

**TOWN OF NORTH HARMONY
ZONING BOARD OF APPEALS
WEDNESDAY, 9/26/12 7:30 PM**

ZBA MEMBERS PRESENT: **JAMES LEVESQUE** **GREG MICHALAK**
 DAN THOMAS **LOUISE ORTMAN**
 PAUL SILZLE **RICHARD BARTON**
 ROGER VAILLANCOURT
 Dave Stapleton, Attorney
 Brad Lawson, Zoning CEO

Others Present: **Russell A. Putney** **Dorothy Reinstetle** **Leslie West**
 Jim Andrews **Mike & Kimberly Peccia** **Jonathan & Mary Henck**
 Charles Halle

Mr. Levesque opened the hearing at 7:32 PM. Mr. Stapleton swore in all who expressed intent to speak at the hearing.

1. Russell A. Putney (re-hear: ref. ZBA minutes 8/22/12; PB minutes 9/11 & 9/17/12) requesting Area Variances to construct a new home on a sub-standard size lot and closer to setbacks than allowed in Zoning Code Section 401 at property located at 3506 Mason St., specifically Section 332.20-1-21 (Old #21-1-15).

Mr. Levesque stated that at the ZBA Hearing held on 8/22/12, the board had referred Mr. Putney's application to the Planning Board (PB) for review and recommendation. He said the PB had held a special meeting on 9/17/12, to review the proposed building site. He read the following motion of the PB into the record:

Dick Johnson motioned that the Planning Board recommend that the Zoning Board of Appeals approve the variances requested by Mr. Putney with the following conditions:

- **Owner must install and maintain appropriate shoreline plantings along the lakeshore; install and maintain rain barrels/water garden to catch any runoff from his roofs in order to prevent runoff to the lake**
- **Rear deck must be left open with no permanent roof**
- **Any walkways or driveways must be constructed of permeable materials (i.e. permeable pavers, etc.)**

Mr. Rieg seconded. Mr. Rice, Mr. Johnson, Mr. Senske, Mr. Warner, Mr. Rieg, Mr. Strand, YES; Mr. Geist, NO. The motion was carried.

There was lengthy discussion between the board and applicant about water gardens and how they are used to filter and control runoff water to the lake. Mr. Andrews, Contractor said he would help Mr. Putney with this requirement. Mr. Putney indicated there would be plantings on the lakeshore and around the perimeter of the home. Mr. Levesque asked if anyone wished to speak regarding the application.

Mr. Henck said he had recently purchased the home next door and his only objection was to the size of the variances which he feels are excessive. He said the required setback from the road edge is 50' and the house will be 20' from the road edge; required setback to the lake is 50' and the house will be 26'; required side setbacks are 20' and they will be 4' and 7'. He said he understands that the property is unusable based on current law, but Mr. Putney is using up the entire property for this house which everyone acknowledges is a sub-standard lot size. He noted that the 4' side setback on the one side is next to a 16' easement owned by the town. Mrs. Ortman asked what the distance between his home and the proposed home would be. Mr. Levesque said it appears there will be 22.8' between the homes. Mr. Levesque said at the ZBA Hearing held on 8/22/12, the board had requested Mr. Putney provide a survey and site plan with setbacks (including lake

from 1310.5 high water mark) clearly marked; dimensions of all portions of the home clearly marked; and documentation that Mr. Putney's 3 lots be converted to one tax parcel number and/or placed on one deed in **ZBA**

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order to comply with Town Law. Mr. Putney provided the survey and site plan as requested and the paperwork indicating that the 3 lots are in the final process of being placed on one deed (paperwork is done but must be filed). Mr. Lawson asked to clarify the street situation for the Henck's. He said the streets located there are private roads and not town roads so that road footage can be included in setback calculations. Mr. Stapleton asked about the turn-a-round location for town trucks in relation to the proposed leach field line on the west side that is shown. Mr. Putney said that line may or may not cross on the easement but will be no more than 20' on the south property line. Mr. Silzle asked if water/utility lines would cross Mason St. and Mr. Putney said yes. Mr. Silzle stated that it should be required that the road be brought back to its original condition after the construction. Mr. Putney agreed. There was lengthy discussion of the leach line and concern was expressed about damage to the lines from heavy trucks/equipment. Mr. Putney said his contractor assured him there would be no problems with the town trucks there. Mr. Vaillancourt said from a construction standpoint, if done correctly, it should not be an issue.

Mr. Levesque reviewed the Residential Site Plan Check List in its entirety and the board agreed that all questions had been answered satisfactorily. Mrs. Ortman asked Mr. Henck if anything about this application compromises his home. Mr. Henck said a deck with any type of roof or railing would compromise his site line and stated he sees no purpose for the porch entrance that is 4' from the property line on the ROW. He said overall the house is much too large for the lot size. He indicated that zoning had been changed to prevent this type of occurrence. Mr. Stapleton asked if there were any photographs of the property and existing neighborhood. Mr. Levesque said he only has an aerial photo from the GIS system. Ms. West said the purpose of the PB visiting the site last week was to have Mr. Putney stake out exactly where the house would be and where the property lines were. She said the Henck's property is 6.8' from the ROW on the other side and theirs will be 4.3' from the property line on the other side of the ROW. She said that will be their main mode of entry into the house. She said they had told the Henck's that the deck would be no higher than 18' from the ground. She said the PB agreed that the deck would not obstruct anyone's view and they also agreed that the Putney house was not in any way different than the balance of the homes there. She said Mr. Putney is trying to blend in with everyone else in the area. Mr. Putney stated that while the porch entry on the north side of the house is 7.6' x 6', the rest of the house is 10.3' away from the ROW. Mr. Henck said they have a front and back entrance and he doesn't see the need for the side entrance. He said properties to the north are a good 100' back from the lake but that is not so to the south and most of those homes were constructed as many as 50 years ago. Mr. Thomas asked if there was anything that would make Mr. Henck more favorable to the application. Mr. Henck said his family has had a presence on the lake since the 1920's and it had just struck them as to how far out of compliance this application is with the current zoning law. He said he can't deny that Mr. Putney should be allowed to build on his lot, just that the setbacks are so excessive to the current law. Mr. Lawson said the properties on Mason are generally closer to the setbacks and the lake while the properties on Ross St. are further. He said part of the reason the properties on Ross are further back is because over the years erosion has actually added 10-20' more land to the lakeshore. He said the lot sizes on the north side are generally a little larger. There was further discussion of the characteristics of the neighborhood.

Mr. Levesque reviewed the Water Front Assessment Form (WAF) submitted by Mr. Putney and all board members agreed with the answers/conclusions of the applicant. Mrs. Ortman asked Mr. Henck what the square footage of his home was. Mr. Henck said it is approximately 2,300 sq. ft. and also stated he owns the large property across the street. Mr. Levesque read into the record Town Law Section 267 b. 3. Area

Variances, questions 1. – 5. The consensus of the ZBA was: 1) no 2) no 3) yes 4) no 5) yes. Mr. Stapleton asked the ZBA to keep in mind that the recommendations of the PB are just recommendations and if they are intended to be implemented in any way they should become part of the motion.

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Mr. Levesque motioned to grant Area Variances to Russell Putney as outlined in his application to construct a new home on a sub-standard size lot and closer to setbacks than allowed in Zoning Code Section 401 at property located at 3506 Mason St., specifically Section 332.20-1-21 (Old #21-1-15) with the following conditions:

- **Owner must install and maintain appropriate shoreline plantings along the lakeshore; install and maintain rain barrels/water garden to catch any runoff from his roofs in order to prevent runoff to the lake**
- **Rear deck must be left open with no permanent roof or railings**
- **Any walkways or driveways must be constructed of permeable materials (i.e. permeable pavers, etc.)**

Discussion: Mr. Lawson stated that if the deck is higher than 30” NYS code requires a railing. *Noted that the applicant indicates the deck will only be 18” high.* Mr. Levesque cautioned if the deck is to be any taller than 30”, the applicant must consult with the C.E.O. prior to construction.

Mr. Silzle seconded and the motion was carried unanimously.

2. Michael and Kimberly Peccia requesting Area Variances to construct an addition closer to setbacks than allowed in Zoning Code Section 401 at property located at 3618 Watson Rd., specifically Section 332.16-1-21 (Old # 20-6-11).

Mr. Levesque asked the applicant what he would like to do. Mr. Peccia said he is in the process of contracting to purchase the home on Watson and the sale is contingent on receiving the variance he has requested. He said he would like to build toward the road a 10’ addition the same width as the existing house. The addition will be for storage space. Mr. Halle said he is a neighbor and said his only concern is the private electric pole on the property line that will have to be moved. He stated it is very poor condition. Mr. Peccia said it is not maintained by National Grid and he has not yet decided whether to replace the pole or go underground with his electric. Mr. Halle said he has no objection to the proposed addition. Mr. Lawson said the applicant has completed the WAF satisfactorily and they are within the 25% lot coverage rule. He clarified that the setbacks to the property line are 3.9’ on the south side and 5.6’ on the north side. Mr. Levesque read into the record Town Law Section 267 b. 3. Area Variances, questions 1. – 5. The consensus of the ZBA was: 1) no 2) no 3) no 4) no 5) yes. Mr. Levesque asked if anyone wished to comment regarding the application. There was discussion of plantings and rain gardens for runoff and Mr. Stapleton said currently there are no laws in place but the town is trying to develop a culture of using these to mitigate runoff to the lake. Mrs. Thomas said there is information available if the applicants wish to have it.

Mr. Levesque motioned to grant Michael and Kimberly Peccia Area Variances as outlined in their application to construct an addition closer to setbacks than allowed in Zoning Code Section 401 at property located at 3618 Watson Rd., specifically Section 332.16-1-21 (Old # 20-6-11). Mrs. Ortman seconded and the motion was carried unanimously.

Mr. Levesque closed the hearing at 9:10 PM.

Nancy Thomas
Town Clerk