

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, MAY 17, 2012 – 7 PM.
ACADEMY BUILDING
MINUTES

Chair Elizabeth Hackett called the meeting to order at 7:02 PM
Members attending: Elizabeth Hackett, Perry Onion, Nate Abbott, &
Paul Levesque (arrived at 7:16 PM)

Also in attendance: Annette Andreozzi, Land Use Clerk.

The Chair made introductions and explained the ZBA procedures.
The Chair stated that there were only 3 Board members present and the applicant could
ask to continue until there were 5 members. Three positive votes would be needed for
any motion to pass.

Mr. Hook wished to continue with the public hearing.

Public Hearing Case #2012-00005 – Andrew Hook, owner: request a variance
from Zoning Ordinance Article IV Table 2, in accordance with Article VII B-2 to extend
an existing deck by 13'; the present deck & requested extension are 6' into the 35' setback
area described by Table 1. Property is .21 acres; located at 14 Malecite Lane, Map/Lot#
132-26 in the Rural Zone.

Mr. Hook said that he would like to extend his front deck which was presently 6' into the
setback. The new deck will be the same distance from the road as the present deck,
which is on the road side of the house. He would like it to be bigger to be more user
friendly.

Mr. Onion asked about the ZBA 2003 decision, and found out that decision referred to a
different deck, which has become part of the house.

Mr. Abbott asked about the purpose of the zoning ordinance's 35' setback from the road.
Ms. Hackett said that some times the septic was in that space, also so there would be a
buffer between the house and road, and so a house would not fill a whole small lot.

The clerk mentioned that some zoning road setbacks are set for consistency and safety.

Mr. Abbott moved to close Public Hearing Case #2012-00005
Seconded by Mr. Onion. **Motion passed unanimously.**

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DELIBERATIVE SESSION:

Case #2012-00005 – Andrew Hook, owner

Ms. Hackett said that the new deck would not come out any more than the existing deck, which was not really a deck, but an entrance platform for the house. She noted that according to the Gilmanton property card the house was 48'; according to the applicant's drawing it was 44'. She wanted the applicant to know that they did not have the same information.

Ms. Hackett recapped the meeting for Mr. Levesque, who arrived at 7:16 PM.

Mr. Abbott said that a condition should be placed on the variance that the deck can not extend beyond the side of house, or project further than the present deck.

Mr. Onion asked if it was in the Board's purview to make a condition that the new deck be on the same level as the present deck.

Ms. Hackett said that if the deck was higher or lower it was not part of the application.

Mr. Abbott stated that the application implied that the new deck would be on the same level.

MOTION:

Mr. Abbott moved to grant a variance in Case #2012-00005, Andrew Hook, owner:

requesting a variance from Zoning Ordinance Article IV Table 2, in accordance with Article VII B-2 to extend an existing deck by 13'; the present deck & requested extension are 6' into the 35' setback area described by Table 2. Property is .21 acres; located at 14 Malecite Lane, Map/Lot# 132-26 in the Rural Zone

- a. The granting of the variance would not be contrary to the public interest because the deck will not project further into the setback more than the current deck;**
- b. The spirit of the Ordinance is observed because the deck will not project further into the setback more than the current deck;**
- c. By the granting of the variance, substantial justice will be done because the owner will be able to better use his property;**
- d. There was no evidence presented that granting the variance, would create diminution of value to the surrounding properties;**
- e. Owing to the special conditions of the property that distinguish it from other properties in the area, denial of the variance could result in unnecessary hardship as no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that**

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provision to the property because prior constructing had establish the encroachment whether it was by issued permit, or because the setback at the time was not in effect, and the existing deck preexisted the ownership of the applicant.

AND

the proposed use is a reasonable one because it improves the living condition at the property.

CONDITIONS:

1. No part of the existing deck or new deck may be enclosed or used for living space.
2. New deck must be constructed at same level as existing deck.
3. If the dimensions on the application are in error, the new deck may not extend beyond the end of the house, nor project closer to the road than the present deck.

Mr. Levesque seconded. **Motion passed unanimously.**

Ms. Hackett explained the procedures of the building inspector to Mr. Hook, and that Mr. Hook would have to wait 30 days for the appeal period before he could receive a required building permit.

APPROVAL OF MINUTES – April 19, 2012

MOTION: Mr. Levesque moved to approve the minutes of the April 19, 2012 meeting as amended. Seconded by Mr. Onion. Motion passed unanimously.

OTHER BUSINESS

Ms. Hackett stated that she went to the Selectmen’s meeting to voice her concern that she wasn’t informed of the new members coming on to the ZBA, again. The Selectmen apologized.

Ms. Hackett, Mr. Abbott, & Mr. Onion were at the Planning board meeting to discuss the Zoning Ordinance table of uses. There was discussion only. Planning was trying to make the uses consistent with other towns. They will be doing a survey, and probably

APPROVED

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pick up discussion again in July.

ADJOURNMENT: Motion made by Mr. Levesque and seconded by Mr. Onion to adjourn, Vote passed unanimously. Meeting adjourned at 7:59 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Clerk