

## Town of Jackson Board of Adjustment

### Notice of Decision

Case 2015-02-A: Application for a Variance to allow construction of a deck and roof or construction of a ramp within the proscribed setback at 200 Tin Mine Road, (parcel V10 Lot 33A).

Decided January 20th, 2016, Decision Published January 28th, 2016

#### Background

- 1) This concerns the approximately 0.36 acre parcel at 200 Tin Mine Road, (parcel V10 Lot 33A) owned by David A. Caldwell Jr. and Christina R. Caldwell (the "Applicant") per deed dated 4/26/2013 and recorded at Book 3074 Page 315. A building permit for a deck was denied and Applicant filed an application for a variance.
- 2) On April 10, 2015, the Applicant amended the application by providing revised plans showing the the 19 ft. x 6 ft. deck modified to be a ramp in support of a RSA 674:33, V. variance for a person with a recognized disability who regularly uses the premises.
- 3) See prior decision of the Board of Adjustment dated April 15, 2015 which (a) denied a variance for a porch within the proscribed setback and (b) denied a variance for a ramp - in lieu of the porch - to provide access to the premises for a person with a recognized disability.
- 4) Applicant appealed this decision to the Carroll County Superior Court. The Court upheld the Board of Adjustment's denial of the variance for a porch in a decision received by the ZBA on November 30th. The Court overturned the Board of Adjustment's decision that the proposed ramp was not a reasonable accommodation and remanded it back to the ZBA for further deliberation on the variance for a ramp.

#### Findings

- 1) By a vote of 4-0, the Board of Adjustment finds that granting a variance for a ramp as specified in the plans would be in harmony with the general purpose and intent of the zoning ordinance. This finding is supported by the Boards prior finding that the variance is not contrary to the public interest and the spirit of the ordinance is observed in granting the variance.
- 2) By a vote of 4-0, the Board of Adjustment elected not to require the the variance survive only so long as the person with a recognized physical disability has a continuing need to use the premises.

#### Decision

Given the findings cited above, by a vote of 4 to 0, the Board of Adjustment **grants** the variance requested by the Applicant to construct a ramp for disabled access as specified in the drawings of April 7th, 2015.

This decision may, for 30 days, be subject to a motion for a rehearing from any party of interest or the Selectmen. It should not be considered final until lapse of that period. Copies of this decision are provided to the Applicant, the Planning Board, Board of Selectmen, Town Clerk, Assessor, and Building Inspector.

Frank Benesh, Chairman, Board of Adjustment