

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: JULY 16, 2014

CASE NO.: 7/16/2014-1

APPLICANT: CHRISTOPHER AND KATELYN ELLISON
78 OLD DERRY ROAD
LONDONDERRY, NH 03053

LOCATION: 78 OLD DERRY ROAD, 18-21-1, AR-I

BOARD MEMBERS PRESENT: NEIL DUNN, ACTING CHAIR
JIM TIRABASSI, VOTING MEMBER
JACQUELINE BENARD, VOTING MEMBER
ANNETTE STOLLER, VOTING ALTERNATE
DAVID PAQUETTE, CLERK

REQUEST: VARIANCE TO ALLOW REPLACEMENT OF AN EXISTING DECK
STRUCTURE WITHIN THE FRONT SETBACK AS REQUIRED BY
SECTION 2.3.1.3.3.

PRESENTATION: Case No. 7/16/2014-1 was read into the record with no previous cases listed.

CHRIS ELLISON: Good evening Mr. Chair and voting members, my name is Christopher Ellison and I live at 78 Old Derry Road. This is my wife Katelyn Ellison. We are here to build a deck at our house with the entire front of our house is within the forty foot setback so to make an entrance to our residence we would have to build a deck there, that is replacing an old deck that is currently there that is unsafe...

NEIL DUNN: Ok so...you submitted a piece of paperwork and typically what we do is the applicant has to go through the five points of law that are written on that application...do you have a copy of that already?

CHRIS ELLISON: Yes sir.

NEIL DUNN: Ok...so...I mean you're welcome to like you just did...describe the general scenario and then go through the five points of law and then we will follow up with any questions or anything like that.

CHRIS ELLISON: Ok thank you Mr. Chairman...number...the first point the variance will not be contrary to the public interest. A new deck will make a safe entrance into our house allowing anyone who has

45 to come in, including Police, Fire, EMS, US postal workers, and anyone who is just going door to door,
46 a safe entrance into the house that serves as our main entrance. The spirit of the ordinance is
47 observed. This deck will make for a much safer entrance and it also protects the residents of the
48 house and any other individual who attempts to enter the house...a safe entrance. This deck does not
49 extend beyond the footprint of this house...it is a number of feet behind the footprint so it does not
50 extend forward of the house what so ever. Substantial justice is done due to the original structure
51 being unsafe...due to the age and weather effects...it needs to be replaced to ensure safety of any
52 person who needs to access the residence. The hardship of the preexisting unsafe structure requires
53 replacement and leaving the deck that is there will result in some kind of injury down the road and
54 myself, my wife or any other person that attempts to enter my property I do not want to get hurt.
55 Number four the value of the surrounding properties are not diminished. The new deck will neither
56 decrease nor increase the value of any property. It will add safety and eye appeal as well as a
57 functional entrance into the residence. Number five, the literal enforcement of the provisions of the
58 ordinance would result in an unnecessary hardship. This property has a mudroom that serves as the
59 access to the mail entrance of the house. To access this mudroom, a deck with stairs is necessary.
60 This residence differs greatly to most residences because of the unique main entrance situation. The
61 deck will be built with four full feet behind the front footprint of the foundation. The proposed use is
62 a reasonable one. The only way this main entrance can be continued to be used is if the variance is
63 granted. The setback runs through the house and garage. A variance is necessary for any stairs or other
64 structure needed to access the residents. In that handout...that handout that I gave you shows where
65 the setback runs through and bisects the house and garage...Richard when he came down a month
66 and a half ago...measured our for me and then number B if the criteria in subparagraph A are not
67 established than a necessary hardship will be deemed to exist if and only if owing to special
68 conditions of the property does distinguish it from other properties in the area. The property cannot
69 be reasonably used in strict conformance with the ordinance and a variance is therefore necessary to
70 enable a reasonable use of it. Without this variance the main entrance cannot be accessed. No access
71 to the main entrance opposes a risk to law enforcements, fire fighters, EMS personnel, USPS workers,
72 town workers, the residents and also any member of the public who tries to access the house.
73 Because the house is in the forty foot setback, any work need to make access to the house must have
74 a variance granted. A deck building permit will be signed immediately after the variance is granted.
75 We want to get...make this property as safe as possible as soon as possible and I already have the
76 deck packet that Richard gave me so...everything is in line to get this moving as fast as possible.

77
78 NEIL DUNN: So...the...the deck you're replacing is that the same...is this the same size as the one you
79 are replacing?

80
81 CHRIS ELLISON: It is slightly bigger...the deck that is there now actually is not in any record with the
82 Town, which Richard informed me but...it is going to be...the footprint of it will be eight by eight but it
83 is going to be slightly smaller because it has a set of diagonal stairs that come off that that allow
84 access to the driveway more strait as opposed to coming in from the side or from where there is an
85 area of plants and like flowers.

86
87 NEIL DUNN: And how big was the one that is there?

88
89 CHRIS ELLISON: The one there is roughly four by four...a little bigger but roughly four by four with the
90 stairs extending towards the...garage door.
91
92 NEIL DUNN: Ok and to your point, the house...the actual house...your...put it more like in this
93 breezeway area between them, so the actual house extends beyond the deck still so your...
94 CHRIS ELLISON: Correct...where the proposed deck will lie there is four feet forward of that until it
95 meets where the foundation is...so it does not extend to the street any more than the house does.
96
97 NEIL DUNN: Any...anything from the board?
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99 DAVID PAQUETTE: Nope
100
101 NEIL DUNN: Anybody out in the audience who would like to speak in favor of this variance request?
102 Anybody speaking against or with questions? Anything more from the board?
103
104 DAVID PAQUETTE: No sir.
105
106 NEIL DUNN: Alrighty...well we will go into deliberations and thank you very much.
107
108 KATELYN ELLISON: Thank you.
109
110 CHRIS ELLISON: Thank you for your time.
111
112 **DELIBERATIONS:**
113
114 DAVID PAQUETTE: So it looks like something has changed since the building was built because if the
115 setback runs through the house, anything that gets done on the front of the house needs a
116 variance...so...
117
118 NEIL DUNN: It's...I guess if he was doing...well no he will still need the setbacks and he would still be
119 here...
120
121 JACKIE BERNARD: He would still be here.
122
123 NEIL DUNN: And looking at the...well if we go through the four...four...excuse me five points...
124
125 ANNETTE STOLLER: It looks like somebody did some original work there.
126
127 NEIL DUNN: I...I think to your point David is a...it defiantly was built long before there were concerns
128 about the setbacks...so...granting the variance would not be contrary to the public interest because it
129 doesn't really encroach any more than the house does I guess. Does anybody have thoughts on that?
130

131 DAVID PAQUETTE: I agree with you.
132
133 NEIL DUNN: The spirit of the ordinance would be observed...ok...so for the same reason it's an older
134 house where the whole building is in the setback so to do anything there he is going to be in front of
135 us...I guess. Granting the variance would do substantial justice because he has to put something back
136 there is it is unsafe and he has got to get in and out I guess. I think he is correct the values of the
137 surrounding properties would not be diminished...and in this case there is not a fair and substantial
138 relationship between the general purpose of the ordinance and the provisions and the specific
139 application because he is replacing something...that the whole...the whole place is basically there...
140
141 DAVID PQUETTE: I think this one points to the B version of this doesn't it because it is an unnecessary
142 hardship exists because of the actual setback and the change.
143
144 NEIL DUNN: Yes...yup no...either way I mean a lot of people go...he actually went through them both
145 too so...and the use is reasonable...so....anybody have any thoughts...for or against any comments or
146 restrictions?...Anybody want to make a motion?
147
148 JACKIE BERNARD: Mr. Chairman I would like to make a motion to approve case number 7/16/2014-
149 1...to replace...to allow replacement of an existing deck structure within the front setback as required
150 by section 2.3.1.3.3...all five points of law are met and I would like to...
151
152 NEIL DUNN: Do I have a second?
153
154 DAVID PAQUETTE: I second it.
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156 NEIL DUNN: All in favor...
157
158 JIM TIRABASSI: Aye
159
160 JACKIE BERNARD: Aye
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162 NEIL DUNN: Aye
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164 DAVID PAQUETTE: Aye
165
166 ANNETTE STOLLER: Aye
167
168 NEIL DUNN: Opposed? Abstain?
169
170 [No response in opposition or to abstain].
171
172 RESULT: THE MOTION TO GRANT CASE NO. 7/16/2014-1 WAS APPROVED, 5-0-0.
173

174 RESPECTFULLY SUBMITTED,

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177

178 DAVID PAQUETTE, CLERK

179

180 TYPED AND TRANSCRIBED BY KIRBY WADE, EXECUTIVE ASSISTANT

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182 **APPROVED AUGUST 20, 2014** WITH A MOTION MADE BY DAVID PAQUETTE, SECONDED BY JIM
183 TIRABASSI AND APPROVED 4-0-1 WITH JIM SMITH ABSTAINING AS HE HAD NOT ATTENDED THE
184 MEETING.

