

These minutes are subject to possible corrections/revisions at a subsequent  
Exeter Zoning Board of Adjustment meeting.

## EXETER ZONING BOARD OF ADJUSTMENT AUGUST 21, 2012 MEETING MINUTES

Present:

Chairman: John Hauschildt  
Regular Members: Patrick Driscoll and Hank Ouimet  
Alternate Members: Rick Thielbar and Marc Carbonneau  
Building Inspector/Code Enforcement Officer: Douglas Eastman

The meeting convened at 7:00 PM.

AGENDA:

1. Case # 1436: Equitable Waiver of Dimensional Requirement - 13 Old Town Farm Road
2. Case # 1437: Variance request - 3 Winslow Drive - Encroachment of setback for deck

NEW BUSINESS:

1. Case # 1436: Equitable Waiver of Dimensional Requirements - 13 Old Town Farm Road

***The application of Jones & Beach Engineers, Inc. (on behalf of Michael Sherar and Sharon Freeman) for an Equitable Waiver of Dimensional Requirements to address an error in the minimum frontage requirement for the property located at 13 Old Town Farm Road. The subject property is located in the R-1, Low Density Residential zoning district. Tax Map Parcel #28-22.***

Mr. Jonathan Ring, P.E. with Jones & Beach Engineers, Inc. was present to address the Board on behalf of the Applicants. He acknowledged that Mr. Sherar was also present with him this evening. He identified the location of the subject property. He provided the history of the original subdivision plan for this neighborhood noting that it had been prepared by RSL Layout & Design in 1977, approved by the Planning Board in June 1978 and subsequently recorded at the Rockingham County Registry of Deeds as Plan #D-7889. Mr. Ring indicated that Lots #10 and #11 of this subdivision were conveyed from Kenick & Tomlinson to the Applicants' father in 1982. He explained that his clients had inherited the land after their father's passing two years ago and had subsequently retained the services of his firm. He noted that he had submitted an application to the Planning Board for a lot line adjustment and the creation of a private right-of-way (ROW) to provide the required frontage for the rear property (Lot #4-11). Mr. Ring indicated that their recent field survey performed had determined that the true frontage for the subject property (Lot #4-10 as depicted on the subdivision plan) was actually 172.03 feet, and not 200-feet as depicted on the original subdivision plan. He pointed out that the location of Lot #4-11 was to the rear of the subject property.

Mr. Ring proceeded to address the criteria for Equitable Waiver of Dimensional Requirements in accordance with RSA 674:33-a. He presented justification for each of the criteria noting that the violation had not been noticed or discovered over the last 35 years and was not the outcome of ignorance of the ordinance. Mr. Ring stated that granting of the equitable waiver would not diminish the value of other properties in the area, nor would it adversely affect any permissible future uses of the property. In

conclusion he indicated that it would be inequitable to require the violation to be corrected given it has existed for such a long period of time.

There being no questions from the Board, Chairman Hauschildt opened the hearing for public comment.

Mr. Peter Clark, 17 Old Town Farm Road, inquired about the proposed access to the rear lot and the potential for two driveways located within the 172-feet of frontage along Old Town Farm Road. Mr. Ring responded that there was potential for two driveways but the appropriate review of that issue would be by the Planning Board.

There being no further testimony, Chairman Hauschildt closed the public portion of the hearing and the Board moved into deliberation.

### *DELIBERATIONS*

**MOTION:**     ***Mr. Ouimet moved to grant the request for an Equitable Waiver of Dimensional Requirements, as presented.***

***Mr. Thielbar seconded.***

**VOTE:**   ***Unanimous.***

2. Case # 1437: Variance request. 3 Winslow Drive – Setback Encroachment for deck

***The application of Lyndsay and Adam Goss for a variance from Article 7, Section 7.5.6 D. to permit a raised deck and stairs to encroach within the required minimum rear yard setback. The subject property is located at 3 Winslow Drive, in the R-2, Single Family Residential zoning district. Tax Map Parcel #95-79-21.***

Mr. Jonathan Ring, P.E. with Jones & Beach Engineers, Inc. was present to address the Board on behalf of the Applicants. He acknowledged that Ms. Goss was also present in the audience. Mr. Ring identified the location of the property, noting that it was Lot #24 in the Linden Commons subdivision off of Linden Street. He presented an enlarged copy of the subdivision plan which depicted the building setbacks and the required 50-foot perimeter buffer located between the subject property and the abutting Exeter River Cooperative mobile home park.

Referring to the plan submitted with the application, Mr. Ring reviewed the location of the existing home on the property and the request to place a deck to the rear of the structure within the required 20-foot rear yard setback. He provided the Board with photographs and explained that the deck would provide a safe egress from the living space to the rear yard. He proceeded to address the criteria for granting the variance and presented facts supporting the request.

Mr. Ouimet asked for clarification of the 50-foot perimeter buffer. Mr. Ring responded that the vegetated perimeter buffer was part of the Linden Commons property and would be conveyed to the Homeowners Association eventually as part of their open space. He noted that the buffer was a requirement set forth in the Subdivision and Site Plan Regulations for Open Space developments.

Mr. Ring stated that if granted, the deck would not be any closer than 11.9-feet from the rear property line. He mentioned that the home had originally been constructed with the deck, and a Certificate of Occupancy was issued. However, the violation was discovered by the mortgage company prior to closing; the deck was subsequently removed to enable the Goss' to close on the property and move in.

Mr. Driscoll asked for clarification on the size of the deck. Mr. Ring responded that the size of the deck was 10' x 12' as depicted on the plans. Mr. Carbonneau asked how many houses were to be constructed in the subdivision and inquired if any due diligence had been done to determine if there are other lots that have been developed that may need a similar type of relief. Mr. Eastman confirmed that a total of twenty-four new homes would be constructed and currently there were no other potential issues.

There being no further discussion and no public testimony, Chairman Hauschildt closed the public hearing and the Board moved into deliberations.

#### *DELIBERATIONS*

**MOTION:** *Mr. Thielbar moved to grant the variance request, as presented, noting that the Applicant had demonstrated compliance with the criteria.*  
*Mr. Driscoll seconded.*  
**VOTE:** *Unanimous.*

**APPROVAL OF MINUTES:** June 19<sup>th</sup>, 2012.

**MOTION:** *Mr. Driscoll moved to approve the minutes of June 19<sup>th</sup>, 2012, as presented.*  
*Mr. Thielbar seconded.*  
**VOTE:** *Unanimous. Messrs. Ouimet and Carbonneau abstained.*

#### **OTHER BUSINESS:**

Chairman Hauschildt announced that the 2012 LGC Fall Municipal Law Lecture Series was coming up quickly with dates in September and October. He indicated that Ms. McEvoy would be e-mailing the information to all Board members, and encouraged anyone interested in attending to sign up. He noted that the Town, as in the past, would reimburse the registration costs for all members who attend.

**MOTION:** *Mr. Thielbar made a motion to adjourn.*  
*Mr. Carbonneau seconded.*  
*The motion passed unanimously.*

The meeting adjourned at 7:35 P.M.

The next meeting of the Exeter Zoning Board of Adjustment will be Tuesday, September 18, 2012 at 7:00PM in the Novak Room at the Exeter Town Offices.

Respectfully Submitted,

Barbara S. McEvoy  
Deputy Code Enforcement Officer  
Planning & Building Department