



Board of Appeals Meeting Minutes **Thursday, January 14, 2021 at 7:00 p.m.**

Committee Members Present: Roberta Albright, Robert Cushing, Robert Davidson, Harry "Terry" Lowd, and Donald Means (via Zoom)

Also Present: Jessica Westhaver (Treasurer/Board Staff Liaison), Joseph Rose (Code Enforcement Officer), Michelle and Daniel Phelps (Phelps Architects Inc), Thomas Warren

The meeting was called to order at 7:00 p.m. by Robert Cushing.

Vote of Board Positions –

- The board discussed the position of Chair. Lowd made a motion to select Cushing as Chair, Davidson seconded, the board all agreed; Cushing accepted to hold the position of Chair.
- The board discussed the position of Vice Chair. Cushing made a motion to select Davidson as vice Chair, Lowd seconded, the board all agreed; Davidson accepted to hold the position of Vice Chair.

New Business –

- **Variance Appeal - New Construction of Single Family Dwelling (Map 03A Lot 068 – Island View Rd)**
 - Thomas Warren, who purchased the property in April of 2020, was invited to speak to the board in regard to the property and the request for appeal. Mr. Warren and his wife were looking for property for sale in this specific area, and he believed it was the only undeveloped lot along Long Cove Point. The previous owner owned this lot and the lot across the street on the water side. Mr. Warren hired Matt Page, a site evaluator, who proposed a septic design of a Fuji Clean which is an alternative system for locations that are more difficult to soil test (they have a smaller leech field footprint). His professional opinion was there was the only one location for the septic. The design takes up a majority of the building envelope which pushes the proposed house footprint almost fully out of this envelope placing the structure 17 feet from the road. The proposed structure, including all floors, porches/decks, and garage is 4,226 square feet.
 - Warren went through the hardship questions for the board.
 - Return on investment - The land was purchased for \$180,000 (currently assessed by the Town at \$331,700). He stated if they are unable to build on the land that hurts their investment, and he would believe this hurts the resale value.
 - Unique circumstance – The shape of the lot makes the circumstance unique to the request.
 - Altering the character of the neighborhood – Houses in this area are all extremely close to the road, and the placement of the proposed structure would not change the current character or the neighborhood. He believed having a house 50 feet from the road would be the exception. He did realize the existing houses are grandfathered.

- Is the hardship created by previous owner – No, the previous owner did not create this lot. It was purchased and sold in the same condition.
- Albright asked when/ why the setback was changed to the 50 foot minimum from a Traveled way. Current staff and board members present were not sure the reasoning behind the change but did note that the 50 foot setback did apply to both public and private traveled ways (which was amended in 2011 to include private roads). It is not a statewide standard and is decided by towns. Other towns often have different setback requirements for different neighborhoods and districts; however, Bristol does not currently have zoning other than Shoreland Zoning. Because of this, the setback requirements are applicable to the entire Town. Rose has tried to research the reasoning behind the setback footage and has been unsuccessful in his efforts.
- Means asked Mr. Warren if he verified with the Town that his vision for the lot met the building codes and ordinances before he purchased the property. Warren specifically spoke to the setback requirement and stated the realtor only mentioned the setback in regard to public roads. He did contact the Town and it was disclosed to him by a Town employee (who he believed to be Rose), that the setback requirement did in fact apply to private roads. Warren, however, had the impression it was not unusual for a variance request such as this to be granted. Rose clarified that in the 6 years he has been with the Town there have only been 2 variance requests, neither of which were approved. Warren clarified that no one gave him that information, it was just his impression. The board discussed the purpose of the ordinance and the setback requirement was to bring newly developed property and reconstruction of property into compliance, not to continue what is already existing of current property in the area.
- Westhaver confirmed with the board the lot is currently assessed as an undeveloped lot, but not assessed as unbuildable. Unbuildable would only be a designation if the land were unusable for any purpose; being a house, garage, shed, or any other use. Inability to place a desired structure does not constitute unbuildable.
- Concerns and suggestions from the board:
 - Can septic go in any other location? Has a second opinion been obtained for the septic? Would prefer to see septic close to the road setback and the house closer to the rear property line.
 - Could the footprint of the house be smaller to help comply with the setback?
 - Could an easement be granted from the back abutting property to move the septic outside of the building envelope?
 - Is it possible for the rear of the structure to have a foundation on piers to allow for closer placement to the leech field, which would bring the house further back from the road?
- Warren asked the board if there was a smaller footprint of the structure, what size would they request in order to grant the appeal? The board agreed they did not have a specific square footage but were trying to brainstorm ideas in order to reevaluate how the structure could sit on the property, and if a smaller building footprint would comply with an accepted setback.
- The board agreed that more research should have been completed by the property owner prior to purchase in order to determine if the desired plans would be compliant with the Land Use and Shoreland Ordinance of Bristol. The board requested Mr. Warren research the following and come back to the board with more information:
 - Provide documentation the septic or the house cannot be placed in different locations. Also try for a second opinion.
 - Possibly shrink the house footprint to fit within the setback of a traveled way.
 - Use piers as the foundation on the house to possibly move closer to the leech field.
 - Contact abutters on rear side to determine if an easement for the leech field can be placed outside of the building envelope.

- **This matter was tabled until Mr. Warren was able to bring the requested information back to the board.**

House Keeping –

- **Review of Terms –**

- Terms were reviewed for each committee member. It has been 2 years since we last met. Terms were renewed for Albright, Davidson, and Means until 2022. Cushing and Lowd currently have terms expiring as of Town Meeting 2021.

Meeting adjourned at 7:52PM. No future meetings scheduled at this time.

Respectfully submitted,
Jessica Westhaver
Staff Liaison