

**TOWN OF PITTSFIELD  
ZONING BOARD OF ADJUSTMENT  
TOWN HALL, 85 MAIN STREET  
PITTSFIELD, NH 03263**

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**MEETING MINUTES OF Thursday, August 4, 2022**

**CALL TO ORDER**

Call to order at 6:00 p.m. by Mike Cabral, Chair of the Zoning Board of Adjustment

**MEMBERS PRESENT**

Mike Cabral, Chair  
Pat Heffernan  
Arthur O'Hara  
Art St. Laurent

**MEMBERS ABSENT**

Larry Konopka, Vice-Chair

**OTHERS PRESENT**

Bonnie Theriault – Office Assistant  
Scott LaCroix – Code Compliance Officer

**AGENDA REVIEW**

None.

**NEW BUSINESS**

**a. Variance application - Susan Guay R53-4-5, 285 Webster Mills Road- reduced rear setback**

Mike Cabral welcomed the applicant notifying them of only (4) four Board members being present at the meeting instead of a full (5) five-member Board.

Mike Cabral asked if the applicant wished to postpone the meeting until the (5) five Board members were present or would the applicant like to continue the meeting with only the (4) four members of the Board.

Susan Guay introduced herself stating she wished to continue the meeting with the (4) four members of the Board present.

Mike Cabral read the following;

Notice is hereby given that a public hearing on ZBA 2022-006 will be held Thursday, August 4, 2022, during the ZBA meeting beginning at 6:00 PM, at Pittsfield Town Hall, on a request by Susan Guay for a variance concerning Article 3, Section 4 (h) Dimensional Regulations – Table of Dimensional

Requirements of the zoning ordinance.

Applicant proposes to request relief from the minimum rear setback of 25' to 5' to allow for a carport on the property at 285 Webster Mills Road, Tax Map R53, Lot 4-5, in the Rural Zoning District. Subject property is owned by Susan & Robert Guay, 285 Webster Mills Road, Pittsfield, NH 03263.

The variance application is on file for public inspection at Pittsfield Town Hall, 85 Main Street, Pittsfield, NH.

Bonnie Theriault notified Board members that she received information from the surveyor changing the setback estimate of 5' in the application to 3'.

Pat Heffernan: I motion to accept the application for a variance.

Arthur O'Hara: Second.

Discussion: None.

Motion carried 4-0-0.

Susan Guay stated the purpose of the variance was to reduce the setback behind the property carports where land is heavily wooded, unused, and not visible from the street. Susan Guay said the abutting neighbor, Laurie Whareem, has agreed to sell this portion of the land (3,560 square feet) so she has since applied for a lot line adjustment.

Mike Cabral proceeded with asking the facts in support of granting the variance as follows;

Question 1. Granting the variance would not be contrary to the public interest because:

Susan Guay answered; The property in question is at the back of my property, away from street visibility. It will allow for our carports to be within five feet of our neighbor and property line; otherwise, they will have to be moved to the front of our property in full view of the street.

Question 2. If the variance were granted, the spirit of the ordinance would be observed because:

Susan Guay answered; The property in question is at the back of my property, away from street visibility. One carport has been on the property line for 20+ years and a new one to be installed has a concrete pad already poured and approved by the building inspector two years ago.

Question 3. Granting the variance would do substantial justice because:

Susan Guay answered; We will be able to keep our carports on our property boundary at the back of our property away from street view.

Question 4. If the variance were granted, the values of the surrounding properties would not be diminished because:

Susan Guay answered; Nothing is changing except for putting a new carport on the concrete pad that was poured and approved two years ago.

Question 5. Unnecessary Hardship

a. Owing to special condition of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

Susan Guay answered; A carport has been on the property line for 20+ years. We were just notified that it is encroaching on my neighbor's property. We also have a building permit to put a second carport on the concrete pad that was poured and inspected two years ago by the building inspector.

-and-

ii. The proposed use is a reasonable one because:

Susan Guay answered; Nothing is changing except the new carport awaiting installation on the concrete pad.

b. Explain how, if the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to 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 is, therefore, necessary to enable the reasonable use of it.

Susan Guay answered; If the variance is not approved, we will have to move the existing carport that has been there for 20+ years, as well as destroy the concrete pad we poured for the new carport, and remove all the debris, etc. The cost to pour the concrete, plus the cost to remove everything, plus the cost to pour a new concrete pad in the front of our yard will cause us financial hardship.

Mike Cabral stated that all fees have been paid and Code Compliance Officer Scott LaCroix stated he had no issues with the application.

Bonnie Theriault noted the abutting neighbor Laurie Wharem sent a letter supporting the variance along with signed paperwork for the lot line adjustment.

Mike Cabral opened and closed for public comment at 6:15 p.m.

Pat Heffernan: I motion to approve the application of Susan Guay for a variance concerning Article 3, Section 4 (h) Dimensional Regulations – Table of Dimensional Requirements of the zoning ordinance for relief from the minimum rear setback of 25' to 3' to allow for a carport on the property at 285 Webster Mills Road, Tax Map R53, Lot 4-5, in the Rural Zoning District.

Arthur O'Hara: Second.

Discussion: The rear setback was changed from 5' in the original application to 3' to meet the criteria of the surveyor.

Motion carries 4-0-0.

Mike Cabral let Susan Guay know that there is a 30-day appeal period. Board members congratulated Susan Guay and thanked her for coming in.

**b. Special Exception - Elizabeth Fox U2-55, 38 South Main Street – Chickens**

Mike Cabral welcomed the applicant notifying them of only (4) four Board members being present at the meeting instead of a full (5) five-member Board.

Mike Cabral asked if the applicant wished to postpone the meeting until the (5) five Board members were present or would the applicant like to continue the meeting with only the (4) four members of the Board.

Elizabeth Fox introduced herself stating she wished to continue the meeting with the (4) four members of the Board present.

Mike Cabral read the following;

The Pittsfield Zoning Board of Adjustment will hold a public hearing pursuant to RSA 674:33, IV, and RSA 676:7 on application ZBA #2022-011 for a special exception to allow for keeping poultry in the Suburban W & S zoning district, according to Pittsfield Zoning Ordinance, Article 3, Section 3(b)(2) Special Exception (6) Agriculture – as to the keeping of livestock, poultry, or other animals.

The time and place of the hearing are Thursday, August 4, 2022, during the regularly scheduled ZBA meeting that starts at 6:00 P.M., at the Pittsfield Town Hall, 85 Main Street, Pittsfield, NH. The applicants' names and addresses are Elizabeth Fox, 38 South Main Street, Pittsfield, NH 03263.

The proposal is to allow poultry at the subject property identified as Tax Map U2, Lot 55, owned by James & Elizabeth Fox, 38 South Main Street, Pittsfield NH.

The application for a special exception is on file for public inspection at the Town Hall, 85 Main Street, Pittsfield, NH.

Mike Cabral proceeded to go over the application with Elizabeth Fox asking her to begin by stating the purpose of the Special Exception.

Elizabeth Fox stated the application was for a Special Exception to permit chickens (no roosters) on her property with an enclosed coop. The chicken eggs will be used for food and the chickens will be used as animal therapy for children.

Question 1. Describe any existing variances, special exceptions, and other permits now in effect with regard to the property concerned:

Elizabeth Fox answered; N/A

Question 2. Was this or any similar request denied in the past:

Elizabeth Fox answered; N/A

Question 3. Present use of the property concerned:

Elizabeth Fox answered; Dirt filled pool.

Question 4. Proposed use of the property concerned:

Elizabeth Fox answered; Use part of it for chicken coop with run.

Question 5. Type and number of existing structures on the property:

Elizabeth Fox answered; Zero.

Question 6. Number of dwelling units:

Elizabeth Fox answered; Zero.

Question 7. Number of off-street parking spaces available to the proposed use whenever the proposed use needs them:

Elizabeth Fox answered; Zero.

Question 8. Will you require a subdivision approval:

Elizabeth Fox answered; N/A

Question 9. Explain your proposal fully (attach additional sheets if necessary):

Elizabeth Fox answered; To allow for a small chicken coop (no roosters) with an enclosed run for family eggs/food, for the youngest son to learn more responsibility, and as pets.

Question 10. Explain how the proposed use will satisfy the following conditions. Use additional sheets if necessary.

A. The use shall not be detrimental or offensive to the neighborhood:

Elizabeth Fox answered; You cannot see the area from the road or from behind the house. The only way to see the proposed coop is from the property's driveway.

B. The use shall not diminish the value of any of the surrounding properties:

Elizabeth Fox answered; Other neighbors have chickens on the street and property values have not diminished.

C. The use, its parking needs, and its access ways shall be no nuisance or serious hazard to pedestrian or vehicular traffic. Parking needs shall be deemed a nuisance if parking needs force vehicles to park on a street or on a nearby property:

Elizabeth Fox answered; N/A It will be in an old filled-in swimming pool.

D. The use shall have adequate and appropriate facilities and utilities to ensure the proper operation of the use:

Elizabeth Fox answered; Facilities are N/A as someone will be cleaning on a regular basis and chickens that are winter breed do not need utilities.

E. The use shall be in harmony with the general purpose and intent of the zoning ordinance (RSA 674:33, IV)

Elizabeth Fox answered; Yes and no different than a small shed on the property other than the chickens give food for me to eat.

F. All conditions specific to the proposed use. The zoning ordinance requires various uses to satisfy permitting conditions specific to use in addition to conditions A through E above. Check to see whether the proposed use is defined in the zoning ordinance, article 2, Interpretation Rules and Definitions, section 3, Definitions. If the zoning ordinance requires the proposed use to satisfy conditions specific to the proposed use, then article 2, section 3,

will define the use, and the definition entry will either list the permitting conditions or point to the permitting conditions.

Elizabeth Fox answered; N/A

Mike Cabral stated that all fees have been paid and abutters have been notified.

Mike Cabral asked if Scott LaCroix had anything to add, Scott LaCroix stated he did not. Mike Cabral asked Board members if they had any questions or comments.

Pat Heffernan asked how many chickens the applicant planned on keeping and if the coop would be covered.

Elizabeth Fox stated the coop she was looking into was 67 x 27 x 43 so she planned to keep around 3-5 chickens, the coop already comes covered with a roof, and the coop comes boarded at the bottom as well.

Mike Cabral opened for public comment at 6:30 p.m.

William Provencal (37 South Main St.) expressed concerns with free-range chickens and wanted to know the proposed location of the coop.

Mike Cabral stated the coop was concealed in the middle of the property by a wooded area and free-range chickens were no longer allowed.

Bryan Mika (28 South Main St.) stated he was concerned with where the chicken waste would be disposed of and did not want to see it running over onto his property or into the river.

Elizabeth Fox said she would not be dumping the chicken waste anywhere on her property and planned to dispose of the waste at the town transfer waste facility.

Laurie Houle (49 South Main St.) stated she would be the closest neighbor to the chicken coop and has no issues with the coop being near her property. Laurie Houle said using the chickens as therapy animals was a great idea for the kids, she would love some fresh eggs, and she also would not mind using the chicken waste for fertilizer on her property.

Mike Cabral closed public comment at 6:35 p.m.

Board members went into deliberation and discussed a straight policy guideline for all future Special Exceptions pertaining to RSA 674:33, IV, and RSA 676:7 allowing a special exception for keeping poultry in the Suburban W & S zoning district, according to Pittsfield Zoning Ordinance, Article 3, Section 3(b)(2) Special Exception (6) Agriculture – as to the keeping of livestock, poultry, or other animals.

Board members agreed to the following stipulations when applying for a Special Exception for keeping poultry;

1. No roosters
2. No more than 25 chickens

3. Pen must be secure where no chickens can escape under, over, around, or into an abutting neighbor's yard.
4. All animal waste must be disposed of properly.

Pat Heffernan: I motion to approve the Special Exception for Elizabeth Fox at 38 South Main Street, Pittsfield NH 03263 at the subject property identified as Tax Map U2, Lot 55 per RSA 674:33, IV, and RSA 676:7 allowing a special exception for keeping poultry in the Suburban W & S zoning district, according to Pittsfield Zoning Ordinance, Article 3, Section 3(b)(2) Special Exception (6) Agriculture – as to the keeping of livestock, poultry, or other animals with the following conditions;

1. No roosters
2. No more than 25 chickens
3. Pen must be secure where no chickens can escape under, over, around, or into an abutting neighbor's yard.
4. All animal waste must be disposed of properly.

Arthur O'Hara: Second.

Discussion: None.

Motion carried 4-0-0.

Mike Cabral let Elizabeth Fox and the abutters know that there is a 30-day appeal period.

Board members took a break at 6:52 p.m. and returned at 7:02 p.m.

#### **OLD BUSINESS**

##### **Update on Henry Demers, III Tax Map R43, Lot 14, of 256 Berry Pond Road**

Henry Demers, III will submit payment to refile the application as a Boarding House Variance. All abutters will be re-noticed and the application will be continued at the ZBA meeting on October 6, 2022, at 6:00 p.m.

#### **ZONING ADMINISTRATOR'S REPORT**

None.

#### **MEMBERS CONCERNS**

None.

#### **PUBLIC INPUT**

None.

#### **MINUTES**

##### **a. Thursday, June 16, 2022**

Thursday, June 16, 2022, ZBA minutes were presented for the Board's approval.

Pat Heffernan made a motion to approve the ZBA minutes from Thursday, June 16, 2022.

Arthur O'Hara: Second.

Discussion: None.

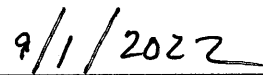
Motion carried 3-0-1. Art St. Laurent abstained.

#### **ADJOURNMENT**

Pat Heffernan made a motion to adjourn at 7:04 p.m.  
Art St. Laurent: Second.  
Discussion: None.  
Motion carried 4-0-0.

Approved:

  
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Mike Cabral, Chair

  
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Date