



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

Memorandum

Date: November 9, 2015
To: Fran L'Heureux, Chair, & Members, Zoning Board of Adjustment
From: Robert Price, Assistant Planner
Subject: **53 Pearson Street Realty Trust, Joshua Naughton, Trustee (petitioner/owner)**
_ Variance under Section 2.02.7(A)(6) of the Zoning Ordinance to permit a residential dwelling to be constructed 36.3 feet from a wetland area whereas 40 feet is required. The parcel is located at 53 Pearson Road in the R (Residential) District. Tax Map 7D, Lot 011-01. Case # 2015-41.

The following information is provided to aid in your consideration of the above referenced case. Additional background and application materials are included in your packet.

Background:

The petitioner is seeking a variance to construct a residential dwelling on an existing lot of record approximately 36.3 feet from a wetlands area whereas 40 feet is required. As such, a variance from Section 2.02.7(A)(6) of the Zoning Ordinance is being sought.

The subject property is located at 53 Pearson Road in the Twin Bridge Development subdivision (HCRD Plan 13329) in the R (Residential) District (R-2 by soils). The lot was created as part of a 3-lot subdivision recorded in 1980. The currently vacant lot contains 4.747 acres and would be serviced by municipal water and private septic. According to the application, the petitioner proposes to construct the residential dwelling with a 3.7 foot encroachment into the wetland setback.

The ZBA granted this same variance for this property on August 28, 2013, but the variance expired per the provisions of Section 8.04 of the Zoning Ordinance (2 years elapsed without the variance being exercised). This is not an extension request, as the petitioner did not file within the required timeframe before the expiration of the variance. As such, the petitioner must once again meet the criteria set forth in RSA 674:33(I)(b).

Standard of Review:

It is the burden of the petitioner to demonstrate that the five criteria for the granting of a variance from Section 2.02.7(A)(6) of the Zoning Ordinance have been met. Granting this variance will allow the construction of a single family dwelling on the subject parcel with a wetland setback of 36.3 feet whereas 40 feet is required.

If the ZBA opts to grant the requested variance, staff recommends that the following conditions be imposed:

1. Note 1 shall be revised to correct the parcel reference to be Map 7D, Lot 11-1.

2. Satisfactory review, if deemed necessary by the Merrimack Conservation Commission, shall be required.

Cc: Correspondence & Zoning Board File

Ec: 53 Pearson Street Realty Trust (Joshua Naughton), owner
R. Jeffrey Burd, PE, RJP Engineering, LLC, agent
Fred Kelly, Building Official
Carol Miner, Building Department Secretary