

ZONING BOARD OF ADJUSTMENT

11 Main Street, Hampstead, New Hampshire 03841-2033

Minutes April 3, 2024

A meeting of the Zoning Board of Adjustment was held on Wednesday, April 3, 2024, at the Hampstead Town Hall, 11 Main Street, Hampstead, NH. This meeting was broadcast live on HCTV 16.

PRESENT: Randy Clark (Chairman), Proc Wentworth, Karen Hanides, Jaye Dimando, Kevin Hastings, alternate Rick McQuesten, and Chief Building Official, Kris Emerson.

Clark introduced the board members and announced the matters to be discussed at tonight's meeting. Clark explained the "findings of fact" worksheet to be completed by members are the hearing continues. Clark stated for example, this is current case is a corner lot with access from Grove and Ells. Clark stated he is curious what was considered the rear/side setbacks for this lot. Clark reviewed the "variance" worksheet that the board members need to complete for the hearing.

1. Election of Officers

MOTION: Dimando made a motion to nominate Clark Chairman.

SECOND: Wentworth

VOTE: 5-0

MOTION: Dimando made a motion to nominate Hanides for Vice-Chairman

SECOND: Wentworth

Hastings commented he would like to be Vice-Chairman as well

VOTE: 3 votes affirmative for Hanides (Hanides, Dimando, Clark) 2 votes for Hastings. Hanides was elected Vice-Chairman.

Clark appointed Soucy the ZBA Clerk/Secretary for recording.

2. Map 8A – Parcel 2 aka 8 Grove Drive request for variance(s)

Property owner, Kevin Daly, was in attendance to present his plan to the board, he started by providing board members with pictures of the property and explained the proposal for a replacement deck on the property. Daly stated his family has lived in Hampstead since 2016 and has done several improvements to the property including upgrades inside as well as new siding and windows. The deck is the latest project, it will be 16 x 16 with no stairs, a wide-open deck with rails facing Grove Drive. Daly stated the deck is set back approximately 25-feet, the other side is 20-22 feet, the Ells Road side is 30-35 feet. Daly stated that there are no blind spots or obstructions from the deck location, drivers will not be hindered by the location.

Daly stated there was a pre-existing deck on the structure that was the length of the entire garage. Daly referred to the pictures he provided to the board members and

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noted the location of the proposed deck. Daly stated the room above the garage is a bonus room/playroom for his child. The only access to the deck will be through existing sliders.

Dimando commented that the prior deck was 4 feet and the new deck is 16 feet; this is an additional 12 feet. Hastings commented the distance from the deck to Ells is 30-35 feet, Grove side is 25 feet, the abutter on the right is 20-22 feet away. Clark asked if the deck would be covered and Daly stated it would not, it is an open deck with no awnings, only rails. Daly commented that three cars front to back fit comfortably in his driveway.

Hanides questioned the setback on Ells Road, Clark reviewed the plan. Emerson stated he questioned which is the front versus rear as far as setbacks are concerned. Emerson feels this proposal is less offensive than the prior deck as the new deck is being pulled back. Emerson commented that there is already a vested footprint on the house.

Clark commented the proposal is for an open deck. Emerson stated the house is already 13 feet from Grove Drive. Hanides asked about the Ells Road side, Emerson scaled the plan and stated the proposal meets the side lot line setback. Emerson stated there could be a good argument for a Special Exception, discussing diminution of property value and spirit and intent of the ordinance.

Hastings commented that he didn't see any encroachment and the deck is being pulled back. Hanides commented that there is no roof, it is a deck with a driveway underneath, doesn't see a problem. Clark feels it is a room with an extension of a deck. Emerson commented it is a unique corner lot. Dimando commented that it is a two-story garage and Emerson stated the garage was built before zoning.

Chairman Clark stated he would like the applicant to present the five variance criteria to the board.

Daly stated there would be no diminution of value, he is actually increasing the value of his property which would increase the value of the neighborhood. Daly stated the deck would not be contrary to the public interest, he stated he spoke with his neighbors and no one had any objections. Daly stated the deck is not contrary to the spirit of the ordinance and he is before the board for approval. Daly stated the hardship is that he spent money to update his home and wants to enjoy the lake with his family. Daly stated that unless he gets a variance he could not build the deck. Daly stated substantial justice is done since he will be able to enjoy his property.

Clark had a question about the previous lot line adjustment. Daly explained that there was a vacant lot purchased and he and his neighbor each took half of the lot. Clark asked the board members if they had further questions. Daly confirmed again, there will not be a roof.

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The Chairman did not ask for public comment since no one was in attendance to comment.

MOTION: Hanides made a motion to approve the variance for a deck for property located at Map 8A Lot 2 in Recreation Zone B with a condition that there will be no roof over the deck.

SECOND: Wentworth

Soucy asked if by “accept” Hanides means to approve or grant the variance. The motion was amended to state “approve” versus “accept”. Clark stated he had no concern regarding the variance criteria and asked members to complete their worksheets. The board members discussed the merits of the case.

Clark stated a couple of facts of the case; corner lot, three times the size of surrounding properties. Clark agreed with Emerson that this case looks easy to meet the requirements of a variance.

Chairman Clark commented that he is not worried about this case, however, it is useful for ZBA members to discuss. Hanides commented if not for the special exception Daly may not have met the hardship requirement. Hastings commented that there was already an existing deck that was longer, this proposal brings in the deck, he feels it fits. Dimando commented that this proposal is bringing in both sides of the deck, the setbacks for the house are met, she doesn't see a problem. Wentworth commented he would approve since there is already an existing deck that is being replaced. Hanides commented that impervious is not an issue. Clark stated that lack of a roof is a big deal he has no problem.

Summary Findings of Fact

- Corner lot
- Three times the size of other lots in neighborhood
- Setbacks on dwelling are not changing
- Neighbors approve
- Proposed deck smaller in width than existing deck
- No roof
- Approximately 20 feet to left side (blue house) and 15 feet to right side (Grove Drive) and 49 feet to Ells Road
- No exterior stairs
- Deck will be setback from the house 3-4 feet.

VOTE: 5-0

Chairman Clark informed Mr. Daly that there is a 30-day appeal period. Daly stated he would wait the 30-days before starting any work.

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3. Review/Approve March 6, 2024 Minutes

MOTION: Dimando made a motion to accept the 3/6/2024 minutes as presented.

SECOND: Hanides

VOTE: 5-0

4. Adjourn

MOTION: Hanides made a motion to adjourn at 7:56 P.M.

SECOND: Dimando

VOTE: 5-0

Minutes prepared by Debbie Soucy, Secretary