

APPROVED AS AMENDED
Zoning Board of Adjustment
Meeting Minutes
July 12, 2017

Members: Filipi, Handy, Ernst, Wittenborg, Beede (alternate) and Wood (alternate)

Others Present: John Anderson for Ice House Point LLC, Paul Grasewicz, Susan Silverman, Selectman's representative, Dave White, abutter, Scott and Nancy Niemi, Matthew and Jennifer Masten

The Meeting was called to order by Filipi at 7:20 PM. Susan Wood was asked to take the minutes.

Ice House Point; LLC: Construction permit #17-06 forwarded by the Board of Selectman for an equitable waiver for the construction of a deck within the 20 foot side setback and heard as ZBA case #04-17.

Filipi asked the applicant and Mr. Grasewicz to come forward and present the application. Wittenborg announced that new materials have been provided because the application was incomplete and did not provide enough detail. The new information was given to the Board as the hearing commenced. Wittenborg said that procedure now requires that documents be submitted in advance so that they may be reviewed by members prior to the meeting, that if new substantive documentary information is given to the Board at the hearing the case may be continued to a later date so that the material may be fully considered prior to a hearing.

The applicant said that Debbie Favreau had requested "before and after" pictures which he did not have. Wittenborg asked for the dimensions of the waiver and it was pointed out that they were on the new sketch. A question was raised as to whether this property is a condominium. Anderson said that he and his partner Greg Johnson own the two condominiums together and Anderson receives one tax bill. Anderson says that he believes that the condominium documents were never finalized and recorded. Anderson introduced Dave White as his abutter who noticed the infringement and reported it.

Filipi made a motion for a site walk that was seconded and approved unanimously and scheduled for Thursday 6/15/2017 at 7:30 PM. The hearing was continue to 8:00 PM following the site walk, in the meeting room at Town Hall.

277 Fullam Hill Road, case # 03-17: Scott and Nancy Niemi, application for a variance to build a garage within the front setback of their property, Map 12, Lot 63-3, Rural District:

Scott Niemi described the constraints of his property and reviewed the application with the Board. It was noted that the Board had granted him a variance for a woodshed some years ago

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based on the physical limitations of the site. He said that the Eversource Power Line is very close to the house and makes it difficult to locate the proposed structure, that the land slopes sharply and much of the area on the south side of his property is wetlands. He said further, that the only building site that complies with the 75' setback is where the existing house is.

Filipi noted that the structure is 41' from Fullam Hill Road. Niemi said that they need a parking space beside the garage/barn. Filipi asked if there were any abutters present. There were none.

It was noted that the power line right of way through the property, the slope and the wetlands limit the location of the planned garage/barn.

Wittenborg made a motion to grant a variance. It was seconded and unanimously approved.

Filipi read the mandatory findings which were voted on as follows:

- a) The variance will not be contrary to the public interest; *The Board agreed unanimously.*
- b) The spirit of the ordinance is observed; *The Board agreed unanimously.*
- c) Substantial justice is done; *The Board agreed unanimously and noted that the location for which the variance is granted is the only likely option.*
- d) The values of surrounding properties are not diminished; and
- e) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The Board agreed to d) and e) unanimously.

The Variance is granted.

161 Gap Mountain Road, case # 02-17: Matthew and Jennifer Masten application for a variance to construct a desk and a stairway on their house within the 75' setback from Gap Mountain Road.

The Mastens provided a new elevation to the Board due to a design change and explained how they use the house. The door located on the second floor does not have stairs or lead anywhere, and was there when they bought the house. They explained that they knew the previous owner and were interested in buying it because it is the last house on a dead end gravel, road and had many advantages over the house they had in Keene. They have made cosmetic improvements to the house and the lot in the time that they have owned it, but now want to provide a safe and independent living space for the 19 year old seriously handicapped daughter who will never be able to live alone and in fact, can never be left alone.

Mr. Masten indicated that they are trying to adapt the existing building limitations to provide egress from the second floor that now has none. They have created a first floor space for their

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daughter that provides security and privacy for her and use the second floor as their own living space. The deck would provide a means of egress from the second floor.

Filipi asked where the 2nd floor door provided access to the home. Mrs. Masten said it leads to the kitchen on one side and a small bedroom on the other.

Ernst requested clarification of the location of the stairs and was shown the location on the elevation.

There was additional discussion indicating that the neighborhood and the Town itself were providing a very positive living environment for their handicapped child.

Filipi moved to vote on the Variance conditions. The Motion was seconded and approved unanimously.

Filipi read the mandatory findings as follows:

- a) The variance will not be contrary to the public interest; *The Board agreed unanimously noting that the variance will provide a safer living environment for the homeowners.*
- b) The spirit of the ordinance is observed; *The Board agrees unanimously.*
- c) Substantial justice is done; *The Board agreed unanimously noting that the deck and stairway construction provides a safer environment.*
- d) The values of surrounding properties are not diminished and
- e) Literal enforcement of the ordinance would result in unnecessary hardship; *The Board agreed unanimously to d) and e).*

The Variance is granted.

A Motion was made by Ernst to adjourn the meeting. The motion was seconded and approved unanimously and the meeting was adjourned by Chairman Filipi at 9:11 PM.

The Equitable Waiver of Dimensional Requirements is granted. Upon a motion to adjourn that was unanimous the Chairman adjourned the meeting at 9:11 PM.

*transcribed from original copy by Danica Melone 8/31/2017