



**ZONING BOARD OF ADJUSTMENT**  
**PO BOX 310**  
**MILTON, NH 03851**  
**Meeting Minutes**  
**July 24, 2014**

Members in attendance: Stan Nadeau, Larry Brown, Michael Beaulieu, Lue Snyder, Chairman Michael Tabory and Kimberly Ladisheff Land Use Clerk.

Public in attendance: David and Prudence Thresher, Nancy Melville and Kathy Mayo.

Chairman Tabory called the meeting to order at 6:00 pm

**Public Comments**

None

**Case #2014-2:** Request by David & Prudence Thresher for a variance from Article VII, Section D (2); Side Yard Setback. Property located at Map 38 Lot 85, 319 Micah Terrace, Milton, NH in the Low Density Residential District.

David Thresher explained he is trying to put up an 8x12 shed to house snow blower, lawnmower, tools, etc. Previously the shed that was there was 14x22. He tried to make this shed smaller and position it so it wouldn't block the neighbor's view. He stated the neighbor will have more of a view than she had before. He will be using the same siding and roofing as what is on the new house. Driving up and down the streets of Townhouse, St. James, Micah Terrace the garages and sheds are either right on the lot line or only a foot or two away. This is the only spot in the whole yard that it can go. Prudence stated they need to house the generator near the house also.

1. The variance will not be contrary to the public interest because: (1) Whether granting the variance would alter the essential character of the locality, and (2) Whether granting the variance would threaten public health, safety or welfare.

Prudence stated the shed is smaller than the previous one car garage with attached shed in approximately the same area. The locality will not be affected nor will public health, safety, or welfare be threatened, as previous structure was not affecting any of this.

Public comment: Abutters Nancy Melville and Kathy Mayo of 325 Micah Terrace were present to offer testimony. They are the neighbors to the right of the Threshers. Ms. Mayo submitted pictures and stated as far as safety is concerned Nancy has one window that directly faces the road and another window on the side. Where the shed is placed she cannot see out that window. As a 70 year old woman who the majority of the time is alone, she watches out that window. Ms. Mayo stated the shed itself is placed on concrete patio blocks and she went out with a tape measure and the fence is approximately 12 inches from the blocks. Nancy's house is 12 ft. from the fence.

M. Beaulieu stated the new shed is in approximately the same area as the old shed and asked if Nancy could see out the window when the old shed was there. Nancy stated yes. The Thresher's disagreed with this stating she could see less with the old shed.

Stan asked how far the old garage & shed were from the road. David stated maybe a car length away and blocked the entire side of Nancy's house. Nancy then stated she could see the road with the old structure there because it was back a little further.

Larry stated the old shed is gone. The variance is specifically and only for the installation and creation of the new shed and what that new shed does to the qualities of the lot and how it affects the public health, safety and welfare of the community.

Lue asked the Board to look at the pictures that were submitted. She stated you could see Nancy's window in relationship to the old garage and Nancy is absolutely right, she could look past the garage. So obviously the new shed has been moved forward and Lue is assuming the new house has been moved closer to the street. Mr. Thresher stated that is correct.

Larry wanted to address the essential character of the locality which is multiple small lots, many added sheds, several properties with garages across the way, limited spaces between houses, changes and expansions to existing buildings higher and larger within the maximums of current zoning and without obtaining a variance to do so. That is the essential character of the locality and it is not whether a particular abutter is affected but what it does to the locality.

Straw poll vote was 2 – yes; 3 – no.

2) The spirit of the ordinance is observed because:

Prudence stated the positioning of the shed will not alter the essential character of the neighborhood, as a previous one car garage with shed was there for over 50 years and as you go along Micah Terrace you will see over 20+ sheds & garages on lot lines along with carports & other shelters. She was also told by one of the builders working for them that they did not have to get a permit for the shed.

Public comment: Nancy Melville stated she was able to see down the street when the old garage/shed was there but the view is completely blocked now and that really bothers her.

Lue asked knowing the property across the street holds a 2 car garage, couldn't shed be downsized? Stan then stated what created this problem was nearly doubling the size of the house which prevented them from putting the shed where it was previously and what bothers him is the old shed wasn't torn down because it had to be, it was done to build a new house and the sacrifice of having a new house might be giving up a shed. There was a brief discussion by the board as to what the spirit of the ordinance meant in this particular case.

Is the spirit of the ordinance observed? Straw pole vote was 0 – yes; 5 – no.

3) Granting the variance would do substantial justice because:

Prudence stated the shed is being built on part of the area of the previous larger garage/shed structure. It has been placed purposely with forethought between abutter's side and front windows to avoid obstructing any view from the front room of said house; therefore no harm to the general public/individual would be incurred.

Public comment: Kathy Mayo stated that by looking at the pictures she took, clearly the shed is not in the same place and is obstructing the view and the applicants admitted they moved the shed forward.

Larry mentioned that having a nonconforming lot they are already given a freebie in that they only have to deal with 10 feet and therefore substantial justice has already been done. After a brief discussion the board had a straw pole vote.

Straw pole vote was 0 – yes; 5 – no.

4) The values of surrounding properties are not diminished because:

Prudence stated the shed is being professionally built to match the shape of the new houses' roof line, color, siding, doors and windows to match and enhance the new home.

Public comment: Kathy Mayo stated and Nancy agreed, that not having a view diminishes value.

There was a brief discussion on the values of homes before the board voted.

Straw pole vote was 4 – yes; 1 – no.

5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:

Prudence stated the lot is a nonconforming lot. New house needed to be placed according to current zoning ordinances, along with placement of septic, underground propane tank and well, leaving only one available area to place the shed.

Public comment: Nancy Melville stated there is a large garage across the street where they can keep their things. Kathy Mayo then stated the new house is longer than the old house and the shed is not in same position. If the shed was put where it was before there still might be a view but there have been changes that have affected Nancy. The shed is on blocks and she doesn't feel it would create a substantial hardship for them to move the shed back further, closer to their kitchen window or attached to the garage across the street.

David Thresher stated 1) he doesn't understand why Kathy has so much say at this meeting when she has only been living with Nancy for a couple months 2) she doesn't know where our kitchen is because it's on the opposite side of the house and 3) the current shed we plan to build is a third of the size and if we went with the same footprint it would be right in our front yard and up against the house.

Michael T. stated even if Ms. Mayo didn't live there and Nancy asked her to come and support her he would allow that.

Larry stated that Stan had pointed out earlier in the conversation this is a self-chosen hardship as opposed to a hardship that is inescapable.

Straw pole vote was 0 – yes; 4 – no; 1 abstention.

A) Denial of the variance would result in unnecessary hardship because:

(i) No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:

Prudence stated the shed which will house the generator, snow blower, lawnmower, etc. would be situated to allow needed access to septic, well & propane tank.

Public comment: Kathy Mayo stated the lawnmower can be stored in the garage across the street. The generator should be housed close to the Thresher's home and hardwired into the house so it should be close to their panel. Nancy stated she also has a generator but has it in a little doghouse shaped building.

Larry stated he feels the variance requested is not substantial to require a variance. There was a brief discussion and Mike T. explained voting yes would suggest that there are special circumstances to their property alone that make the zoning not fair and harms them uniquely.

Straw pole vote was 0 – yes; 5 – no.

(ii) The proposed use is a reasonable one because:

Prudence stated the proposed use is a reasonable one because it is the only available spot for the shed due to it being a "non-conforming" lot. The quality of proposed shed will only enhance the surroundings. This will be the only other structure on the lot except the house.

Public comment: Kathy Mayo stated the bottom line is the shed is not on the same footprint and is blocking the view.

Stan stated he wanted it on record that he did take a ride by and was shocked where the shed was located. Lue said she also went by the property and there are other alternatives. Mike T. asked why they couldn't have an 8x12 shed right against the house. David responded he has a gas dryer vent and by code he can't have anything blocking that.

Straw pole vote was 1 – yes; 4 – no.

(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:

Prudence stated they cannot put the shed anywhere else on the property due to the septic and well.

Straw pole vote was 0 – yes; 5 – no.

All in favor of granting the variance – 0 – yes; 5 – no. Variance was **DENIED**.

**Approval of Minutes**

Stan motioned to accept the June 26, 2014 minutes. Motion seconded by Mike B. Amendment to page 1, typographical error and page 3, 2<sup>nd</sup> paragraph change “their property is in the middle of their shrubs” to “the shrubs are on the applicant’s property.” Approved as amended.

**Other Business**

Stan asked if everyone received the email inviting them to a BOS meeting with a potential business that want’s to come into town. Stan stated he wanted to go on record stating that when you are a member on a Zoning Board or Planning Board you should not go to any meetings to discuss any potential things that may come before you. He has asked Liz to contact the Town Attorney to get clarification. Mike T. stated even if you don’t prejudge they could make a case that you may have and that could put this board at risk.

Motion by Stan to adjourn at 8:02pm. Motion seconded by Larry. Motion carried.

Respectfully submitted,

Kimberly Ladisheff  
Land Use Clerk