



TOWN OF JACKSON

OFFICE OF THE SELECTMEN

COPY

November 23, 2011

To: The Jackson Zoning Board of Adjustment

The Jackson Board of Selectmen does hereby motion for a request of rehearing in the Case of re Application of a Variance by Kevin and Patricia Dickie, No 2011-06.

The Board of Selectmen finds the decision made by the Zoning Board of adjustment to be unlawful and unreasonable based on the following grounds and reasons by way of answer to the Zoning Board of Adjustment's statements of background and findings of fact. Zoning Board of Adjustment's statements appear in italics.

1.4. The reframing work on the 2nd floor includes replacing the existing inadequate framing in order to meet current building code and provide for greater insulation. The building inspector noted that reframing of the existing 2nd floor to code will result in an increase in volume due the added height required for the new frame under current building codes. Pursuant to Section 2.2.3, a volume increase is permitted when the change is dictated by considerations of safety, snow disposal or building code requirements and the change does not increase the interior livable floor space within the structure or building.

The proposed volume increase is not required to meet considerations of safety, snow disposal or State Building Code requirements and the change does increase the interior livable floor space within the structure of the building.

1.5. The Applicant has proposed moving the walls of the 2nd floor approximately 2' in the direction of the front and 2' in the direction of the rear of the building. This would increase the 2nd floor area to be 20'x 20' from 16'x 20' (400 sq ft from 360 sq ft). The new walls locations are required in order to accommodate larger windows. The existing windows do not meet the emergency egress standards.

The proposed windows are not required by the State Building Code and do not have to meet emergency egress standards.

1.6. The Applicant has proposed extending the outside deck located in the back of the building so that it extends along the back of the building (in a northeasterly direction) and 4' beyond the side of the building into the driveway area. The purpose of the extension is to provide a 2nd means of egress from the building. The existing deck does not have a way off the deck without jumping down the steep drop-off towards the back. With the extension, egress to ground would be possible in the event the front door was inaccessible.

The State Building Code does not require a 2nd means of egress off the rear of the building onto the deck.

3.2. The existing building did not meet current building codes and did not provide for proper egress from the 2nd floor or a safe second means of egress from the building to ground.

The existing building is not required to meet current building codes and further it is possible to provide for a safe 2nd means of egress from the building to the ground without making the building more non-conforming.

3.4. The requested variance is not contrary to the public interest. The Proposed Changes do not unduly and to a marked degree violate the basic zoning objective.

The standards used to grant this variance could be applied to many other homes in Jackson and that would have the effect of changing the Zoning Ordinance, therefore, is contrary to the public interest.

3.5. The requested variance is in the spirit of the ordinance. The Proposed Changes are being driven by safety and building code considerations and overall do not violate the spirit of the ordinance. The original foot print of the building is preserved and no additional rooms, floors or spaces are created.

The proposed changes are not necessary in order to be in compliance with the State Building Code and result in a volume increase that does violate the spirit of the ordinance.

3.6. By granting the variance, substantial justice is done. The variance strikes a balance between the challenge of addressing current building codes and the issue of increasing the volume of a non-conforming structure located entirely in the set-back.

The proposed changes are not requirements of the State Building Code.

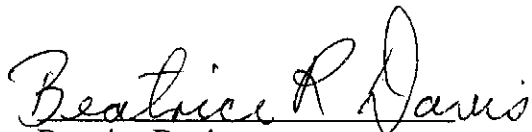
3.8. Failure to grant the variance would result in an unnecessary hardship. Given the


difficult location building and topography of site, the Proposed Changes are reasonable requests to provide for safe egress from the 2nd floor and building.

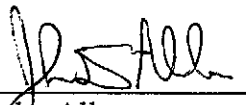
Means of egress could be addressed by changes that would not make the building more non-conforming.

Whereas the Jackson Board of Selectmen finds substantial errors in the statements of background and fact presented by the Zoning Board of Adjustment and whereas we have new information that counters the information originally presented to the Zoning Board of Adjustment at the Public Hearing we respectfully request a rehearing of this Case.

Signed,


Beatrice Davis


Jerry Dougherty III


John Allen

Jackson Board of Selectmen