

MONT VERNON ZONING BOARD OF ADJUSTMENT**Mont Vernon, NH 03057****Meeting Minutes - Tuesday, August 7, 2018****AGENDA**

7:00 PM Case 2-2018 Frank & Diane Weiss, 40 Dow Road
Application for Variance

Seated: Sheila **Sturm**, Alan **MacGillivray**, Steve **Workman**, Tony **Immorlica**, David **Sturm**

Present: Marjean **Workman**

7:00 PM

Meeting called to order by **Sturm**. **Sturm** opened the public hearing for Frank and Diane Weiss and went over the rules of the hearing. Present for the hearing was an abutter, Dennis Melvin, who resides at 42 Dow Road. Frank Weiss then presented his case. He is seeking a variance to build a detached garage which would fall within the side setbacks of the property. Dennis Melvin is in favor of this project. The Board viewed the plans and closed the public comment. Mr. Weiss wants to put the garage along the northern boundary line, in effect zeroing out the side setback. The plans do not depict an actual location as to where the structure would be built. **Sturm** closed the public comment. There is concern that the current abutter in favor may someday move; there is the possibility of conflict with future homeowners. The purpose of the setback is to provide adequate areas between structures. If allowed to put the garage on the boundary line there is concern that access to emergency services may be hampered. **Immorlica** discussed Section I-502.2 of the Mont Vernon Zoning Regulations. In order to grant a variance all conditions must apply (502.2(a), 502.2(b), 502.2(c)). He does not feel that they do. It would be possible to build a garage in a compliant location on this parcel. In his opinion there is no hardship. The variance is not necessary for a reasonable use of the land or building. The applicant and the abutter are friendly and have come to an agreement. However, the variance would be forever and go with the land. **Immorlica** does not feel we can grant the variance under these circumstances.

D. **Sturm** agrees with **Immorlica's** analysis. He feels that granting a variance right to the lot line would be a troubling precedent to set. There are other options such as a lot line adjustment. S. **Sturm** added that the Board should not grant the variance without knowing the exact location of where the structure would be built. The plans show too broad an area. There are alternate locations that would be fully compliant. She feels that the proposed plan to build right on the lot line defeats the spirit and purpose of the ordinance, that being sufficient space between buildings.

The Board then went over RSA 674 in order to take a vote. All five criteria must be met in order to grant the variance:

1. Variance as requested will not be contrary to public interest.
All 5 members unanimously against
2. Spirit of the ordinance is observed.
1 member in favor; 4 against
3. Substantial justice is done.
3 in favor; 2 against
4. Values of surrounding properties are not diminished.
All 5 members unanimously agree
5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.
All 5 members unanimously against

All of the five criteria have not been met. Therefore, the Board must deny the variance. All five members unanimously voted against the variance request. The public hearing was concluded.

The Board reviewed the minutes of 3/20/18. **Workman** motioned to accept as written seconded by **MacGillivray**. All were in favor, the motion passed.

The Board reviewed the minutes of 7/17/18. S **Sturm** motioned to accept as written seconded by **Workman**. All were in favor, the motion passed.

8:00 PM

As there was no further business before the Board, **Immorlica** motioned to adjourn seconded by D. **Sturm**. All were in favor, the motion passed.

Respectfully submitted,
Joan Cleary, Administrative Assistant