

APPEAL OF ZBA NOTICE of DECISION

To:
Board of Adjustment,
Town of Jackson

Name of Applicant:
Board of Selectmen,
Town of Jackson

Location of Property
35 North Hampshire Ridge Road, Map V07 123
(street, number, sub-division & lot number)

APPEAL FROM ZBA DECISION

Decision of the zoning board to be reviewed
Case 2012-02: Robert Ruppel Variance concerning Map V07, Lot 123

Reasoning behind requesting an appeal:

In granting variances the ZBA must establish ALL of the following:

1. The variance must not be contrary to the public interest.
2. The spirit of the ordinance is observed.

Of course all Zoning laws are established to protect 'the public interest'.
I would suggest that in granting this variance it is possible that the Town may bear liability for damage to this structure incurred during the normal course of road maintenance/ snow removal. The construction of this structure could potentially undermine the road surfaces as it is proposed to be constructed in to the slope of the road. The construction of this garage could block sight lines on the road, potentially creating a blind driveway hazard. For these reasons I believe the ZBA should reconsider their decision.

Do not write in this space.
Case No. _____
Date Filed _____
_____ (signed - ZBA)

3. Substantial justice is done.

I would suggest the potential benefit to the applicant outweighs the potential harm to the general public. Therefore I believe the ZBA should reconsider their decision.

4. The values of surrounding properties are not diminished.

I saw no testimony to support an argument either for or against this during the hearing.

5. Literal enforcement of the ordinance would result in unnecessary hardship.

I cannot see a hardship for the property owner. There are other locations on this property where the proposed structure could legally be constructed without the need to obtain a variance. Even IF there were no other locations for the construction of a garage the ordinance does not prevent the applicant from continuing to use this property as a single family home. The granting of a variance is a "safety valve" to prevent a Town ordinance from depriving the property owner from reasonably using his land- thus preventing an unconstitutional taking. I would suggest the ZBA reconsider their decision as the garage could lawfully be constructed on this property without having to seek a variance.

Applicant Andrew Chalmers Date 4/19/2013

Andrew C. Chalmers, Building Inspector/ Code Enforcement Officer, acting on behalf of the Board of Selectmen