

ZONING BOARD OF ADJUSTMENT

MINUTES

June 2, 2020

APPROVED: Approved 7-7-20

AGENDA: 20VAR04: Variance for Michael Ferragi, Timber Lane, #116-042
DRAFT APPLICATION INSTRUCTIONS
BY-LAWS

ATTENDING: Alan DeStefano (Chairman), Richard Laflamme (Vice-Chair), Larry Denton, Lorraine Bohmiller, Jackie Elliott (alternate)

ABSENT: Melody Mansur, Ashley Dolloff (Alternate)

OTHER ATTENDING: Christina Goodwin (Land Use Manager), Tyler Simonds (Planner), Applicants

Mr. DeStefano stated that as there has been an emergency order issued by the Governor that allows for meetings to be held electronically due to the pandemic. Members are attending via video and telephone conference and the meeting is open to the public via the Zoom platform and regular phone access. He then took roll call: Christina Goodwin – alone, Richard LaFlamme – alone until his wife arrives, Jackie Elliot – alone until her husband arrives home, Larry Denton – with Maureen, Lorraine Bohmiller - alone, Tyler Symonds – alone, Alan DeStefano – alone. Mr. DeStefano named Ms. Elliott to sit in for Ms. Mansur. The meeting was opened at 6:00 pm with a quorum. Mr. DeStefano also updated that the meeting is being taped for minute purposes only.

MINUTES OF APRIL 7, 2020: R. LaFlamme made a motion, second by L. Denton, to approve the minutes of April 7, 2020 as written. The motion carried by roll call vote 5-0.

VARIANCE: MICHAEL FERRAGI, 71 Timber Lane, #116-042

Mr. Simonds read the application, abutters list, where it was the advertised, and stated that there were no written or phoned comments received.

Ms. Bohmiller stated that she did not receive an abutters list or tax map. Ms. Goodwin said that it was sent with the 3rd e-mail. Mr. Denton was confused about the setback violation and Ms. Goodwin pointed out that the front setback is 20'. Mr. Denton asked for clarification that the deck is 15 ½ feet and Mr. Ferragi stated that that measurement is from the property line but it is 20 feet from the edge of the road. Mr. DeStefano explained that the 20 foot setback is from the boundary line.

Mr. Denton asked if the sonar tubes are outside of the deck and Mr. Ferragi said that they are not, he was attempting to show where they are located but they are under the deck. When asked, Mr. Ferragi said that the deck is to be 5 feet by 25 feet in the front. Mr. Denton asked if the deck is already on the house and was told that the framework is.

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L. Denton made a MOTION, second by J. Elliott, to ACCEPT THE APPLICATION AS COMPLETE, L. Denton – yes, R. LaFlamme – asked the height of the deck and a photo was shown – yes, L. Bohmiller – yes, J. Elliott – yes, A. DeStefano – no. The motion carried by roll-call vote.

Mr. Ferragi then explained his case: He wants to build a deck in his front yard (front of house). He had started it when Peter Daniels (Enforcement Officer) told him that he needed a Variance. Mr. Denton asked if he has to put it on the front side and was told that the access is to the side but there is no level ground. Ms. Elliott asked if there was a deck there previously and was told that there was not. Mr. DeStefano asked where the entrance door is and was told that it is on the side. He then asked what the structure is that is behind the building and was told it is an outside shower.

Mr. Ferragi was asked to go over the Variance criteria:

1. Not contrary to public interest: It does not affect the public.
2. Spirit of the Ordinance: It is a level place for easy access.
3. Substantial Justice: It will provide a level place to sit.
4. No diminution of values to surrounding properties: It will be a home improvement.
- 5A1. No fair and substantial relationship exists between the general public purposes and the specific application of the provision: Across the street is not restricted.
- 5A2. Reasonable use: For the functionality of the property.
- 5B. Unnecessary hardship: Reasonable use as it is allowed for other properties.

Mr. DeStefano asked why some of the answers are different than what is on the application. . Mr. Ferragi answered that the application was on hold for awhile and he had more time to think about it. Mr. Denton asked if he purchased the property as is or did he build it new? It was purchased. Mr. Denton then asked if the 5 foot dimension is the space to sit on and was told that it is. Mr. LaFlamme asked if the 5/26/20 date was the original time of application and the answer was in the affirmative. Ms. Bohmiller questioned the 15 ½ foot versus the 19 ½ foot dimensions and was told the 15 ½ foot is from the boundary.

Mr. DeStefano asked for any public comment, both for and against, and there were none. Mr. Ferragi stated that he was trying to make a home improvement. Mr. DeStefano asked if he started this without a permit and was told that he did.

Mr. DeStefano closed the public portion of the hearing and the Board began deliberations on the criteria:

1. R. LaFlamme made a MOTION, second by L. Denton, to APPROVE CRITERIA #1. R. LaFlamme – yes, L. Denton – yes, L. Bohmiller – yes, J. Elliott – yes. And the motion CARRIED.
2. R. LaFlamme made a MOTION, second by L. Denton to APPROVE CRITERIA #2. Mr. Denton felt that the applicant was trying to minimize the size of the deck and the area for this Variance. Mr. DeStefano reminded the Board of the case on West Shore Road that was denied and the applicant had to cut off some of what he had built. Ms. Elliott

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stated that she would have liked to have the deck wrapped around back but the shower is there. Mr. DeStefano stated that forgiveness is not a reason for approving. A vote was taken: R. LaFlamme – yes, L. Denton – yes, L. Bohmiller – yes, J. Elliott – yes and the motion CARRIED.

3. R. LaFlamme made a MOTION, second by L. Bohmiller, to APPROVE CRITERIA #3. Ms. Bohmiller stated that the applicant is to minimize the size. A vote was taken: R. Laflamme – yes, L. Bohmiller – yes, L. Denton – yes, J. Elliott – yes. The motion CARRIED.
4. R. LaFlamme made a MOTION, second by L. Bohmiller, to APPROVE CRITERIA #4. Ms. Bohmiller felt that it is a definite improvement. A vote was taken: R. LaFlamme – yes, L. Bohmiller – yes, L. Denton – yes, J. Elliott – yes. The motion CARRIED.
5. L. Bohmiller made a MOTION, second by R. LaFlamme, to approve criteria #5. Ms. Bohmiller stated that the request is minimal so that the area can get some kind of use. It is kind of a hardship due to where the house is located. A vote was taken: L. Bohmiller – yes, R. LaFlamme – yes, L. Denton – yes, J. Elliott – yes. The motion CARRIED.
- 5a. L. Denton made a MOTION, second by L. Bohmiller, to APPROVE CRITERIA #5a. L. Denton stated that it is a reasonable use. The vote was taken: L. Denton – yes, L. Bohmiller – yes, J. Elliott – yes, R. LaFlamme – yes. The motion CARRIED.
- 5b. R. LaFlamme made a MOTION, second by L. Bohmiller, to APPROVE CRITERIA #5b. A vote was taken: R. LaFlamme – yes, L. Bohmiller – yes. L. Denton – yes, J. Elliott – yes. The motion CARRIED.

L. Denton made a MOTION, second by L. Bohmiller, to APPROVE THE VARIANCE FOR MICHAEL FERRAGI FOR HIS DECK. A Vote was taken: L. Denton – yes, L. Bohmiller – yes, J. Elliott – yes, R. LaFlamme – yes, A. DeStefano – no. The motion CARRIED.

Mr. DeStefano explained the 30-day right to appeal and advised the applicant to wait for that to run out before building. The Notice of Decision will be signed and sent to him.

COMMUNICATIONS: None.

UNFINISHED BUSINESS:

Forms - Mr. Simonds presented the form for an Application for Administrative Appeal. Mr. DeStefano stated that this is Mr. Simonds suggestion. R. LaFlamme made a Motion, second by L. Bohmiller, to approve this form. The vote was taken: R. LaFlamme – yes, L. Bohmiller – yes, L. Denton – yes, A. DeStefano – yes, J. Elliott – yes. The motion carried.

Mr. Simonds presented a form for a Motion for Rehearing. R. LaFlamme made a motion, second by L. Bohmiller, to approve the form for Motion for Rehearing. A vote was taken: R. LaFlamme – yes, L. Bohmiller – yes, L. Denton – yes, A. DeStefano – yes, J. Elliott – yes. The motion carried.

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UNFINISHED BUSINESS (continued):

The next form presented was for Special Exception. R. LaFlamme made motion to approve this form. Second by L. Denton. A roll-call vote was taken: R. LaFlamme – yes, L. Denton – yes, L. Bohmiller – yes, A. DeStefano – yes, J. Elliott – yes. The motion carried.

Mr. Simonds presented the Board with amended Variance instructions. Mr. Denton liked the examples, especially the comment that the Board cannot look at finances when dealing with a Variance. Mr. DeStefano asked that the words “examples only” be put in bold. L. Denton made a motion, second by L. Bohmiller, to approve the variance instructions as amended. The motion carried by roll-call vote: L. Denton – yes, L. Bohmiller – yes, A. DeStefano – yes, J. Elliott – yes, R. LaFlamme – yes. The motion carried.

At this time, the Bylaws were tabled to the next meeting.

NEW BUSINESS: Ms. Goodwin stated that the Board’s scheduled meeting for November falls on Election day for 2020. Typically, we have always canceled the meeting. It was determined that it is to be canceled this year also.

NEXT MEETING: Our next meeting is July 7, 2020. Mr. Simonds has one Variance application. Ms. Goodwin added that there may be another Variance and a Special Exception.

OTHER:

A discussion was held concerning not having the abutter’s list and all measurements. Mr. Simonds asked about needing deck height and was told that we should have them.

Ms. Goodwin stated that the changes to the forms will be ready for the July 7 meeting, if possible. Mr. DeStefano felt that it could be put on the agenda and it could be moved if necessary. Ms. Goodwin stated that the building may or may not be open in July. Executive orders are coming in stages.

With no other business before the Board, the meeting adjourned by roll-call vote at 7:25pm.

Respectfully submitted,
Jan Laferriere,
Land Use Administrative Assistant