

Town of Milton
424 White Mtn Highway
Milton NH, 03851



Zoning Board of Adj.
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Meeting Minutes
July 26, 2018
6:00 PM

Members in Attendance: Brian McQuade, Larry Brown, Steve Baker, Andy Rawson Alt. Also in Attendance Dana Crossley Land Use Clerk

Excused Members: Michael Tabory, Stan Nadeau, Chris Jacobs Alt.

Public Attendance: Beverly Peters, Michael Grondin

Acting Chairman L. Brown called the meeting to order at 6:00pm. (In the absence of the Chairman and Vice Chairman, board agreed that L. Brown should be the acting chair as he is the longest standing member)

L. Brown brought A. Rawson to the board as a full voting member in place of excused member M. Tabory.

Public Comment: None.

Continued Public Hearing: Case 2018-1 Request for a Variance from the provisions of article VII, first paragraph, and Article VII section D (2) of the zoning ordinance to allow for an expansion of a nonconforming structure and to allow an enclosed deck 5'-0" into the ten ft. side setback. Located at 39 Kingsbury Dr. Map 32 Lot 92 in the LDR, Applicant: Beverly Peters & Michael Grondin:

Beverly Peters & Michael Grondin were in attendance.

L. Brown explained to the applicant that the board has only 4 members tonight that a tie vote would be a loss, asked the applicant if they wanted a full board to hear the case or to move forward with a four person board. Applicant chose to move forward with a four member board.

Determination of Regional Impact: Board members were in agreeance that this is not a project of regional impact.

All fees have been paid.

Applicant Testimony: Michael Grondin explained that the deck moves towards the lake, the existing porch is four feet and is falling apart, not built to code. Want to remove that and extend seven feet beyond what is existing right now, (applicant provided pictures) they are across the street from the lake, not on the lake.

1. *The Variance will not be contrary to the public interest because:* Michael Grondin stated the proposed expansion will not be any closer to Lot #93 than the existing porch. There will be no view impairment because property behind the house is owned by the applicant. There are no health or safety concerns.

Opened to the public, No public comment. Closed public comment.

Board Discussion: S. Baker questioned if the deck was going to be on the second floor. (Michael Grondin replied yes, will still be able to drive under it, but they own the entire building. Explained the right hand side is where it problem is at, the stairway is actually on the property line but the deck sets in five feet off of the property line, going to continue in that same line.) S. Baker questioned if lot #93 had a house there. (Michael Grondin replied yes, Kirby Flanagan who submitted a letter to the board in favor of granting the variance could not attend because works nights).

Vote: A. Rawson- yes, S. Baker- Yes, B. McQuade- yes, L. Brown- Yes.

The variance will not be contrary to the public interest.

2. *The spirit of the ordinance is observed because:* Michael Grondin stated that the new construction will enhance the property and the neighborhood, it will not be any closer to Lot #93 and no views will be impacted.

Opened to the public, No public comment. Closed public comment.

Board Comment: S. Baker feels that any person who wants to improve their property in Milton is doing them a favor, A. Rawson was in agreeance. L. Brown addressed protecting neighboring properties, questioned if there is any concern raised with the spirit of the ordinance, noted it is difficult as they are a little lake and lots are tight a great deal depends on the courtesy offered to neighbors in a tight situation.

Vote: A. Rawson- yes, S. Baker- Yes, B. McQuade- yes, L. Brown- Yes

The spirit of the ordinance is observed.

3. *Granting the variance would do substantial justice because:* Michael Grondin stated that no conditions change if the request is granted, it only increases the value of the property. The general public gains nothing from the denial of this request.

Opened to the public, No public comment. Closed public comment.

Board Comment: L. Brown asked if any part is going to be enclosed, (Michael Grondin replied yes, all will be enclosed, hoping to put addition on and move here to live here full time, porch is too narrow now and is falling apart, would be a three season room, vinyl siding the same as the house, bring it up to code)

Vote: A. Rawson- yes, S. Baker- Yes, B. McQuade- yes, L. Brown- Yes

Granting the variance would do substantial justice.

4. *The values of surrounding properties are not diminished because:* Michael Grondin stated improving the current structure to the level of surrounding properties establishes a residential character.

Opened to the public, No public comment. Closed public comment.

Board Comment: No board comment.

Vote: A. Rawson- yes, S. Baker- Yes, B. McQuade- yes, L. Brown- Yes

The values of the surrounding properties are not diminished.

5. *Literal enforcement of the provision of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:* Michael Grondin stated that denial would unfairly affect him as other nonconforming properties in the area have been improved. Majority of all of their

neighbors have improved their homes and have nonconforming lots, trying to improve the property.

Opened to the public, No public comment. Closed public comment.

Board Comment: L. Brown the special conditions of the property is an awkward way to word it, the special condition is that the post is rotting, but may be speaking in a wider sense.

Vote: A. Rawson- yes, S. Baker- Yes, B. McQuade- yes, L. Brown- Yes

Literal enforcement of the provision of the ordinance would result in an unnecessary hardship.

a. Denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because: Michael Grondin stated that he is not decreasing the distance of the proposed porch to the boundary.

ii. The proposed use is a reasonable one because: Michael Grondin stated that it does not adversely affect the neighborhood and expansion meets setback on the other sides.

Opened to the public, No public comment. Closed public comment.

Board Comment: No additional comment.

Vote: A. Rawson- yes, S. Baker- Yes, B. McQuade- yes, L. Brown- Yes

Final Discussion: No further board discussion.

Final Motion: A. Rawson motions to approve the Variance Request submitted by Beverly Peter and Michael Grondin as requested. S. Baker seconds the motion.

Final Vote: A. Rawson- yes, S. Baker- Yes, B. McQuade- yes, L. Brown- Yes, all in favor, motion carried.

D. Crossley explained to the applicant that there is 30 days for anyone affected to appeal the decision made.

Review and Approval of Formal Notice of Decisions: Board reviewed the Formal Notice of Decision for the MiTeJo rehearing case, noted one spelling error to fix on the last page changing 'Nigh' to 'Night'. A. Rawson motioned to approve the formal Notice of Decision language for the MiTeJo Rehearing Case with spelling corrections, to authorize the acting chairman to sign and send to the applicant and place in the case file. B. McQuade seconds the motion, all in favor motion carried (4-0).

Discuss and Approve 2019 Budget Request: D. Crossley discussed the budget with the board, did not see a reason for the board to need to increase the budget. B. McQuade motions to approve the 2019 proposed budget of \$1,500. A. Rawson seconds the motion. All in favor motion carried.

Discussion and Approval of Minutes:

1. May 24, 2018 meeting minutes (B. McQuade abstained) – L. Brown motioned to table for a full quorum to vote on the minutes. A. Rawson seconds the motion, all in favor motion carried.

2. June 28, 2018 meeting minutes, B. McQuade motions to approve the minutes, A. Rawson seconds the motion, all in favor (S. Baker abstained) motion carried.

Other Business: No other business.

B. McQuade motions to adjourn. A. Rawson seconds the motion, all in favor motion carried meeting adjourned at 6:45pm.

Respectfully Submitted,

Dana Crossley, Land Use Clerk