

## ZONING BOARD OF ADJUSTMENT

Meeting Minutes

Recorded by Janice Pack

July 19, 2023

**Members Present:** Gil Morris, George Rainier, Jarvis Adams, Loren White, Tom Bascom, and Sheldon Pennoyer

The ZBA met at 6:30 PM at 74 Zephyr Lake Road, R6 Lot 20-2 for a Site Walk. In addition to the Board members present, Tim Briand was there as well as Ann Hayashi who is an abutter of the property. The Board looked over the property and spoke with Mr. Briand about his intention to build a deck off the front of the house. The Site Walk ended at 6:51 PM.

The Board reconvened at the Town Office at 7:00 PM and opened their meeting with Gil stating that they are here to look at an application for a Variance from Article 3, Section III Residential submitted by Tim and Sharon Briand of 74 Zephyr Lake Road. The Briands would like to build a deck which would be 44' from the road including the stairs. A drawing was provided.

Gil read through the application. **Loren moved to accept the application and Sheldon seconded. All were in favor; motion passed.**

Gil opened the Public Hearing at 7:17 PM.

Tim said he just wants to put an 8' wide deck on the front of his house. It will improve the looks and provide a safe place for his family. Because of the layout of the property, this is the safest place to put the deck.

Sheldon said after the site walk and seeing the property, it was apparent that what Tim was planning to do was consistent with the other homes in his neighborhood as there were plenty of examples that didn't meet the 100' setback. This would make the property no more non-conforming than it is now.

No one from the public was present to comment, so Gil opened deliberations.

George asked about the steps going on the side rather than the front of the deck. Right now, the steps are shown on the drawing coming from the front. Loren said it would be more difficult for a first responder to access the house with the steps off to the side. The Board moved on to the 5 Criteria addressed in the application. (*applicant's answers italicized*)

1. Granting the variance would not be contrary to the public interest because: *it will improve the value of the home and the overall look of the home.* **Tom moved to accept Criteria 1 and Sheldon seconded. All were in favor; motion passed.**
2. If the variance were granted, the spirit of the ordinance would be observed because: *the deck would be no impact to the road or right of way.* **Tom moved to accept Criteria 2 and Sheldon seconded. All were in favor; motion passed.**

3. Granting the variance would do substantial justice because: *it will advance the value of the home, and accessibility to the home.* **Tom moved to accept Criteria 3 and Sheldon seconded. All were in favor; motion passed.**

4. If the variance were granted, the values of the surrounding properties would not be diminished because: *it improves the appearance of the property, which improve the neighborhood looks. It will be very consistent with neighbors in the area.* **Tom moved to accept Criteria 4 and Jarvis seconded. All were in favor; motion passed.**

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 relation exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because: *the deck would provide a safe place for my young family to sit and enjoy the wonderful Greenfield.*

**Tom moved to accept Criteria 5.A.i and Sheldon seconded.** Discussion: Tom said this is where the strongest argument comes in for a substantial number of neighbors having built in the setback, and that it could be a hardship if this variance were denied. Loren said based on our site walk, the Board had the opportunity to verify that other properties in that zone on Zephyr Lake Road were similar. Gil agreed with the answer as the proposed deck would make the property no more non-conforming than the others in his neighborhood. Sheldon agreed that not all of the existing properties in that zone on Zephyr Lake Road met the setback requirements. By not allowing him to do this, it would create a hardship for the property owner. The Board discussed the placement of the steps especially in the instance given regarding first responder access. **Call the Question: All were in favor; motion passed.**

ii. The proposed use is a reasonable one because: *It will not impact any neighbors or public right of way; the back yard would be extremely high and unsafe (for the deck).*

**Tom moved to accept Criteria 5.A.ii and Sheldon seconded.** Discussion: The comment was that putting the deck on the front made more sense than putting it on the back. Loren said the cost of any aspect of improvement is not in our purview, only whether or not the intention meets the intent of the ordinance. Gil noted the conversation with a previous site walk where it was determined that the proposed deck was going in the best possible place. Sheldon noted that with the existing steps, the applicant could easily put a terrace out front without needing a variance. He's not asking to put a building out there, just a deck. He's increasing his tax base with the deck being attached to the building. **Call the question: All were in favor; motion passed.**

Sheldon asked if we needed to vote on the next Criteria since we passed Criteria A. It was noted that we do not vote on 5.B because he met the criterial for 5 i and ii. Sheldon said we have approved for the owner a variance to build a deck up to 44' from the road.

**Loren moved to grant the variance as it was presented. George seconded.** Sheldon clarified it is a construction of a deck and steps to a setback of 44'. **All were in favor, motion passed.**

The Public Hearing was closed at 7:52 PM

Mail: Tom read a new application received from Cyrus Delay of 1 Yankee Way, S1, 000020 asking for a Variance from Section III of the Zoning Ordinance to permit an existing shed to be expanded to approximately 5' from the property line. He would like to double the size of a shed from 8' x 8' to 8' x 16'. The Board did not have enough information to accept the application, and asked the Clerk to reach out to the applicant and ask for a site plan, sketch, and whether he is looking for relief from front yard or side yard setback requirements. What is the current distance from the house to the property line?

Minute: **Sheldon moved to approve the minutes of June 26, 2023 and Jarvis seconded.** Discussion: Jarvis noted that the 700' maximum was confusing. Sheldon suggested we change the word "maximum" to "recommendation". **Sheldon moved to approve the minutes as amended and Jarvis seconded. All were in favor except Loren who abstained.**

**Sheldon moved to approve the minutes of May 23, 2023 as written, George seconded. All were in favor; motion passed.**

Having no further business to discuss, **George moved to adjourn and Jarvis seconded. All were in favor; motion passed.** The meeting adjourned at 8:31 PM.