**Zoning Board of Adjustment**

**27 School Street**

**HILLSBOROUGH, NH**

**June 11, 2018**

**DATE APPROVED**: 7-11-18

**TIME:** 7:00 p.m. –8:00 p.m.

**CHAIRMAN:** David Rogers

**VICE CHAIRMAN:** Roger Racette

**MEMBERS:** Russell Galpin Dana Brien and Nancy Torres

**PLANNING DIRECTOR:** Robyn Payson

**ALTERNATES:** Larry Baker and John Segedy

**ABSENT:** David Rogers

**Present:** John Segedy – Alternate, Russ Galpin, Roger Racette, Nancy Torres, Dana Brien and Robyn Payson

Also present: Dan Higginson and Tim Skillings

**CALL TO ORDER:**

Vice-Chairman Racette called the meeting to order at 7:00 p.m. John Segedy was appointed to vote for David Rogers who was not present.

**MINUTES:**

The Board reviewed Meeting Minutes dated 5-14-18. The Board discussed the accuracy of the minutes and the lack of discussions noted in the minutes. Mr. Racette made a correction to the last paragraph second sentence from the end, “Mr. Rogers moved to elected Mr. Racette” that should just be “elect”. Mrs. Torres made a motion to accept the minutes, seconded by Mrs. Brien. The minutes as amended were approved unanimously.

**PUBLIC HEARING:**

**Application for Variance–Setbacks – Beverly and Timothy Skillings – 125 Gould Pond Rd.**

**Map 9, Lot 135**

The Application is submitted by Dan Higginson of Higginson Land Services on behalf of Beverly and Timothy Skillings for a variance from Hillsborough Zoning Ordinance 229-10 Stream and Shoreline Protection to building a garage partially within the 75 feet of the average mean high water of Gould Pond.

Dan Higginson of Higginson Land Services made reference to the sheet that was submitted with the application and shore land permit. He proceeded to describe the application, location and project which would include a new leach field. Mr. Higginson also described the history of the lot involved and the impact to surrounding properties.

Mr. Higginson was asked to go through the criteria:

1. Granting the proposed variance will not be contrary to the public interest because: The

Proposed garage is allowed in the Emerald Lake Village District and consistent with the many other properties in the area. Lots of people have garages; it is a residential use. The Board asked the basis of the allowed use in Emerald Lake. Mr. Higginson stated that residential zone supports a garage as an accessory use. Emerald Lake District has several garages in use.

1. Granting the proposed Variance will observe the spirit of the zoning ordinance because: The spirit of the ordinance is to prevent construction within 75 feet of the shoreline of the ponds. The existing house sits between the shoreline and where the garage will be. The proposed garage will not be visible from the lake and is situated in an area that is currently maintained as lawn. The proposed project will improve the wetland situation and offsetting for the roof of the proposed building with an infiltration trench.
2. Granting the proposed variance will do substantial justice because: Substantial justice is done when the burden to the land owner far outweighs the burden to the general public. In this case denial of the variance will be detrimental to the owners as it would prevent them from building a garage which is a reasonable use of their property. Approval of the variance would create no burden to the general public as the proposed garage will not be visible from the lake and the existing tree buffer to Gould Pond Road is not going to be altered.
3. Granting the variance will not diminish the values of the surrounding properties because the construction of the garage is a reasonable use of a residential property and is harmonious with many other properties in the neighborhood.

E1. Owing to special conditions of the property that distinguish it from other properties in the

area: (i) no fair and substantial relationship exists between the general public purpose of the ordinance and the specific application of that provision to the property; the general purpose of the ordinance is to prevent construction with 75’ of the shore line. This property is already developed with a single family home that is within 75’ of the shoreline and the proposed garage is on the opposite side of the existing house from the lake there by being further from the shoreline than the existing house. And (ii) the proposed use is a reasonable one because the proposed use in a residential property.

The Board agreed the use of a garage is reasonable but questioned the size of the proposed garage and how it fits with neighboring properties. The applicant believes it fits the character of the area.

The public hearing was closed at this time. The Board discussed the application and criteria particularly the setback of 75’along the shore line.

1. Granting the proposed Variance will not be contrary to the public interest: Mrs. Brien – Yes, Mrs. Torres – Yes, Mr. Segedy –Yes, Mr. Galpin – Yes and Chairman Votes Yes.
2. Granting the Proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance: Mr. Galpin – Yes, Mr. Segedy – Yes, Mrs. Brien–Yes, Mrs. Torres-Yes, and the Chairman Votes Yes.
3. Granting the Proposed Variance will do substantial justice: Mrs. Torres – Yes, Mrs. Brien – Yes, Mr. Galpin – Yes, Mr. Segedy – Yes, and the Chairman Votes Yes.
4. Granting the Proposed Variance will not diminish the values of the surrounding properties: Mr. Segedy – Yes, Mr. Galpin – Yes, Mrs. Torres – Yes, Mrs. Brien- Yes, and the Chairman Votes Yes.
5. Owing to special conditions of the property that distinguish it from other properties in the

area: (i) no fair and substantial relationship exists between the general public purpose of the ordinance and the specific application of that provision to the property and the proposed use is a reasonable one: Mrs. Torres – Yes, Mrs. Brien – Yes, Mr. Segedy – Yes, Mr. Galpin – Yes, and the Chairman Votes Yes.

Mr. Segedy made a motion to grant the proposed variance as presented, seconded by Mrs. Torres. Motion carried unanimously.

The Board discussed Table 3 the setback coverage and building height requirements and how corrections can be made.

Having no further business, the meeting was adjourned at 8:00.

Respectfully Submitted,

Dianne Rutherford

Administration/Land Use Secretary