhearn - Yes
- Thorne - Yes

If the criteria in subparagraph A.i. and A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance in necessary to enable a reasonable use of the property:

- Not needed

Motion by Ward to move the variance forward. Karasinski seconded and all were in favor. ***Motion passed.***

OTHER DISCUSSIONS

- Ward pointed out that the applicant read the application verbatim. Seems like that wasn't necessary; Mulhearn said it might have been easier for the applicant to read it rather than speaking to the board – not everyone is comfortable speaking in public.
- Next time perhaps read the agenda out loud so the public knows when they can speak.
- Paquette thanked everyone for their work today. He will update the flow chart.

ADJOURNMENT

Motion to adjourn was made by Ward and seconded by Thorne and all were in favor. ***Motion passed.*** Adjournment occurred at 9:13pm.

Respectfully Submitted,

Susan Ells, Recording Secretary

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