



ZONING BOARD OF ADJUSTMENT

NOTICE OF DECISION GRANTED

Case No: #091

Map # 103 Lot # 30

Applicant Name: Michele A. Pope

Address: 194 Lepes Rd, Portsmouth, RI 02871

You are hereby notified that the: **Variance Application**

For a Variance to permit a 15'x 15' 225 sq. ft. storage shed to be constructed with setbacks of 15' from the north and west boundary of land from the abutter,

Regarding Section **402** of the Zoning Ordinance has been **GRANTED** for the reasons and subject to the conditions listed below, by vote of the Zoning Board of Adjustment.

BACKGROUND:

In the Town of Effingham, zoning was adopted in the year 2000, whereby the Effingham Zoning Ordinance allows a minimum lot size of two (2) acres. This created a potential hardship for pre-existing lots when applying the setbacks in the Rural Agricultural district of fifty (50) feet front and rear, and thirty (30) feet from the sides. Applying these setbacks could potentially amount to “Unconstitutional Taking” of property in certain circumstances. Therefore, if circumstances require, reasonable relief should be granted.

In 2007, the Zoning Ordinance was amended to address the concentration of smaller properties around Province Lake. The Province Lake District (PLD) was created, with a reduction of the setbacks within this district, from fifty (50) feet (front and rear) and thirty (30) feet in from the (sides), to thirty (30) feet (front and rear) and twenty (20) feet (sides).

The Board has determined that the Town has applied, as a reasonable standard, these reduced setbacks in addressing lots of one (1) acre or less. The Board further understands even with the reduced setbacks of the PLD, there will be situations in which relief may still be appropriate.

In 2016, an amendment to the Effingham Zoning Ordinance Section 708 Lot Density, allowed lots of one (1) acre or less than 1 acre to utilize up to 20% of the gross lot area for the construction of structures, increasing the buildable area from 10% to 20%, in recognition of the prior overly restrictive application of the Zoning Ordinance to nonconforming properties.

REASON/FACTS:

This lot of record pre-dates the adoption of zoning and is classified as a nonconforming lot.

It is noted the dimensions of the property at issue in this case are one hundred (100) feet wide front and rear, and one hundred (100) feet deep on each side. This would leave a gross buildable lot area of twenty (20) feet by twenty (20) feet when applying the Province Lake District (PLD) setbacks.

It is further noted that this applicant came before the board in 2013 for approval (then granted) to remove and rebuild the existing nonconforming structure in the same footprint, to cover not more than 10% of the lot, prior to the 2016 zoning amendment allowing for expansion of nonconforming lots to 20% lot coverage.

This applicant's gross lot square footage is 10,000. The requested structural coverage is 225 square feet, with a total percentage of 2.25% of gross lot coverage for the requested structure. Further, the entirety of lot coverage will be below the 20% lot density prescribed in Section 708.

We, the Zoning Board of Adjustment, have determined that today's decision granting a variance falls within the Spirit of the Ordinance and Public Interest, that Substantial Justice is served, and Surrounding Property Values will not be diminished. Further, this decision prevents Unnecessary Hardship to the applicant.

CONDITIONS:

1. None
2. _____
3. _____



Theresa Swanick, Chair
Zoning Board of Adjustment
Date: July 7, 2020

Special Exceptions and Variances authorized under RSA 674:33 shall be valid if exercised within 2 years from the date of final approval.

Note: The Select Board, any party to the action, or any person directly affected has a right to appeal this decision. See New Hampshire Revised Statutes Annotated (NHRSA), Chapter 677, available at Effingham Municipal Office Building. This notice has been placed on file and made available for public inspection in the records of the ZBA and on the Town of Effingham website at effinghamnh.net on July 13, 2020. Copies of this notice have been distributed to: The Applicant, Planning Board, Select Board and Zoning Enforcement Officer.