



TOWN OF GRAY
ZONING BOARD OF APPEALS
AGENDA • OCTOBER 27, 2021

**Zoning Board of
Appeals Regular
Meeting**

Online via Zoom
<https://us06web.zoom.us/j/83404387987>

7:00 PM

I. MEETING COMMENCES

Roll Call

II. MINUTES APPROVAL

Iia.. Minutes Approval for June 23, 2021 Meeting

III. INFORMATION EXCHANGE

1. Election of Officers
2. Adopt 2022 Calendar

IV. NEW BUSINESS: PUBLIC HEARINGS

Trofatter Variance: (Cancelled 9-22-21)

To consider a hardship variance in the shoreland zone for a front setback reduction for a car port addition on a existing detached garage . Frederick P. Trofatter, 19 Qualey Road, Tax Map 32, Lot 304-40, located in the Limited Residential and Lake Zoning Districts that requires a Fifty (50) foot Front(s), and Fifty (50) foot Rear setbacks.

31 Main Street Variance:

To consider a practical difficulty variance for relief for lots size standard requirements for two principle uses. Kurt T. Johnson Sr, 31 Main Street, Tax Map 35 Lot 403-26, located in Village Center Proper zoning district. Village Center Proper district requires 20,000 sq ft per principle use.

V. ADJOURNMENT

** The Town of Gray is an equal opportunity employer and complies with all applicable equal access to public accommodations law. If you are planning to attend a Town Council or Town committee or board meeting and need assistance with a physical disability, please contact the Town Manager's office at least 48 hours in advance of the meeting to have the Town assist you. 657-3339. TTY 657-3931.*

Town of Gray
Zoning Board of Appeals Minutes
June 23, 2021

Regular Meeting

Henry Pennell Municipal Complex

7:00 PM

24 Main Street, Gray, ME 04039

I. Meeting Commenced at 7:00 p.m.

Attendee Name	Title	Status	Arrived
Brad Fogg	Chair	Present	
Lena Reichardt	Vice Chair	Present	
John Swiger	Board Member	Present	
Joshua Sibert	Board Member	Present	
Scott Dvorak	Code Enforcement Officer	Present	

This meeting was held virtually.

II. Minutes Approval

a. Zoning Board of Appeals - Regular Meeting – May 26, 2021

MOTION: To approve the Minutes of the May 26, 2021 meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Swiger, Board Member
SECONDER:	Lena Reichardt, Vice Chair
AYES:	Fogg, Reichardt, Swiger, Sibert

III. New Business: Public Hearings

DeRice Variance Request

Andrew DeRice and Julie DeRice are requesting a variance (shoreland) for a front setback 12.5 ft. reduction for a 24'x26' garage at 164 Lyons Point Road Tax Map 40, Lot 315-43, located in the Limited Residential (Shoreland) Zoning District. The front setback in Limited Residential (shoreland) Zoning District is twenty-five feet (25').

RESULT:	REMOVED FROM TABLE [UNANIMOUS]
MOVER:	Lena Reichardt, Vice Chair
SECONDER:	Joshua Sibert, Board Member
AYES:	Fogg, Reichardt, Swiger, Sibert

Julie DeRice wanted to make sure, due to Lena Reichardt leaving the prior meeting due to technical difficulties, that Lena Reichardt was all set and understood the situation. Lena Reichardt confirmed she had reviewed the minutes of the meeting and felt ready to proceed.

Brad Fogg said the applicants had submitted a supplemental statement dated June 7th regarding reasonable return (criteria a).

Julie DeRice said she also addressed criteria c) and d) in the supplemental statement. She also submitted a revised plot plan showing the permissible 12x48 building. She sought out definitions of hardship and stated a hardship to her may not be a hardship to someone else and vice-versa. She stated this is a hardship for them because they don't have safe storage for personal belongings and their automobile. She said their auto has received damage. She also said everyone in the neighborhood has a minimum of a two-car garage and she feels this pertains to reasonable return. She said they could not expect to receive a complete reasonable return if a neighbor were to put a house on the market at the same time as her as she would be at a disadvantage since a buyer would want space to store items. She also said the land is sloping and there is no place to safely store items without them potentially rolling down the hill.

Julie DeRice also noted that the garage cannot be built on a concrete slab. A full foundation will be needed for retaining on one side. She also noted if they were to get an excavator and foundation crew to build a 12'x12' garage, it wouldn't be cost effective. She submitted a potential plan for the 12'x48' size garage. She does not want that plan. She also said they would have to cut eight additional mature trees to make space for the 12' x 48' design. She reminded the board that DEP does not have interest in this issue.

She had asked Scott Dvorak to research the history of, and reason behind, the changes to the setback from 10' to 25'. Scott said Doug Webster had explained that he was one of the Planners at the time when the change was made from 10' to 25'. The primary reason this change was made was due to garages being placed at the 10' setback, with garage doors facing the road, which resulted in people backing out of their garages into the road and that created dangerous situations.

Julie DeRice said their garage door would be 90 degrees to the existing driveway. She also measured from the nearest front point of the proposed garage to the road and that would be 21 ½ feet.

Julie DeRice researched other cases, most notably 5 Evergreen and 12 Pine Cove Road, and she informed the board about those cases when variances were granted. She requested that the board be consistent in decisions and noted she has extenuating circumstances and shouldn't be held to a higher standard than others.

Andrew DeRice commented that in the two situations Julie discussed, the people created their own hardships yet received variances. Lena Reichardt noted one or more of the other situations were not hardship variances, so different criteria was used.

Julie DeRice informed the board that their Portland property is under contract. She said this creates another hardship for them as they will have to pay for storage since they will no longer have the Portland location for storage.

Josh Sibert questioned Scott Dvorak if the ZBA has the ability to determine reasonable return, if other zoning boards use the strict definition, and if the DEP has strong decisions on this situation. He also said he felt that the

role of the ZBA is to protect Julie and Andy, especially if the law doesn't make sense. He asked if there are other garages close to the road. Scott Dvorak said the ZBA has the ability to determine reasonable return, but he could not comment whether or not other zoning boards use a strict definition. He also said that something as simple as a picnic table on the land could create a reasonable return. He said the DEP is not interested in road setbacks in this case as this doesn't pertain to the ecological nature of the lake. Scott Dvorak said there are other garages close to the road but explained that some were built before the ordinance, and there are several other aspects that dictate why others were allowed; some variances granted before ordinance changes, different people on the ZBA, etc.

Lena Reichardt explained the Code Enforcement Office interprets and follows ordinances. The ZBA is to discern if the CEO doesn't interpret the ordinance correctly. She said the ZBA should not grant lots of variances, and they should advocate to OAC (Ordinance Advisory Committee) and Town Council to change the ordinance when the rules don't fit situations a great percentage of the time.

John Swiger said he was involved in some of the cases cited. He noted the pitfall of granting variances rather than requiring structures to be torn down in the previous cases based on this discussion. He said if someone could not build a garage, he would consider a hardship. However, if they cannot build their dream garage, in his opinion that is not a hardship.

Lena Reichardt thanked the applicants for their work on addressing the issues as their comments were compelling and strong. She would like the board to explain to OAC and Town Council the impact of their ordinance and suggest changes. She said she is personally more comfortable with that approach than going against the ordinance.

Neighbors Doug and Jennifer MacGillivray, and also neighbor Bridge Carpenter, expressed support for the original garage request.

Brad Fogg said they also received letters of support. He noted the DEP letter which states that DEP doesn't have a comment on this case. He then shared information from the Maine Supreme Judicial Court regarding the reasonable return prong of the hardship test. Even if a lot is not buildable, there is a possibility to sell the land to someone which would still make a reasonable return (does not have to be a maximum return). He requested that at the next board meeting, they discuss making recommendations to the Town Council and OAC about the parts of the ordinance which need to be looked at.

Brad Fogg then led the board through the votes on criteria.

a) **MOTION: That the land in question cannot yield a reasonable return unless a variance is granted**

RESULT:	FAILED [1 TO 3]
MOVER:	Josh Sibert, Board Member
SECONDER:	John Swiger, Board Member
AYE:	Sibert
NAYS:	Brad, Swiger, Reichardt

b) **MOTION: That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.**

Julie DeRice commented that the site has unique circumstances due to the slope; the property is not flat anywhere.

RESULT:	TIED [2-2]
MOVER:	John Swiger, Board Member
SECONDER:	Josh Sibert, Board Member
AYES:	Fogg, Sibert
NAYS:	Swiger, Reichardt

c) **MOTION: That the granting of a variance will not alter the essential character of the locality.**

Brad Fogg noted the neighborhood would not be impacted as the egress would not be off the road but off the driveway.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lena Reichardt, Vice Chair
SECONDER:	Josh Swiger, Board Member
AYES:	Fogg, Swiger, Reichardt, Sibert

d) **MOTION: That the hardship is not the result of action taken by the applicant or a prior owner.**

Brad Fogg said the applicants submitted additional/amended information to say that hardship is a result of change in the ordinance between 2008 and 2010.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lena Reichardt, Vice Chair
SECONDER:	John Swiger, Board Member
AYES:	Fogg, Swiger, Reichardt, Sibert

MOTION: Andrew DeRice and Julie DeRice are requesting a variance (shoreland) for a front setback 12.5 ft. reduction for a 24’x26’ garage at 164 Lyons Point Road Tax Map 40, Lot 315-43, located in the Limited Residential (Shoreland) Zoning District. The front setback in Limited Residential (shoreland) Zoning District is twenty-five feet (25’).

RESULT:	FAILED [1 TO 3]
MOVER:	Lena Reichardt, Vice Chair
SECONDER:	Josh Sibert, Board Member
AYE:	Sibert
NAYS:	Fogg, Swiger, Reichardt

Brad Fogg explained that if any of the criteria do not pass, the main motion cannot pass. He said he will have paperwork done within seven days and that the applicants can appeal the decision.

Prior to amending the meeting, Chair Fogg told the board he is scheduled to attend an MMA event at the end of July and will bring this topic to obtain their comments. The board plans to then discuss, at the August meeting, this topic and making recommendations to the Town Council. Scott Dvorak mentioned if the board is interested, it could be possible to have a representative from the attorney’s office to meet with the board for training. John Swiger agreed that the attorneys could provide guidance as these are difficult decisions for the board to make.

Lena Reichardt offered to write a memo advocating for adjustments to this ordinance. Josh Sibert would be willing to look it over and suggested it will be more powerful if they all sign it.

Adjournment at 8:24 p.m.

Chair Fogg adjourned the meeting at 8:24 p.m.

ZONING BOARD OF APPEALS
2022 MEETING & APPLICATION DEADLINE SCHEDULE

Approved by the ZBA at the 10/27/2021 meeting

MONTH	APPLICATION DEADLINE	MEETING DATE
January	1-3-2022	1-26-2022
February	1-31-2022	2-23-2022
March	2-28-2022	3-23-2022
April	4-4-2022	4-27-2022
May	5-2-2022	5-25-2022
June	5-27-2022*	6-22-2022
July	7-1-2022	7-27-2022
August	8-1-2021	8-24-2022
September	9-2-2022*	9-28-2022
October	10-3-2021	10-26-2022
November	10-24-2022*	11-16-2022*
December	12-05-2022	12-28-2022*

**These dates have been adjusted to accommodate Holidays*



VARIANCE APPLICATION-SHORELAND
ZONING BOARD OF APPEALS
TOWN OF GRAY MAINE

For Office Use Only
Date Submitted: 10/15/21
Tent. Sched. for: 10/27/21
Amount Paid:

PROPERTY INFORMATION

Property Location/Address	19 Qualey Rd.	Property Map/Lot	037.304.040.000
Zoning District		Lot Acreage	0.17
Owner Name	Frederick P. Trofetter	Owner Phone Number	603 583 1779
Number of Dwelling Units			

APPLICANT

Name (IF different than owner)	Frederick P. Trofetter	Email Address	FTROFATTERJRP@COMCAST.NET
Mailing Address	19 Qualey Rd.	Contact Phone Number	603 583 1779
Mailing City/State/Zip	GRAY, ME 04039	Alternate Phone Number	

VARIANCE INFORMATION

Per Shoreland Zoning Ordinance 403.16.H.2: Variance Appeals:
 Except as provided in subsection 2-A, Variances may be permitted only under the following conditions:
 a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
 b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 c. The Board shall not grant a variance unless it finds that:
 (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 (ii) The strict application of the terms of this Ordinance would result in undue hardship.
 d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
 e. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

Describe request (description may be attached separately). Survey of property required to be attached.

See Attached

	Current Requirement	Currently Existing	Proposed
Road Setback	50	30	25
Rear Setback	50	30	25
Side Setback	50	30	25
Water Setback			
Max. Lot Coverage	35%	35%	35%
Min. Lot	80,000	7405.2	7405.2
Min. Street Frontage	50	50	50
Other (describe)			

PLEASE RESPOND TO EACH REQUIREMENT: (YOU'RE ENCOURAGED TO ATTACH SEPERATELY)

a. That the land in question cannot yield a reasonable return unless a variance is granted;

October 2020, I applied for and granted a permit to add a 10'x22' carport addition to existing garage. During my inspection I was informed as a result of setback on 3 corners permit should not have been granted. This variance would secure the build

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

With the permit noted by C.O. as to circumstances, a variance would remove any future issues around the legality of this addition. With for a future REFI or sale in the event we leave this to our children.

c. That the granting of a variance will not alter the essential character of the locality; and

Nothing changes from this current structure. It's built and fits existing finish of original barn

d. That the hardship is not the result of action taken by the applicant or a prior owner.

Permit was requested and granted, I went forward w construction and built to code in good faith.

Per 403.16.H.5 b: Decision by Board of Appeals

(i) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

(ii) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

(iii) The person filing the appeal shall have the burden of proof.

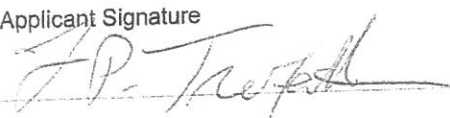
(iv) The Board shall decide all appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(v) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

Per 403.16.H.6: Appeal to Superior Court

Any party may take an appeal, within forty five (45) days of the date of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before Superior Court must be without a jury.

PLEASE REFER TO THE CURRENT FEE SCHEDULE FOR APPLICABLE FEES TO INCLUDE REQUIRED ADVERTISING AND ABUTTER NOTIFICATIONS

Applicant Signature	Printed Name	Date
	FREDERICK P Trufette	10-13-21

Frederick and Heather Trofatter
19 Qualey Rd Gray Maine 04039

Variance Request

October 13, 2021

In October of 2020 I applied for and was granted a permit to construct a 10 x 22 foot addition to my existing garage. No issues were noted at the time and nothing further was requested of me.

In August of this year (2021) I requested a permit to close in the newly built addition. The CEO at that time indicated that due to the setback requirements of Qualey, Mountain View and Ramsdell roads the permit should not have been granted. He indicated to us that he notated on the permit that he had made this error and it was not anything we did wrong. He suggested that I apply for a variance to make sure this build is properly documented and approved. If this were not the case it can come into question in the event we were to refinance or sell the property.

I am asking for a variance that the setback from Mountain View Rd be approved at 28 feet and that the setback from Ramsdell Rd be approved at 30 feet.

I have attached a plot plan of my property and have documented measurements suggested by the CEO. Also included is a letter from my neighbor at 17 Qualey Rd stating there is no objection to this request.

Respectfully

Fred and Heather Trofatter

A handwritten signature in cursive script, appearing to read "Heather Trofatter".

Purposed Car Port Addition 10' x 22'

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Human Services
Division of Health Engineering
(207) 287-2572 FAX (207) 287-4772

Town, City, Plantation
CRAY

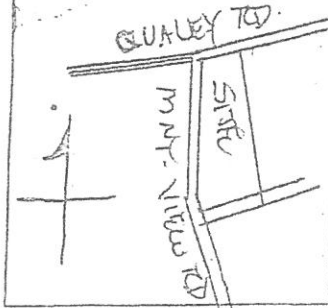
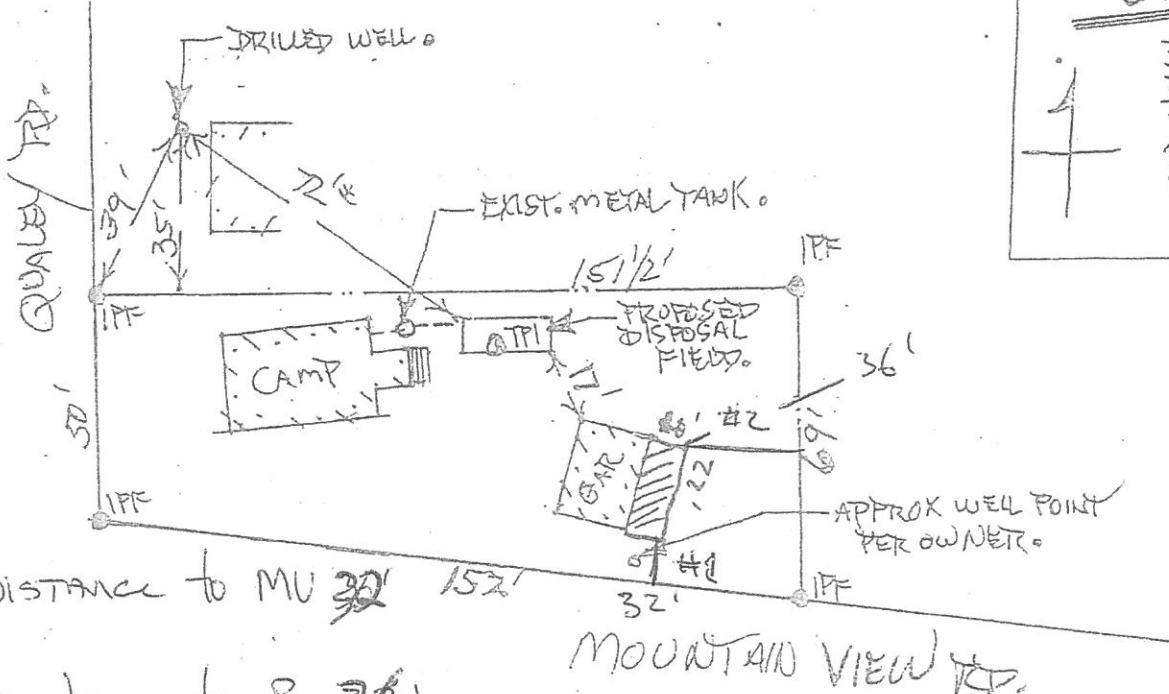
Street, Road, Subdivision
19 QUALEY RD.

Owner's Name
TROFATER, FRED

SITE PLAN

Scale 1" = 40 Ft.
or as shown

SITE LOCATION PLAN



- ①
- 2

Distance to MU 32 152'

Distance to R 36 36'

MOUNTAIN VIEW RD.

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole IP1 Test Pit Boring
" Depth of Organic Horizon Above Mineral Soil

Observation Hole Test Pit Boring
" Depth of Organic Horizon Above Mineral Soil

DEPTH BELOW MINERAL SOIL SURFACE (feet)	Texture	Consistency	Color	Mottling
0	LOAMY SAND		DARK YELLOWISH BROWN	
10				
20		FRIABLE		
30	SAND		PALE BROWN	
40				
50	FINE SAND			DISTINCT

Soil Classification: _____ Slope: _____ %
 Limiting Factor: _____
 Ground Water Restrictive Layer
 Bedrock
 Pit Depth

DEPTH BELOW MINERAL SOIL SURFACE (feet)	Texture	Consistency	Color	Mottling
0				
10				
20				
30				
40				
50				

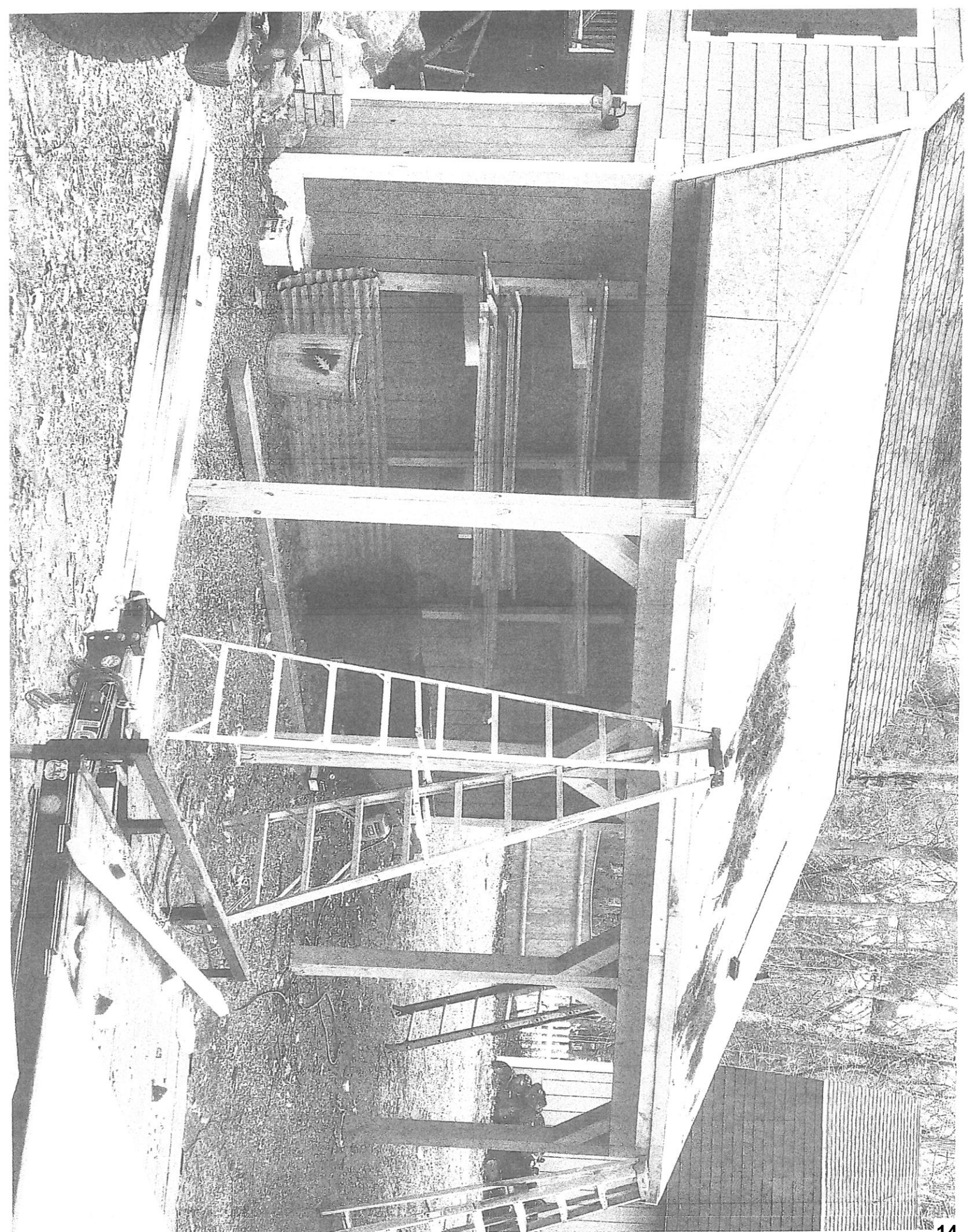
Soil Classification: _____ Slope: _____ %
 Limiting Factor: _____
 Ground Water Restrictive Layer
 Bedrock
 Pit Depth

James G. Mancini
Site Evaluator Signature

247
SE

Dec. 16, 2014
Date





Scott Dvorak

From: Kalinich, Jeffrey C <Jeffrey.C.Kalinich@maine.gov>
Sent: Friday, September 3, 2021 2:45 PM
To: Scott Dvorak
Subject: RE: Zoning board of appeals/Gray

Scott,

The Trofatter ZBA application is with regards to road setbacks. Road setbacks are not subject to any standards in Chapter 1000. As such the Department does not have an opinion regarding this variance request from road setbacks. Since this application is for a variance request in the shoreland zone the Department appreciates you submitting it for an opinion.

Jeff

Jeffrey C. Kalinich
Assistant Shoreland Zoning Coordinator
Maine Department of Environmental Protection
312 Canco Road
Portland, Maine 04103
Ph. (207) 615-7044
Fax. (207) 822-6303
www.Maine.gov/dep

From: Scott Dvorak <sdvorak@graymaine.org>
Sent: Thursday, September 2, 2021 5:46 PM
To: Kalinich, Jeffrey C <Jeffrey.C.Kalinich@maine.gov>
Subject: Zoning board of appeals/Gray

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jeff,

Thanks for coming over to look at some shoreland issues. It was much appreciated.

Attached is a ZBA application. It is for a front setback from the road, and the structure is actually in our lake district and the parcel has a corner in Limited Residential, and my ordinance requires a shoreland application if the parcel is partially located in Limited residential.

Best Regards,
Scott

Town of Gray Code Enforcemnt Officer.



VARIANCE APPLICATION - PRACTICAL DIFFICULTY
 ZONING BOARD OF APPEALS
 TOWN OF GRAY MAINE

For Office Use Only
 Date Submitted: 10/4/21
 Tent. Sched. for: 10/27/21
 Amount Paid: \$ 300

PROPERTY INFORMATION

Property Location/Address: 31 MAIN ST. Property Map/Lot: 035-403-026-000
 Zoning District: VILLAGE CENTER PAPER Lot Acreage: .57
 Owner Name: SAWYER HOUSE LLC Owner Phone Number: 207 514-4078
 Number of Dwelling Units:

APPLICANT

Name (if different than owner): KURT T. JOHNSON SR. Email Address: kurt@freshairventilation.com
 Mailing Address: 31 MAIN ST. SUITES Contact Phone Number: 207 514-4078
 Mailing City/State/Zip: GRAY, ME 04039 Alternate Phone Number: 207 415-2684

VARIANCE INFORMATION

Per Gray Zoning Ordinance 402.9.2.B.3:

Practical Difficulty Variance: The Board may grant a variance from the dimensional standards of the Zoning Ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Describe request (description may be attached separately- plot plan/site map required to be attached)

CHANGE USE OF UNIT #4 FROM OFFICE TO BARBERSHIP
 ADDING A USE WHICH REQUIRES MORE LAND.

Current Requirement Currently Existing Proposed

Front Setback

Rear Setback

Side Setback

Other Setback (describe)

Max. Lot Coverage

Min. Lot Area

Min. Street Frontage

Other (describe)

CRITERIA- BRIEFLY DESCRIBE HOW YOUR REQUEST MEETS EACH OF THE FOLLOWING:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood; *PER ZONING CURRENT OFFICE SPACE CAN BE USED AS A CONDITIONAL SPACE AS BARBER SHOP PER BOARD APPROVAL*
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties; *A BARBER SHOP WOULD FIT DESCRIPTION OF VCP & ITS PURPOSE*
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner; *Simply going from zoning as office to service in unit #4 this property has had multiple uses in the past. see attachment (7/14/89 GFB)*
- d. No other feasible alternative to a variance is available to the petitioner; *Currently only 1 use is allowed.*
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and *NO CHANGES OUTSIDE OF SPACE.*
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435. *No - Property is entirely in Village Center Proper*

Per Gray Zoning Ordinance 402.9.2.B.4:

Variance Review Criteria: In hearing variance appeals under this section, the Board of Appeals shall determine that the applicant has demonstrated that all of the undue hardship or practical difficulty criteria in sub-Sections 2 and 3 above have been met. Additionally, the Board shall consider the following criteria in its decision to grant any variances or impose conditions:

- a. What effect will be proposed variance have on the prevailing character of the area?
- b. Does the proposed variance require special screening or fencing to separate or protect the property of abutting owners?
- c. Will the proposed variance create drainage, erosion or flooding problems?
- d. Will the proposed variance increase water pollution?
- e. Will the proposed variance generate vehicular traffic, access circulation or parking conditions which create hazardous situations?
- f. Will granting of the variance violate any of the performance standards of this Ordinance apart from the specific relief authorized by this Section?
- g. Will the proposed variance create to any degree nuisances to abutting property owners?
- h. Is the variance request the least modification of the Zoning Regulations necessary to afford relief?
- i. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

PLEASE REFER TO THE CURRENT FEE SCHEDULE FOR APPLICABLE FEES TO INCLUDE REQUIRED ADVERTISING AND ABUTTER NOTIFICATIONS

Applicant Signature

Kurt T. Johnson SR.

Printed Name

KURT T. JOHNSON SR.

Date

10/4/21

Request for use Variance unit #4

October 4,

Variance Review Criteria

- a. **The variance should meet the concept of a village by providing a necessary and reliable barber to the community. Located in the center of town would provide convenience to the community and easy access without diminishing in any substantial way the area.**
- b. No special changes to the exterior of the building
- c. This will not create any drainage, erosion or flooding problems.
- d. This will not increase water pollution
- e. This business would provide customers by both vehicles and by foot. The volume would not be inconsistent with other clients in the building such as counsellors or lawyers. Though there likely would be a more consistent volume, it would not be excessive compared to other businesses in the area. I.e. Cumberland Farms, Subway, McDonalds, etc.
- f. This variance will not violate any Ordinance.
- g. Variance will not create any nuisances to abutting property owners of which the town would be the largest abbuter. Though I suppose the board will make that decision.
- h. This is the least modification to afford relief.

Humbly Submitted

Kurt and Karen Johnson

Owners, Sawyer House LLC.

RC

GRAY PLANNING BOARD
NOTICE OF DECISION


DATE: July 14, 1989

TO: Walt Hebold
M-33 Associates
P O Box 665
Gray, ME 04039

Dear Mr. Hebold:

The Board has approved M-33 Associates, 31 Main Street, Map U3, Lot 26 in the VAP/ADZ for professional office and retail trade under Section 402.32.C.1-9, with the condition that parking be available to the building. At any time that parking is not available to the building any approval becomes null and void. Landscaping and seeding of disturbed area will be completed at the time the parking lot is built.

See Dick Day for the necessary permits.



Richard Cahill, Town Planner

SAWYER HOUSE 31 MAIN ST.
UNIT # 4

CONDITIONAL APPROVAL
FOR BARBER SHOP

