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APPLICATION FOR A VARIANCE

BY: pd. #125

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Case No. 2023-05

Date Filed 3/3/23

 (signed - ZBA)

To: Zoning Board of Adjustment,

Town of Gilmanton

Name of Applicant Powell Revocable Trust of 2020, Luke Powel, Trustee

Address 234 Crystal Lake Road

Owner same as above

(if same as applicant, write "same")

Location of Property 234 Crystal Lake Road Tax Map 110 , Lot 036
(property address) (map & lot number)

NOTE: This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if the space provided is inadequate.

Application for a Variance

A variance is requested from article IV section Table 2 of the zoning ordinance to permit construction of a 16' x 9' pergola with a paver surface within the 35' front building setback.

Facts in support of granting the variance:

1. Granting the variance would not be contrary to the public **interest** because: the house was built in the late 1940's before the building setback ordinance took effect. The proposed pergola/patio is no further into the front setback than the house. Existing front yard landscaping is not affected with this proposal.

2. If the variance were granted, the **spirit** of the ordinance would be observed because: there is no further intrusion into the front setback and the pergola/patio is placed further back from the road than the front of the house and garage. The sense of breathing space and landscape appeal encouraged with a front setback is not affected.

3. Granting the variance would do substantial **justice** because:

It would maintain a reasonable use of the property without impacting the public benefit of the front setback - the proposed improvements are further from the road than the front of the garage and house and the front landscaping is not impacted.

4. If the variance were granted, the **values** of the surrounding properties would not be diminished because:

Many of the properties in the neighborhood have portions of their homes and decks well within the 35' front setback. Our proposed patio/pergola would be set behind an existing fence and as noted would not extend beyond the front of the house. This proposed use is in character with the neighborhood. No studies have been done to substantiate this assumption but it seems a reasonable observation.

5. Unnecessary Hardship

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in **unnecessary hardship** because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

Front setbacks allow for the "breathing space" of a neighborhood and provide opportunity for attractive street scapes in terms of landscaping aesthetics that benefit the public. Because zoning did not exist when the house was built the existing house and garage, like so many in our neighborhood, were set closer to the road than what the later adopted setback allowed.
- and -

ii. The proposed use is a reasonable one because:

it does not detract from the existing breathing space enjoyed in this neighborhood. Though encroaching 4' into the 35' front setback, the patio/pergola structures would not encroaching beyond the front of the house and garage that are already encroaching. The particular spot on the property for the proposed use lends itself well with topography to blend nicely with the existing rear brick walkway without having to do substantial grading modifications.

b. Explain how, if the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Please provide the following information regarding the subject property:

1. Is the land, building or structure in question located on a Class V road? Yes
2. What is the frontage of the lot? 158.50'
3. What is the height of the structure? the proposed structure is 10' 8" in height
4. Does the proposed construction involve the addition of any bedrooms to an existing home? No
5. Is a septic system design approval from the NH Department of Environmental services necessary for the proposed construction? No
If so, what is the State approval number? N/A

If the previous questions are not answered completely, the applicant may be notified that this appeal could be rejected for lack of information.

I understand that I must appear in person or be represented by my agent at the public hearing. The agent who represents me at this hearing must be familiar with the case and I agree to be bound by his or her testimony.

By signing this application, you as owner or applicant representing the owner, hereby give permission for any member of the Zoning Board of Adjustment or Conservation Commission, to enter onto the property in order to make a decision based on attributes of the property.

Applicant Luke Powell *Luke Powell* Date 3-01-2023
(Signature)

Applicant _____ Date _____
(Signature)

If your variance is granted, the building permit will be issued no sooner than 30 days following the decision in order for the appeal process to expire.

234 Crystal Lake Road



6-25-2022: Northerly view taken from garage. The proposed pergola/patio is between the fence and brick walkway. The grade stakes are approximate locations of the vertical posts.



6-25-2022: Northwesterly view of proposed pergola/patio. The slope drops from the closer edge of the brick walkway.



20 foot Abutters List Report

Gilmanton, NH
February 27, 2023

Subject Property:

Parcel Number: 110-036-000
CAMA Number: 110-036-000-000-000
Property Address: 234 CRYSTAL LAKE RD

Mailing Address: POWELL, LUKE P & DONNA E TRSTS
POWELL REV TRUST OF 2020
234 CRYSTAL LAKE RD
GILMANTON IW, NH 03837

Abutters:

Parcel Number: 110-002-000
CAMA Number: 110-002-000-000-000
Property Address: 231 CRYSTAL LAKE RD

Mailing Address: SILVER, DAVID M
231 CRYSTAL LAKE RD
GILMANTON IW, NH 03837

Parcel Number: 110-013-000
CAMA Number: 110-013-000-000-000
Property Address: 244 CRYSTAL LAKE RD

Mailing Address: ADAMS, GARY L & TERRY L TST ADAMS
FAMILY 2019 TRUST
PO BOX 531
ALTON, NH 03809

Parcel Number: 110-035-000
CAMA Number: 110-035-000-000-000
Property Address: 179 PINE CIR

Mailing Address: BROOKS TR, RONALD E & DAWN G
BROOKS REV TRST OF 2022, RONAL
179 PINE CIR
GILMANTON IW, NH 03837

Parcel Number: 110-037-000
CAMA Number: 110-037-000-000-000
Property Address: 230 CRYSTAL LAKE RD

Mailing Address: REED SR, DONALD A & DIANE
PO BOX 7626
GILFORD, NH 03247



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