

Town of Johnsburg  
Zoning Board of Appeals  
Tannery Pond Community Center  
November 3, 2014

**ZBA Members:** Cathy Allen, Philip Goodman and James Jones,

**Applicants:** Michael Bowers, Sue Allen, Charlotte Armstrong

**Roll Call:** Cathy Allen, Phil Goodman, James Jones, Zoning Secretary Joann Morehouse

**Guests:** Lorna Hitchcock, Charlotte Armstrong, Michael Bowers, Sue Allen

**ZEO:** Danae Tucker

Public Hearing called to order at 7:02 by Cathy Allen Town of Johnsburg Zoning Board of Appeals Chairperson

**Variance # V04-2014** Purpose of the variance: seeking relief of 8 feet in front and 4 feet on back on property located at 274 Main St. North Creek, **Tax Map #66.10-1-65**. Mr. Bowers was asked about the snow drop off from the roof and he said he will keep the snow away from the parking areas, which will be no problem because the pitch is almost as if it were a flat roof. Mr. Jones asked about the pitch of the roof and Mr. Bowers told him that he thought it was a 5/12 or 6/12 pitch.

**Variance Application Amendment #V-158** submitted by Charlotte Armstrong seeking relief to place additional mobile home on property – **Tax Map #163.-1-12** located at 1599 Garnet Lake Rd. Mr. Goodman asked what the zoning was for this lot which is 8.5 there is plenty of property for this request the actual acreage is 92.8.

**Variance Application #V-06-2014** submitted by Sue Allen seeking relief to subdivide 1 acre **Tax Map #115.-1-5** located at 329 Edwards Hill Rd. Mrs. Cathy Allen asked about the neighbor's driveway because it appears to be on the 1 acre parcel. Mrs. Sue Allen informed the Board that a right away was put into the deed for that parcel. Mrs. Cathy Allen suggested that the Planning Board may require an easement and that Sue Allen should be prepared for that possibility. Mr. Goodman asked what the acreage will look like for the 2 pieces once separated Sue Allen said it would be a 1 acre and a 11 something acre lot.

7:23 Motion to close public meeting and open regular meeting made by Mr. Goodman and seconded by Mr. Jones all in favor motion carried.7:24 Regular meeting opened by Mrs. Allen V04-2014: Mrs. Allen read a letter of objection into record from John Cavan:

Print

<https://us-mg6.mail.yahoo.com/neo/launch?.partner=fr&.rand=coo9c...>

**Subject:** Re: 274 main st north creek ny  
**From:** John Cavan (cavanjohnt@gmail.com)  
**To:** johnsburgpz@frontier.com;  
**Date:** Monday, October 6, 2014 4:54 PM

Objection Letter

Dear Joanne,

I am the owner of the property located at 276 Main Street in North Creek N.Y. Thank you for your assistance earlier today.

The concern I have regarding the variance requested by Mr .Bowers at 274 Main street includes:

The run off of rain water.

The run off of snow and water from the roof during the winter months and the possible icing conditions it could cause. Also the cost of snow removal for any snow that falls on to my property at 276 Main Street in North Creek. A safety hazard may be created and an additional expense may result for snow removal.

Lastly, would there be an impact on the access or parking by the garage. There is currently little space for cars to park in the driveway leading to the garage. Will the relief that is requested result in an encroachment onto the parking area at 276 main Street that will infringe on parking for the businesses and tenants that reside at 276 Main Street, North Creek.

Thank you again. If you have any questions, please feel free to contact me at 201.669.6849

John Cavan

On Mon, Oct 6, 2014 at 4:43 PM, John Cavan <cavanjohnt@gmail.com> wrote:

Dear Joanne,

Thank you for the assistance earlier today.

The concerns I have regarding the variance requested by Mr .Bowers at 274 Main street includes:

Mr. Jones stated that in his opinion as someone who plows the area for the neighbor, that he feels the drainage issue will be the same as it is now due to the way the land drains. Mr. Goodman asked if Mr. Bowers planned on removing the snow if any excess ended up on his neighbor's property and Mr. Bowers said yes he definitely would do that. Mrs. Allen asked if clearing any extra snow off the neighbor's property could be made a condition of the variance if it were granted. Mr. Goodman said yes it could be. Mr. Goodman made a motion to grant the variance with the condition included that Mr. Bowers clean up any extra snow that might end up on the neighbors' property. Mr. Jones seconded the motion all in favor motion passed. 11/3/14

Town of Johnsburg Zoning Board of Appeals Variance # V-04-2014

This is a request to grant a side yard setback variance of 4 to 8 feet in the HB1 zone on Main Street in North Creek (Lot #66.10-1-65).

Background: Mr. Michael Bowers wants to build an addition to a building located on his property on Main Street in North Creek. Due to the angular relationship between the original building and the property line the requested setback relief will start at 8 feet in the front of the structure and gradually decrease to 4 feet in the back.

Concerns: During the public hearing a representative of Mr. Bowers neighbor expressed concern over the potential for additional snow from the roof of the addition piling up on his parking area (the neighbor Mr. Greenan reiterated his concern himself in a letter received later by the ZBA). In response to Mr. Greenan's concern Mr. Bowers maintained that the pitch of the addition roof would mirror the pitch of the current roof which generally holds its snow until it melts. He also assured the ZBA that the runoff from the snow melt and rain would (due to the lay of the land) be the same as if the snow and rain had fallen to the ground (as it does currently).

Philip Goodman moved to approve Variance application V-04-2014 to grand side setback relief of 4 to 8 feet.

Condition of approval: Mr. Bowers, or whoever owns the property in the future, will be responsible to clean up any excess snow that accumulates from his addition on the neighbors' lot.

Rationale:

- 1) Granting this relief will not cause an undesirable change to the character of the neighborhood. Main Street in North Creek is already a hodgepodge of odd shaped lots and buildings on top of each other. This variance will grant relief to an addition of a building that already exists.

- 2) The desired result cannot be achieved without the variance. The only alternative would be to not build the addition.
- 3) The variance is not substantial. Under the old zoning ordinance no side setback restrictions existed. Most buildings in the business district were constructed under that older standard.
- 4) The physical and environmental conditions in the neighborhood will not be negatively impacted. The storm runoff will go in the same direction it goes currently.
- 5) The condition on the ground is self-created but we don't believe it is enough of a factor to preclude the variance.

Motion seconded by James Jones.

Motion passed 3-0

### **Variance Amendment V158:** 11/3/14

Town of Johnsburg Zoning Board of Appeals Amendment to Variance # V-158 (10/3/2005)

This is a request to amend an existing area variance (V-158) to place two additional mobile homes on a 92+ acre lot. The zoning density for the lot is 8.5 acres.

Background: The original landowner, Richard Armstrong, deeded his homestead (Lot #163.-1-12) to his children. Mr. Armstrong and his wife Charlotte still maintain a residence on the property. His daughter Lorna, acting as his representative previously applied for, and received, a variance for her to place a second residence on the parcel. Mr. Armstrong's wife Charlotte, acting as agent for her children, is requesting an amendment to the original variance to allow two more mobile homes on the property. One of the additional residences will be for her daughter Lorna's son John, while another will be for her son Wade. Several of Mr. Armstrong's conditions for passing along the property to his children include his desire that they never subdivide the property, and that they never build "up on the mountain or near the stream that runs through the property." This is a hardship variance because Mr. Armstrong's son cannot afford to place his home elsewhere, and both his daughter and her son suffer from physical maladies that require them to live near enough to each other that they can help each other manage their conditions.

Philip Goodman made the motion to amend Variance # V-158 to allow two additional mobile homes to be placed on the property (four total residences on the 92+ acre parcel).

Condition for approval: The variance will expire if the property is transferred out of family hands. We do not want to create a quasi-subdivision if the parcel changes owners.

Rationale:

- 1) Granting this relief will not cause an undesirable change to the character of the neighborhood. If permanently subdivided the land could support as many as ten lots. Keeping the parcel intact with four residences will cause less of a change than dividing it.

- 2) The desired result cannot be otherwise achieved without the variance. The family cannot afford to place the mobile homes elsewhere.
- 3) The variance is not substantial because the lot is large enough to support more than double the residences allowed by the variance.
- 4) The physical and environmental conditions in the neighborhood will not be negatively impacted. Accommodating Mr. Armstrong's conditions will protect both the mountainside and the stream from future alteration and development.
- 5) The condition is self-created, but necessitated by the financial status of the son, and the financial status and unique physical hardships of the daughter and grandson.

Motion seconded by James Jones.

Motion passed 3-0

## **Variance V06-2014**

11/3/14

Town of Johnsburg Zoning Board of Appeals Variance # V-06-2014

This is a request to grant a variance to allow an undersized lot.

Background: This parcel (#115.-1-5) of 12+ acres has been in the Allen family since the 1940's. There have been two residences on the lot since before the inception of the APA, or the Town of Johnsburg initial zoning ordinance. Sue Allen is seeking an area variance to allow the creation of a 1 acre undersized lot next to Edwards Hill Road. If approved by the Town of Johnsburg Planning Board the remaining 11+ acres would comprise the other lot in a 2 lot subdivision. Each new parcel would retain one of the existing residences. A deeded Right of Way would allow the owners of the back 11+ acre lot access to their property. Sue Allen would retain possession of the larger lot, and the smaller lot would be transferred to her daughter. The zoning density classification for the existing 12+ acre parcel is 8.5 acres; without a variance the land cannot be subdivided.

Note: The ZBA informed Mrs. Allen that the planning board might require a more specifically defined easement to the rear lot before they approved a subdivision.

Philip Goodman moved to grant Variance application V-06-2014 to allow the creation of an undersized 1 acre lot so that the subdivision of the property would be possible subject to planning board approval.

Rationale:

- 1) Granting this relief will not cause an undesirable change to the character of the neighborhood. The two residences on the existing lot have existed for many years already. The actual creation of the subdivision would also be subject to consideration and approval of the conditions of the planning board.
- 2) The desired result cannot be achieved without the variance.

- 3) The variance is not substantial. Due to the preexisting non-conforming status of the two residences on one lot, no practical difference will be made by the granting of the variance. The variance will serve to clarify ownership and responsibility of the residences. The current lot is already considerably larger than required for one residence, although too small for two.
- 4) The physical and environmental conditions in the neighborhood will not be negatively impacted. No structural or physical changes are being made due to the variance.
- 5) The condition on the ground is not self-created; both residences existed before the current occupants gained possession of them.

Motion seconded by James Jones.

Motion passed 3-0

### **Hearing Minutes:**

Motion to accept minutes for the months of September and October made by Mr. Jones, seconded by Mr. Goodman all in favor motion carried.

Mrs. Allen made a suggestion that in the future it might be helpful to have a copy of the deed to piece of property being discussed and maybe keep a list of the property's history stapled to the inside of the folder.

8:15pm Motion made to close meeting by Mrs. Allen and seconded by Mr. Jones, all in favor motion carried.

Respectfully submitted:

Joann M. Morehouse

Johnsburg Zoning Board Secretary

Next Zoning Board meeting Monday December 1, 2014