

Minutes of the Antrim Zoning Board of Adjustment meeting August 31, 1993.

Present: Helene Newbold, Chairman; Robert Bryer; Paul Matthes; Boyd Quackenbush and Alternate A. Fred Anderson sitting for the vacant seat.

Chairman Helene Newbold opened the meeting and introduced the Board as noted above.

George E. Huntington Jr.: Concerning a request for a Variance to Article VIII, Section C.1.c. of the Antrim Zoning Ordinance. The applicant wishes to build a deck within the waterfront setback at his property on Franklin Pierce Lake in the Lakefront Residential District. (Tax Map #7 Lot #1223)

Chairman Newbold outlined the procedure to be followed for the meeting and the rules for appeal of any decision made by the Board. She also read the Article in question. (Article VIII, Section C.1.c.)

The Secretary read the Application and noted that it had been published in the Peterborough Transcript 8/19/93 and mailed to abutters return receipt requested. All receipts have been returned. Mr. Huntington had provided a letter outlining his case which was read by the secretary. (Copy attached) In his letter Mr. Huntington referred to N.H.R.S.A 674:53 (III)(a), (copy attached) which applies to property located in two political districts, i.e. the Hillsborough Town Line crosses this property. Mr. Huntington also address the five criteria for granting a Variance in the following manner:

1. The proposed use would not diminish surrounding property values because the improvement would make the cottage and versatile.
2. Granting the Variance would be of benefit to the public interest by making the cottage more attractive, or complete; i.e. finished.
3. Denial of the Variance would result in unnecessary hardship to the owner. The deck will provide a primary or secondary fire escape for the whole structure.
4. Granting the Variance would do substantial justice by correcting the oversight of the original denial of the building permit.
5. The proposed use is not contrary to the spirit of the Ordinance:
  - a. Article VIII, C.3.c. Town of Antrim
  - b. New Hampshire R.S.A. 674:53, III(a) and V(a)

Paul Matthes asked Mr. Huntington about the dimensions of the deck and discussed the sideline setbacks. Mr. Huntington stated that this will also be used for a fire exit on the bedroom side of the cottage which is 6 to 8 feet above the ground now and the deck would provide an exit from those bedrooms through the windows. The Chairman closed the public portion of the hearing and the Board addressed the five criteria for granting a Variance.

1. The Board unanimously agreed that the deck would be an asset as it would provide a fire exit.
2. The Board unanimously agreed that it would be of public benefit.
3. The Board unanimously agreed that the sideline setbacks would not allow a deck in those locations, and that the Town Line was also an issue.
4. The Board unanimously agreed that substantial justice would be done by granting the permit.
5. The Board unanimously agreed that this is a grandfathered situation and is not contrary to the spirit and intent of the Ordinance.

Helene Newbold made the motion to approve the Application of George E. Huntington, Jr., Tax Map 7 Lot 1223 for a Variance to Article VIII, Section C.l.c. to build a deck within the setback from the highwater mark on Franklin Pierce Lake as shown on the plan presented. The Board finds that all conditions for granting a Variance have been met. Second Paul Matthes. The vote: Paul Matthes, yes; Robert Bryer, yes; Helene Newbold, yes; Boyd Quackenbush, yes; A. Fred Anderson, yes. So moved unanimously.

Gaylen T. and Janet B. Sawyer 8:05 P.M.: The Applicant did not appear, therefore the Board unanimously agreed to take no action. Case closed.

Chairman Helene Newbold tendered her letter of resignation because of personal responsibilities. The Board accepted the resignation with regret. Helene's term would normally be up in 1994. The fact that the Board is now two members short was noted. The subject of a new Chairman was raised and the consensus of the Board was to delay the election of a new Chairman for the time being.

Respectfully submitted,  
Barbara Elia, Secretary

11 Sullivan Drive  
Granby, CT 06035  
August 11, 1993

Chairman Helene Newbold  
Zoning Board of Adjustment  
P. O. Box 517  
Antrim, NH 03440

Dear Chairman Newbold:

In reply to letter from Arthur Stenberg to the undersigned dated July 21, 1993, we hereby request a variance to the terms of Article VIII Sec C.3 and that said terms to deny a building permit for extension/remodeling of the deck do not come under the guidelines on the property in question, (Antrim tax map 7 Lot 1223) and is not applicable because:

1. The 100 foot setback from Franklin Pierce Lake does not apply in this case since Antrim has no lake frontage for this property.
2. The entire lakefront is within the Town of Hillsborough to whom we pay separate taxes (Hillsborough tax map 21 Lot 028).

Further, it would seem that New Hampshire code "Land Affected By Municipal Boundaries" Sec. 674: 53 (III)(a) which says that "all uses of land, buildings, or structures shall comply with the regulations or ordinances of the municipality in which they are located", establishes clearly that Antrim is solely responsible for resolving this problem, without participation of Hillsborough. The code further establishes in (V)(a) of the same code "the fact that a lot, tract or site straddles a municipal boundary, or that the requirements of one municipality are proposed to be fulfilled by the use of land or improvements in a adjoining municipality shall not be the sole grounds for disapproval of any application".

We believe that the five conditions required to grant this variance are met as follows:

1. The proposed use would not diminish surrounding property values because the improvement will make the cottage more valuable and versatile.
2. Granting of the variance would be of benefit to the public interest by making the cottage more attractive, or complete.. l.e; finished.
3. Denial of the variance would result in unnecessary hardship to the owner. The deck will provide a primary or secondary fire escape for the whole structure.

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4. Granting the variance would do substantial justice by correcting the oversight of the original denial of the building permit.
5. The proposed use is not contrary to the spirit of the ordinance:
  - (a) Article VIII C.3 (C(c) Town of Antrim
  - (b) New Hampshire 674: 53 III (a) and V (a)

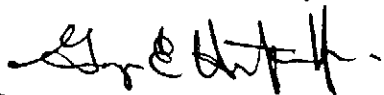
In all fairness to Mr. Arthur Stenberg, who has been fully cooperative with us, we believe that the denial of our application for a building permit was not deliberate, but was the result of misinterpretation of the only plot plan available to us to show the extension for the existing deck and the compactness of the dimensioning thereto, because of the scale (40:1) chosen by the surveyor for purposes of displaying the whole area and easements.

The abutters to the property are: Estate of Marilyn Whitney  
c/o Douglas Whitney, Executor  
P. O. Box 435  
Peterborough, NH 03458

The Estate owns the undeveloped land on either side of the property in question.

If there is any further information needed, please advise.

Very truly yours,



George E. Huntington, Jr.

Enclosures: Application for Variance  
Plot Plsn with Proposed Deck Modification  
Copy of Stenberg letter  
Check in the amount of \$49.79

(a) The applicant may petition the respective local land use board each such municipality to proceed with the application on a joint basis, upon such petition, joint hearings or meetings shall be held throughout application process. However, each board may meet separately to confer take final action upon the application, but may not condition final approval upon the receipt of information not previously requested at a joint hearing or meeting.

(b) Not less than a quorum of each involved land use board shall attend the joint hearing or meeting, and the members who attend the joint hearing or meeting shall have the authority of the full board over that applicator the alternative, the full board may attend the joint hearing or meeting. Land use board shall be responsible for rendering a decision on the subject matter within its jurisdiction.

(c) The board members present at such a joint meeting or hearing shall select an interim chairman from among such members, who shall prescribe rules of procedure, subject to alteration by the members present, but consistent with RSA 676.

VII. Whenever a subdivision plat or site plan submitted to a planning board includes land whose only maintained public highway access to Class I and II highway system is via a Class IV or V highway maintained another municipality in the state, the local governing body and planning board, if any, of that other municipality shall be deemed "abutters" for purposes of notice under RSA 676:4. A planning board may, by regulation, forth additional circumstances in which notice to adjoining municipalities required. A planning board, in determining whether an application satisfies its regulations, may consider the effect of the proposal on adjoining municipalities.

#### HISTORY

Source. 1989, 381:1, eff. Aug. 4, 1989.

### CHAPTER 675

#### ENACTMENT AND ADOPTION PROCEDURES

#### Zoning Ordinance, Historic District Ordinance and Building Code Enactment Procedures

#### 675:2 Method of Enactment in Cities and Towns Operating Under Town-Council Form of Government.

I. In cities or in towns operating under the town council form of government, and in counties in which there are located unincorporated towns or unorganized places, the local legislative body shall determine the manner in which a zoning ordinance, historic district ordinance, or building code

amendment, or a building code may be placed on a ballot separate from that used to elect city or town officers. The planning board shall forward to the town clerk all proposed amendments to a zoning ordinance, historic district ordinance, or building code not later than the fifth Tuesday prior to the for electing city or town officers. [Amended 1989, 266:25. 1990, 54:1, eff. June 5, 1990.]

o change in paragraph II.]

#### HISTORY

enactments—1989. Paragraph I: Inserted "and in counties in which there are located unincorporated towns or unorganized places" following "government".  
1990. Paragraph I: Added the second sentence.

#### ANNOTATIONS

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ed in Bedford Residents Group v. Town of Bedford (1988) 130 NH 632, 547 A2d 225

§3 Method of Enactment in Certain Towns and Village Districts

o changes in paragraphs I-IV.]

Official copies of the final proposal to adopt or amend the zoning ordinance, historic district ordinance, or building code shall be placed on file and available to the public at the town or village clerk's office not later than the fifth Tuesday prior to the date when action is to be taken. An official copy of the proposal shall be on display for the voters at the meeting place on the day of the meeting. [Amended 1990, 54:2, eff. June 5, 1990.]

o changes in paragraphs VI-VIII.]

#### HISTORY

amendments—1990. Paragraph V: Substituted "not later than the fifth Tuesday" for "4 days following "office" in the first sentence.

§4 Method of Enactment by Petition.

o changes in paragraphs I and II.]

Each petitioned amendment shall be placed on a ballot which may be placed on the ballot used to elect town or village district officers. A petition on the ballot stating the planning board's approval or disapproval shall immediately follow the question's description. Any petitioned question shall have an affirmative vote of a majority of the legal voters present and shall be adopted, except as provided in RSA 675:5. The planning board shall forward to the town or village district clerk all proposed amendments to a zoning ordinance, historic district ordinance, or building code not later than the fifth Tuesday prior to the date for electing town or village district officers. [Amended 1990, 54:3, eff. June 5, 1990.]

(a) The building inspector, planning board, or their designee may prepare an amendment to those portions of the local building code that or that make insertions in, deletions from, or exceptions to, codes. No amendment to the local building code except as may be made to effect the substitution of revised national codes or code provisions or provisions previously adopted shall be adopted using the procedure of this paragraph.

(b) The planning board shall hold a public hearing on the proposed code or revision, with notice as provided in RSA 675:7. Such notice shall include information stating where the proposed local building code amendment and the new or amended national codes or code provisions are available for public inspection.

(c) Following such hearing, the update or revision shall be approved upon approval by the selectmen and recording with the town clerk. VII. The local legislative body of a county in which there are incorporated towns or unorganized places shall determine the codes which and whether the codes listed in paragraphs I and II shall be by reference.

#### HISTORY

Source. 1983, 447:1. 1989, 70:2, eff. June 18, 1989; 266:24, eff. July 1, 1989. Amendments—1989. Amended section generally by ch. 70. Chapter 266 added par. VII.

Effect of 1989, Chapter 70 amendment on existing local building codes. I June 18, 1989, provided that any local building code enacted or amended by a municipality in accordance with existing law prior to June 18, 1989, shall remain in effect until repealed; and, provided further, that any local building code enacted or amended by a municipality after June 18, 1989, shall be in conformance with the provisions of the code as amended by 1989, 70:2.

#### LIBRARY REFERENCES

New Hampshire Practice

13 N.H.P. Local Government Law § 900.

### Land Affected by Municipal Boundaries

#### 674:53 Land Affected by Municipal Boundaries.

I. An owner of contiguous land which is located in more than one municipality may treat a municipal boundary line as an existing boundary line for lots, tracts, sites or other divisions of land for purposes of this chapter if the existing or proposed use of land or arrangement of structure in the existing or proposed use of land or arrangement of structure in the municipalities requires and is dependent upon land or improvements located in the other municipality or municipalities in order to fully

11. Upon receipt of an application for a permit or approval under this chapter, the applicant shall file a plan showing the proposed subdivision, development, or change of use of a lot, tract, site or other division of land whose boundary or portion thereof is a municipal boundary line, a municipality shall inquire in writing to the appropriate administrative officials in the adjoining municipality or municipalities as to the existence of facts which, under paragraph I, would preclude such subdivision, development, or change of use. Response shall be made to such inquiries within the period provided by this title for approval or disapproval of the underlying application. A response which invokes an ordinance or regulation of such a nature as to require an appeal in that adjoining municipality in the same manner as any other administrative decision.

III. An owner of contiguous land in more than one municipality may treat such contiguous land as a single lot, tract, site, or other division of land for purposes of this title, notwithstanding the municipal boundary line, provided that:

(a) All uses of land, buildings, or structures shall comply with the regulations or ordinances of the municipality in which they are located.

(b) When an owner has fulfilled or proposes to fulfill the requirements of one municipality, through the inclusion of land or improvements located in an adjoining municipality, such owner or his successors shall not thereafter use that land or those improvements in a manner such that those requirements of the first municipality are no longer fulfilled. This paragraph may be enforced by the municipality whose requirements are to be fulfilled.

IV. No plat or plan showing land or streets in more than one municipality in the state shall be deemed approved for purposes of this title unless it has been approved by the planning boards of all included municipalities in which the planning board has been granted authority over approval of that type of plat or plan.

V. With respect to a proposal for the use of contiguous land in more than one municipality:

(a) The fact that a lot, tract, or site straddles a municipal boundary line and that the requirements of one municipality are proposed to be fulfilled by use of land or improvements in an adjoining municipality, shall not be a sole ground for disapproval of any application.

(b) A planning board may waive or vary its regulations with respect to access or interior roads in order to provide better harmony with the regulations of an adjoining municipality, whenever strict compliance would be unreasonable in light of the overall design of a proposal.

VI. When local land use boards from more than one municipality have jurisdiction over a proposed use, subdivision, or development of property