

Zoning Board of Adjustment

December 1, 2015

Memorial Building

7:00 p.m.

These are to be considered draft minutes only until approved by the board at their next meeting

Members Present: Susan Chiarella, Bryan O' Day, Justin Hastings, Peter Abair and alternates, Jim Bednar and Tamara Butcher

Others Present: Scott Hazelton, Doug Albanese, Laura Hazelton, Pat and Bill Macdonald, Leigh Callaway, Tom Duling, and Mark Brunelle.

Approval of November 3rd minutes- Bryan makes a motion, second by Jim all in favor and unanimously approved

Continued Hearing for Scott Hazelton- Susan called the meeting to order. Susan asked Mark Brunelle if he was aware of the application for the equitable waiver. Mark said he was not until he was asked to come. Susan brought Mark Brunelle up to speed on what has happened with the last meetings, site walk, and discussions. Susan explains the guidelines of the equitable waiver per the RSA and how it explains owner or former owner. Susan states that Scott was not aware that the house did not meet the setbacks. Mark Brunelle states it is news to him as well. He asked how many feet it was in violation. He stated that the house was 35' from boundaries. He also stated foundation was poured when Tom and Leigh went out. He said the corner pins were there and they were 35' from boundaries. He stated he paid his fine for not having a building permit but there had been lots of rain and they were pressed for time. Mark stated that nothing was done intentional. He said he does remember that the foundation hole was bigger than the house plan but nothing was intentional. He stated he was not there when the footings were poured. Bryan explains the discrepancies between building permit with the deck. Justin states that any work done behind the house would have been in violation. Susan asked Mark if he was aware of the town ordinance. Mark states that he is.

Scott asks if he can approach the board. Scott explains he is very frustrated. He also reads the RSA again as well as meeting minute highlights from the previous meetings. He feels he has proven without a reasonable doubt his case, as well as the former owner also came forward and has stated nothing was done intentional and that he was not aware he was in violation.

Susan explains this has been a frustrating case for everyone. Scott stated he did have a conversation with Chris and Chris feels he should get some reprieve from the town such as break on taxes.

Leigh stated he understands Scott's frustration at the Town, however if the town is at fault with anything it's trusting and believing that the right thing is being done, and it won't happen again.

There were no other comments or questions.

Bryan makes a motion to close the hearing and go into deliberation, Jim seconds all in favor.

Susan closes hearing at 7:40 and reads the RSA one more time to the board.

The board went over the following findings:

- (a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;

All testimonies confirm that violations were not noticed until after structure was totally completed

- (b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;

The current owner brought the issue forward, was not ignorance of the law, but error in measurements

- (c) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

The board did a site visit and could not prove that any other property values were diminished, nor a public nuisance. They felt that regardless of where the structure is that abutters could be seen.

- (d) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

The board felt that the house is all built with the foundation and would be a tremendous cost to meet setbacks.

Justin makes a motion to grant equitable waiver, Pete seconds, all in favor and unanimously approved.

Minutes submitted by,
Susan Abair