

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, AUGUST 16, 2012 – 7 PM.
ACADEMY BUILDING
MINUTES

Chair Elizabeth Hackett called the meeting to order at 7:02 PM.
Members attending: Elizabeth Hackett, Paul Levesque, & Nate Abbott.
Member not attending: Perry Onion
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.

NEW BUSINESS

Public Hearing Case # 2012-00009 – Daniel & Sherry McCann, owners:
requests a variance from Zoning Ordinance Article IV Table 2 to place a deck 21' from the road, zoning ordinance requires 35' setback. Property is .28 acres located at 18 Forrest Ave., Map/Lot# 122/125, in the Resident Lake Zone.

The McCanns stated that they wished to continue with 3 members.

Mrs. McCann stated that the Board had the application, and should understand why they want to put the deck on. The house, itself, was not 35' from the road, and was built in 1961. They would like to use the door on the porch, but could not afford to build the deck when they put the foundation under the house. They want to be able to access the porch and put a grill on the deck. The deck would not be big, and trees would shelter it from the road.

Mr. Abbott clarified that the lot frontage was more than stated on the application.

Mr. McCann stated that the new deck will step down from the existing porch and have steps to get off the deck. The framing members will be 16 1/8th inches apart.

Mr. Abbott asked how they found out they needed to come to the ZBA. Mr. McCann said the clerk explained the process to them when he came for a building permit.

Mr. Abbott said he wanted to know if there was anytime one needed to get their septic checked. He knew it was not needed for the deck project because the size of the house would not be increased, but this house had a foundation put under it and the office had no record of a septic system or building permit.

Mrs. McCann said she has kept every record, including building permits & septic evaluation.

Mr. Abbott asked if they would give copies to the office for the record. The McCanns said

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they would.

Mr. Abbott stated that zoning set-backs are for public safety and ascetics. They keep the road safe and enable the ability to see around corners.

Ms. Hackett expressed her concern that if the porch was insulated it would become living space, which is not allow under the Ordinance. She asked if the applicants would have an issue with a condition stating the new deck could not be enclosed or become living space.

Mr. & Mrs. McCann stated that they would have no problem with the condition and would not be enclosing the deck spaces.

Ms. Hackett said she could understand why a larger deck was wanted.

Mr. Levesque moved to close Public Hearing Case #2012-00009 – Daniel & Sherry McCann, owners

Seconded by Mr. Abbott. **Motion passed unanimously.**

DELIBERATIVE SESSION:

Case #2012-00009 – Daniel & Sherry McCann, owners

Mr. Abbott had been concerned about the size of the lot, and lack of building and septic records. He stated that if the Town could get copies of those records for the files, he did not see how a new deck could harm property values.

MOTION:

Mr. Levesque moved to grant a variance in Case # 2012-00009 – Daniel & Sherry McCann, owners: from Zoning Ordinance Article IV Table 2 to place a 24' x 10' deck 21' from the road. Property is .28 acres located at 18 Forrest Ave., Map/Lot# 122/125, in the Resident Lake Zone.

- a. No diminution of value to the surrounding properties would be suffered by what is being purposed;
- b. That granting the variance would not be contrary to the public interest;
- c. Denial of the variance would not result in unnecessary hardship to the owner;
- d. Granting the variance would give substantial justice;

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e. **The proposed variance will not be contrary to the spirit of the Ordinance;**

CONDITIONS: Deck can never be enclosed.

Any steps can be placed no closer to Forrest Ave. than the deck itself.

The applicants have agreed to submit the paper work on the property septic and building permits that are not in the Town records.

Mr. Abbott seconded the motion.

Mr. Abbott said it was important that the documentation provided by the McCanns be verified. They should not be penalized or delayed as a result. But there is a 30 day waiting period which should be time for the documents to be supplied & verified.

Mr. Levesque was concerned that the building permit would not be issued if the documents were not produced, because the Board did not know the McCanns had the documents and planned to give the variance.

Ms. Hackett stated that it is the purview of the Board to make sure there is a septic, but the motion is not making it a condition.

Motion passed unanimously.

Ms. Hackett explained to the applicants that by law there is a 30 day window for the decision to be appealed, and the building permit cannot be issued. She suggested that no additional work be done before the permit was issued.

Mrs. McCann asked how long the variance was good (4 years), and the procedure for a building permit, which was explained by the clerk.

Mike Teunessen, who had come in during the deliberative session stated that he supported the McCann's application.

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APPROVAL OF MINUTES June 21,2012

MOTION: Mr. Levesque moved to approve the minutes of the June 21, 2012 meeting as amended. Seconded by Mr. Abbott. Motion passed unanimously.

OTHER BUSINESS

The clerk said she asked about ID badges for the ZBA members, and was told by Mr. Warren to wait until the new Chief of Police was on the job.

Ms. Hackett said that last week she attended the Planning Board meeting that was supposed to be about the table of uses, but only the planning survey was discussed.

There was a discussion about the survey and possible development of the A.E. Mitchell property.

Ms. Hackett attended the SB2 info meeting, but said being an SB2 doesn't really affect the procedures of the ZBA.

ADJOURNMENT: Motion made by Mr. Levesque and seconded by Mr. Abbott to adjourn, vote passed unanimously. Meeting adjourned at 8:19 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Clerk