

APPROVED

7-21-11

Zoning Board of Appeals
William and Carol Urtz
November 6, 2010

Chairman Barto called the meeting to order at 10AM with all members present. Attorney Steve Ricci was also present. It is noted that the applicants were not present.

Mike Cleere motioned with a second by Pete Keefer to open the public hearing at 10:01AM.

A neighbor, Mr. Gleason said "It doesn't make a difference to him." Attorney Ricci proceeded by discussing Section 267 B of the State Town Law.

1 Weighing the detriment of the health and safety of the neighbors.

2 Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

3 Whether the requested area variance is substantial.

4 Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

5 Whether the alleged difficulty was self-created, it is a consideration for the board to take into effect, but shall not necessarily preclude the granting of the area variance.

Attorney Ricci noted that the Zoning Board of Appeals has a lot of authority, but has to consider those factors.

Mr. Gleason interrupted with questions of his own construction that he wants to do and was told he needed a permit. Chairman Barto advised that if he can locate the building without needing a variance, there is a 10 foot setback.

Mike Cleere motioned with a second by Julie Thompson to close the public hearing at 10:10 AM.

Mike Cleere motioned with a second by Julie Thompson to discuss and consider the application.

Discussion

Ford Knight noted that the permit was approved in 1998, and this is after the fact. He asked if it had already been approved under the old zoning.

Attorney Ricci inquired about the footprint. Did it change? Cant' tell. Ford Knight noted, the zoning application was to "remove old porch and deck and construct new foundation to level front of cottage and rebuild." There is a building permit that approved what he did. "He put in a new foundation and rebuilt the porch." Attorney Ricci said, "He does need a variance."

Chairman Barto noted that the porch has no foundation. It sits on the ground. Also noted was the house protrudes out a foot from (into?) the setback. The porch does not block anyone's view.

The board reviewed the five factors to be considered in granting the variance:

1 No undesirable change was noted, not detrimental to the area

2 Could the benefit be perceived by other means? The house needs an access point. The porch is built on the ground with no foundation.

3 Is this area variance substantial? Chairman Barto noted that it was next to a non-conforming lot.

Attorney Ricci reminded the board that everything gets weighed. They don't have to agree on everything.

Chairman Barto added, "It's an open porch that blocks no one's view."

Ford Knight pulled up a satellite view of the property on his laptop. He noted how all the properties were stacked on top of each other. He said, "This was the only spot on the whole road where there is any open space at all." The porch overhang does not create much of an adverse impact. Chairman Barto agreed. Ford Knight said it is not a substantial variance, not much of an impact.

4 Adverse Impact- Ford Knight does not believe there is an adverse impact. He has space on the side. "He's got more space between him and the neighbor than anyone else does." Chairman Barto agrees. Pete Keefer mentioned that that IS the entrance to his home. A safe exit from the home is needed.

5 Self-created Hardship Chairman Barto said yes, but a safe exit from the house is needed, noting the porch sits on the ground....even if put steps there, there would be encroachment. If granted, "some contingencies would be put into place." Contingencies were discussed.

Attorney Ricci said the board has to balance all these factors.

Julie Thompson motioned with a second by Mike Cleere to act on the application, approved with the following conditions:

- 1 Porch will always remain open.
- 2 Footprint of encroachment on the set-back remains the same.
- 3 Any alterations, whatsoever, must come back for approval of variance by the Zoning Board of Appeals.

Roll Call Vote:

Mike Cleere yes

Julie Thompson yes

Ford Knight yes

Pete Keefer yes

Chairman Barto yes

Motion by Mike Cleere with second by Julie Thompson to approve the minutes from the last meeting.

Motion by Mike Cleere with second by Pete Keefer to adjourn at 10:31AM.

Respectfully submitted,

Susan Hensel
ZBA Clerk