



TOWN OF BOW

Zoning Board of Adjustment

10 Grandview Road, Bow, New Hampshire 03304
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APPROVED MINUTES

October 18, 2022

The Town of Bow Zoning Board of Adjustment met on Tuesday, October 18, 2022, at 7:30 p.m. in Room C of the Municipal office building.

Chair Hadaway called the meeting to order with a roll call introduction of the board members.

Present were Harry Hadaway, Chairman; Stephen Buckley, Vice-chair; Michael O’Neil, member; Joseph Conti, alternate member; Donald Burns, Secretary (via Zoom and telephone); and Ginger Iverson, recording secretary. Absent were Robert Ives, member, and June Branscom, member.

Mr. Burns stated it was not practical for him to attend meetings in person due his wife’s medical condition and would like to have permission to attend meetings remotely. Mr. Hadaway requested that someone entertain a motion to allow Mr. Burns to participate meetings remotely as it is not practical for Mr. Burns to attend due to his wife’s medical condition according to RSA 91-A:2, III.

Mr. Buckley made a motion and Mr. O’Neil duly seconded to allow Mr. Burns to participate remotely due to his wife’s medical condition for future Zoning Board of Adjustment meetings in accordance with RSA 91-A:2, III.

Mr. Hadaway proceeded with a roll call vote: Mr. O’Neil -yes; Mr. Buckley – yes; Mr. Conti – yes; Mr. Hadaway – yes. The motion passed with a 4 yes-1 recused vote.

Mr. Hadaway confirmed that Mr. Burns had no one in the room with him. Because there is a member attending remotely, the Board must do roll call vote for all matters tonight. Chairman Hadaway appointed Joseph Conti to serve as a voting member in lieu of Robert Ives.

Mr. Hadaway directed the attention of the Board to Agenda item I, number 1.

I. PUBLIC HEARINGS

Case #106-22, Variance, Chris Bennett Variance to Article 6.07 Section 13.02.B required to allow ground solar panels to be within 20 ft. of the setback.
MAP 37, Block 2, Lot 3F, located at 7 Cardinal Drive, Bow, NH 03304

Mr. Hadaway read the item into the record and noted that a site walk took place on Saturday, October 15, 2022 from 9:00 – 9:20 a.m. at the property located at 7 Cardinal Drive, Bow, NH 03304. In attendance were Chris Bennett, Vladimir Hromis, Mr. Hadaway and Mr. Burns.

44 Mr. Hadaway then invited the applicant to present the case for this proposed variance. Chris Bennett,
45 property owner, introduced himself. Mr. Bennett stated that he currently has solar panels between his
46 property and his abutting neighbor, which are set back behind a garage. There is a structure in front of the
47 current array which is a permanent shed. If panels were put between current array and the shed, they
48 would be in the shade. There is room behind the current panels for the new panels to fit. It would be
49 within the 20 ft. setback. The current panels are on a pole mount. The proposed panels would be on a pole
50 mount that would be a little bit higher. There are no public walkways or roads near anyone. Mr. Bennett
51 referenced a letter from abutter, Steven Hebert, at 6 Cardinal Drive, which stated Mr. Hebert had no issues
52 with the plan. To adjust the current solar panels would not be cost effective. The poles are dug in deep
53 with concrete sauna tubes. Mr. Bennett doesn't feel this is a hazard to anyone or will deter any value in
54 the neighborhood. Most neighbors have added solar panels to their property. Placing them on the detached
55 garage roof would be a liability as it would be above where you are walking or parking vehicles in front
56 of garage. Snow melt off the garage roof could cause damage to cars or persons in front of garage. House
57 with hip roof is not a good place to put solar panels.

58
59 Mr. Hadaway closed the applicant's presentation and returned to the board.

60
61 Mr. Hadaway asked how far from setback would the proposed array be from property line. Mr. Hromis
62 said 4ft. if array is sitting flat. This array would be behind and above current array. Mr. Bennett said if
63 proposed array were placed in front of current array it would block other array and he would lose all the
64 sun. Vladimir Hromis, Mr. Bennett's designer and contractor, of 68 Eaton Road Pittsfield, NH 03263
65 introduced himself. Mr. Buckley asked why solar panels couldn't be placed in another part of the yard, so
66 it would not be so close to the neighbor? Is it the angle of sun? Mr. Hromis said it is in a valley, lower
67 part of yard, leach field, setbacks in some areas, a propane tank in ground next to garage. It is the only
68 open, practical space there. Mr. Hadaway asked if proposed area could be placed between the garage and
69 shed? Bennett responded that it would block current array, and the house would be shading that area. Mr.
70 Burns stated for the record that the current split array is 100 ft. long and is 10-12 ft. high, and proposed
71 plan is 80' long and maximum height is 16 ft. The second array could be put in front of the existing array
72 but the obstruction would be the shed. Mr. Burns inquired if it was possible to put the second array in
73 front of the existing array and Mr. Hromis said there would be increased shading from tree line and house
74 and would be much less efficient. Mr. Conti asked about whether there was a redundant battery pack with
75 the system in place, and Mr. Hromis there was no storage and it was all feeding back to the grid. Mr.
76 Buckley asked if most of the energy is being used on site or is it also sending to grid. Mr. Hromis
77 explained that you send it to your utility and they store it for you so they become your battery. Mr.
78 Buckley asked the distance from existing array to the shed which Mr. Bennett said is 10 ft.

79
80 Mr. Hadaway opened the public hearing at 8:52 p.m.

81 Mr. Hadaway closed the Public Hearing at 8:53 p.m.

82
83 Mr. Burns commented that he was a huge fan of solar. However, Mr. Burns stated that he was startled at
84 how huge the existing panels are and that the new ones would be higher and running parallel along
85 neighboring property line within 4 ft. of the setback. Mr. Burns doesn't feel it is justified in this case.
86 Mr. Buckley stated the boundaries for granting a variance. Firstly, are there special conditions on the
87 property – you could say there is a dip in land, other accoutrements, shed impedes in front. Mr. Buckley
88 agrees there are special conditions of the property that distinguish it from other properties in the area.
89 Secondly, regarding Public Interest: You're turning the 20 ft. setback into a 4 ft. setback. Your neighbor
90 is not concerned but future owners may be concerned. It's a big intrusion into the 20 ft. setback. Mr.
91 Hadaway said there are no trees between Bennett's and neighbor's property. Current solar array is outside
92 the setback.

93

94 Mr. Hadaway went through the criteria of the variance to determine whether the criteria have been met.
 95
 96

| MEMBER | HARDSHIP 1 (A) | HARDSHIP 2 (B) | PUBLIC INTEREST | SPIRIT INTENT | SUB/ JUSTICE | DIMINUTION OF VALUE |
|----------------------|----------------|----------------|-----------------|---------------|--------------|---------------------|
| Harry Hadaway | Abstained | Abstained | Abstained | Abstained | Abstained | Abstained |
| Mike O’Neil | met | not met | met | met | met | met |
| Steve Buckley | not met | not met | met | met | met | met |
| Joseph Conti | met | not met | met | met | met | met |
| Don Burns | not met | not met | not met | not met | not met | met |

97
 98
 99 Mr. Buckley asked Chair Hadaway to vote to break the tie on the hardship criteria and Mr. Hadaway said
 100 the hardship issue was not met.
 101

102 Mr. Buckley entertained a motion from one of the board members.
 103

104 *Mr. Burns made a motion to deny the requested variance, which was duly seconded by Mr. Buckley for*
 105 *CASE NO. 106-22 (SOLAR ARRAY VARIANCE). The Board denies the requested variance in Case No.*
 106 *106-22 filed by Chris Bennett to permit the installation of an additional solar panel array within the 20-*
 107 *foot side setback that is required by Section 6.07 of the Bow Zoning Ordinance. The Board finds that the*
 108 *requirements for granting a variance that are set forth in the following provisions of law have not been*
 109 *satisfied: Sections 13.02 B 2 a and 13.02 B 2 b, together with the corresponding provisions of RSA 674:33*
 110 *I (a)(2). In addition, the Board makes the following findings of fact:*

- 111 1. *The existing solar array on the property is approximately 100 feet long and approximately 10 feet*
 112 *high and is more or less parallel to the neighboring property line.*
- 113 2. *The proposed additional solar array will be approximately 80 feet long and approximately 16 feet*
 114 *high at its highest point and will be more or less parallel to the neighboring property line.*
- 115 3. *The edge of the proposed solar array will be only approximately 4 feet from the neighboring*
 116 *property line, while the side setback requirement is 20 feet, as set forth in Sections 6.03 C and*
 117 *6.07 of the Zoning Ordinance.*
- 118 4. *There is adequate space between the existing solar array and the shed of the property to install a*
 119 *second solar array between the shed and the existing solar array. This installation would not*
 120 *impinge upon the side yard setback.*
- 121 5. *Under these circumstances it would not be reasonable to permit installation of such a large*
 122 *structure so far within the side setback of this property.*

123
 124 *Mr. Hadaway proceeded with a roll call vote:*
 125 *Upon motion made by Mr. Burns and duly seconded by Mr. Buckley the motion passed with a 4-1 roll*
 126 *call vote: Mr. Buckley -yes; Mr. Conti - no; Mr. O’Neil – yes; Mr. Burns, yes; Mr. Hadaway-yes.*
 127

128 Mr. Hadaway read the next item into the record.
 129 Case # 107-22, Variance, Pierre & Rita Gagnon to Article 6.07 Section 13.02.B
 130 Pool encroaches the 20 ft. side & rear yard setback of the Bow Zoning Ordinance.
 131 Installed July of 2021. Map 29, Block 2, Lot 74-H, Zone District: RU located at 85 Bow Bog
 132 Road, Bow, NH 03304

133 Chair Hadaway noted that a site walk took place on Saturday, October 15, 2022 from 9:40 – 9:50 a.m. at
 134 the property located at 85 Bow Bog Road Bow, NH 03304. In attendance were Mr. Hadaway, Mr. Burns,
 135 Pierre Gagnon, and Rita Gagnon. Mr. Hadaway then invited the applicant to present the case for this
 136 proposed variance.

137
 138 Pierre Gagnon stated that last year they installed a pool without knowing about the 20 ft. setback from the
 139 property line until this year when wanting to put a small deck on the pool between the house and the pool.
 140 The pool is 12-13 ft. from the property line. Both abutting landowners said it was okay. Mr. Conti
 141 mentioned one of the abutters was a friend but it would in no way impact his vote. There is a lot of
 142 landscape screening the view of the pool. They are both about 60 ft. away and it is all wetlands in the
 143 back. It would be an expense to tear it down and move it. Mr. and Mrs. Gagnon are looking for a variance
 144 to allow it to remain in that location. Mr. Buckley inquired if Mr. Gagnon got a building permit for the
 145 pool. Mr. Gagnon said they did not need a permit for the pool. They only had an electrical permit. They
 146 were only asked the approximate location for the pool. Mr. Buckley asked if the pool company inquired
 147 about what the setbacks were and Mr. Gagnon replied no.

148
 149 At 8:37 p.m. Mr. Hadaway opened the Public Hearing
 150 At 8:38 p.m. Mr. Hadaway closed the Public Hearing

151
 152 Mr. Hadaway closed the applicant’s presentation and returned to the board for discussion.
 153 Mr. Burns commented that from seeing this, the pool is not intrusive from the standpoint of the neighbors
 154 because of the size of it and the distance from the neighbors and nice screening of woods. This did not
 155 seem to be an issue. Mr. Hadaway agreed. Mr. Hadaway went through the criteria for variances to
 156 determine whether the criteria have been met.

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 158

| MEMBER | HARDSHIP 1 (A) | HARDSHIP 2 (B) | PUBLIC INTEREST | SPIRIT INTENT | SUB/ JUSTICE | DIMINUTION OF VALUE |
|----------------------|-------------------|-------------------|--------------------|------------------|-----------------|------------------------|
| Harry Hadaway | met | met | met | met | met | met |
| Mike O’Neil | met | met | met | met | met | met |
| Steve Buckley | met | met | met | met | met | met |
| Joseph Conti | met | met | met | met | met | met |
| Don Burns | met | met | met | met | met | met |

159
 160
 161 *Mr. Buckley made a motion to approve, and duly seconded by Mr. Conti, that application case # 107-22,*
 162 *Variance, Pierre & Rita Gagnon to Article 6.07 Section 13.02.B Pool encroaches the 20 ft. side & rear*
 163 *yard setback of the Bow Zoning Ordinance. Installed July of 2021. Map 29, Block 2, Lot 74-H, Zone*
 164 *District: RU located at 85 Bow Bog Road, Bow, NH 03304 to further grant permission to allow the pool*
 165 *to remain in its present location which is approximate 13 ft. from the side yard setback and further find*
 166 *that the distance to the nearest property and the substantial vegetation and tree growth significantly*
 167 *separates the uses so there is no intrusion to the purposes of the setback to separate uses so therefore the*
 168 *purpose of the requirement of the ordinance is satisfied even though the pool is a little bit closer than*
 169 *necessary. Mr. Hadaway asked if there was any discussion and there was none so he proceeded with a*
 170 *roll call vote: Upon motion made by Mr. Buckley and duly seconded by Mr. Burns the motion passed with*
 171 *a 4-1 roll call vote: Mr. Buckley -yes; Mr. Conti - yes; Mr. O’Neil – yes; Mr. Burns, yes; Mr. Hadaway-*
 172 *yes.*

173 **II. NEW BUSINESS**

174
175 **REVIEW RULES OF PROCEDURE**

176
177 *Mr. Buckley drew attention to Page 4 of 7 - line number 185 of the Zoning Board of*
178 *Adjustment's Rules of Procedure. He said to strike the words "HB1661 Section 74, ZBA*
179 *Timeline- Provides that."*

180
181 *It will then read:*

182
183 *"E: The ZBA has 90 days to begin consideration and approve or disapprove of an*
184 *application unless the applicant agrees to an extension . If the ZBA determines that it*
185 *lacks sufficient information to make a final decision on an application and the applicant*
186 *does not consent to an extension, the board may deny the application without prejudice,*
187 *allowing the applicant to reapply for the same relief.*

188
189 *At page 5 of 7, line number 240, Roman Number VIII, add:*

190 *"E. In making decisions, the Board shall include specific written findings of fact that*
191 *support the decision."*

192
193 *Mr. Buckley made a motion and Mr. O'Neil duly seconded to approve the edited Zoning*
194 *Board of Adjustment Rules of Procedure.*

195
196 *Mr. Hadaway proceeded with a roll call vote: Mr. Buckley, yes; Mr. Conti, yes, Mr. O'Neil,*
197 *yes, Mr. Hadaway, yes; Mr. Burns, yes. The motion passed with a 5-0 roll call vote.*

198
199
200
201 **III. REVIEW OF MINUTES 9/20/2022**

202
203 Mr. Hadaway asked if there were any corrections to the September 20, 2022 meeting minutes. The board
204 discussed edits to the minutes.

205
206 *Mr. Hadaway made a motion and Mr. Conti duly seconded to approve the edited September 20, 2022*
207 *meeting minutes.*

208
209 *Mr. Hadaway proceeded with a roll call vote: Mr. Buckley, yes; Mr. Conti, yes, Mr. O'Neil, yes, Mr.*
210 *Hadaway, yes; Mr. Burns, yes. . The motion passed with a 5-0 roll call vote.*

211
212 Respectfully submitted,

213
214
215
216 Mr. Donald Burns
217 Secretary