

Brentwood Board of Adjustment Minutes October 23, 2023

Members Present: Chairman Doug Cowie, Vice Chair Ken Christiansen, Frank Albert, Regan Elliot, Russ Kelly
– Selectboard Rep

Cowie opened the meeting at 7:00 pm and explained the procedures to those present.

Public Hearing: Applicant/Owner: River Run Development, LLC, the property is located at 39 Mill Road, Tax Map & Lot 217.049.000. The applicant requests a variance from Article 300.002.006 Section 006 of the zoning ordinance to allow a proposed house to be within the required front setback of 75' from the centerline of a road. The current structure on the property is within 7' from the right of way of Mill Road, the proposed structure would be 70' from the right of way of Mill Road.

Scott Cole of Beals Associates is representing the applicant/property owner. Cole explained that parcel 217.049 consists of a home seven feet (7') from the existing public roadway, a large 3-4 bay garage/barn and a greenhouse that is almost entirely within the wetland's setback. The applicant is proposing to demolish the existing structures and build a new home that would meet the current setback requirements for Mill Road. A recently approved development is planned for the abutting lot resulting in a new private road "Edgewater Drive," that will run along the northern portion of the subject property. The new home would be approximately 16' from Edgewater Drive. Cole noted that the existing septic is failing, and the applicant already has a new septic plan approved by the state. The well currently is a 6' dug well within the wetlands, there are plans for a new well outside of the wetlands.

There were no abutters present.

Cole went over the 5 criteria.

1. *Granting the variance would not be contrary to the public interest:* The current home is 7' from Mill Road, the proposed home would be 70' from Mill Road, drastically improving the safety conditions and the view shed on the road.
2. *If the variance were granted, the spirit of the ordinance would be observed because:* the new house would be located to meet the current setback requirements from Mill Road.
3. *Granting the variance would do substantial justice because:* the proposed house would be more in conformance with zoning with approximately 1,417sf reduction of nonconforming use.
4. *If the variance were granted, the values of the surrounding properties would not be diminished:* a new home with added separation from Mill Road would only improve the current situation.
5. *Unnecessary Hardship:*
 - A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:*
 - i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:* While a small portion of the proposed house will encroach into the local wetland setback, it is less than the encroachment of the existing barn and garage (both to be removed). Additionally, a small encroachment into the building setback is proposed, it exists on a corner of the existing barn as mentioned, there will be a far less non-conforming result if approved.

And

- i. *The proposed use is a reasonable one because:* the new house provides for a more conforming condition and a reduction of 1,417 square feet of area not meeting building setback.

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B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. Due to the lot shape and wetland features on the parcel, and the fact that the former side setback is now a front setback to the recently approved, private roadway serving the age-restricted community, the parcel is left with a nearly unbuildable building envelope.

Christiansen motions to approve the variance, seconded by Elliot, all in favor.

Motion made to approve the minutes of July 24, 2023, seconded by Albert, all in favor, motion carries.

Motion made by Christiansen, seconded by Albert to adjourn, all were in favor.

Respectfully Submitted,

Jillian Benedix
Administrative Assistant