

# **ZONING BOARD OF ADJUSTMENT JUNE 7, 2016 FINAL MEETING MINUTES**

**Present:** Chairman - Jack Dearborn, Member - Malcolm Wright, Member - Marc Morette, Alternate ó Donald Rogers, Alternate ó Michael Meyer, Land Use Coordinator ó Chip Meany, Minute Taker ó Tina Ripley

**Guests:** Charles Demers, Marla Umstead, Kevin Umstead

## **I. CALL TO ORDER**

The meeting was called to order by Jack Dearborn at 7:30pm. Jack Dearborn said there were 3 cases tonight. Jack Dearborn said Case #0416 has been withdrawn by the applicant, we will hear Case #0516 and Case #0616 has been rescheduled to next month.

The Board introduced themselves; Marc Morette-member, Michael Meyer-alternate, Jack Dearborn-chair, Donald Rogers-alternate, Malcolm Wright-member.

## **II. ADMINISTRATIVE ITEMS**

Jack Dearborn said the way the meeting will be run, is all questions come to the Chair. Jack Dearborn said first he will ask for a motion to accept the application to be heard, then he will ask the applicant to come forth and he will read the synopsis of the front page, he will then ask the Board if they have any questions of the application, then he will ask the applicant to come forward to state his name and speak to the five points of hardship that has been included in the application, then the applicant will be asked to sit down. Jack Dearborn said he will then ask for approving abutters, disapproving abutters, public at large, other boards and then will ask the applicant to come back up and rebut anything if he wants, then he will go through the process again then he will close the public hearing. Jack Dearborn said once the public hearing is closed the Board will deliberate and come up with position - approve with or without conditions, denied with conditions or continued pending issues that come up for more information should the applicant which that or if the Board needs to get a legal opinion.

## **III. PUBLIC HEARING**

Seated members for case #0516 are Marc Morette, Michael Meyer, Jack Dearborn, Don Rogers, Malcolm Wright.

**Case # 0516 – Charles Demers is requesting a variance from Article 18.2.3 Setback Requirements, to build a shed a setback at 458 Old Francestown Road, Map 411-300 in a R/A Zone**

Jack Dearborn read the information from page one of the application. Malcolm Wright moved to accept the application. Marc Morette seconded. Motion passed. 5-0-0.

Jack Dearborn said there is a map that describes the house, has cardinal headings, 112 ft. at the closest point to the road, shows 14 ft. and 24 ft. on the north side where the encroachment is of the 25 ft. setback.

Charles Demers read the points of hardship into record.

## **VARIANCE**

**The undersigned hereby requests a variance to the terms of Article 18, Section 18.2.3 and asks that said term to be waived to permit:**

The building of a garden shed 16ft. by 16 ft.

- 1) That the granting of the variance will not be contrary to the public interest because:**

No, it will be located on my property.

- 2) The variance requested, will not be contrary to the spirit of the ordinance because:**

I have no other places that I can put it on my property.

- 3) That through the granting of relief by variance substantial justice will be done because:**

I have no other place to build the shed. The septic is located on the other side of the house. The well is located directly behind the house.

- 4) That by granting the variance, the values of surrounding properties will not be diminished because:**

I am building a well constructed garden shed. It will be built on cinder blocks with 2x6 lumber. The shed will match the country settings in the area.

- 5) To qualify for a variance, you must demonstrate that denial of the variance would result in unnecessary hardship. Pursuant to applicable law, the test for “unnecessary hardship” is set forth in two alternative parts, (Parts A & B), as follows:**

- A. “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:**

- (i.) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and**

- (ii.) The proposed use is a reasonable one.**

**Accordingly, while having the foregoing standards in Part A in mind, please provide the following facts relative to your application:**

**A: Please describe the special conditions of your property that distinguish it from other properties in the area:**

All of the existing back property is soft and damp.

- (i) **No fair & substantial relationship exists between the general public purposes of the ordinance provision & the specific application of that provision to the property:**

This does not alter the surrounding properties. It allows to site a garden shed for maintenance.

- (ii) **And how the proposed use is a reasonable one:**

It allows the right to utilize my existing property.

**B: If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

**Accordingly, while having the forging standards in Part B in mind, please provide the following facts relative to your application:**

- B. Please describe the special conditions of your property that distinguish it from other properties in the area:**

I have to build on solid ground. The back portion is wet and soft. My septic and well are located on the opposite side therefore there is no other place to build it.

**Please indicate how owing to the special conditions identified above, your property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it:**

This is a reasonable request. The building will look nice. All of my neighbors are fine with it. Thanks for your consideration.

Jack Dearborn asked about the 14 ft. and said if they approve it, they way they will write it, is no closer than 14 ft. Jack Dearborn asked Mr. Demers if he is sure where the boundary is and Mr. Demers said on the right side there is a stake. Mr. Demers said along that pin there are line of trees and a 6ø fence that blocks his and Andre Marcoux property. Don Rogers asked Mr. Demers what the distance is from the well to the proposed southeast side of the building and Mr. Demers said 55 ft. Don Rodgers asked Mr. Demers why he couldn't move the building closer to the well and Mr. Demers said that it is wet and said it dries up the further you get from the well.

Jack Dearborn asked for approving abutters. Jack Dearborn read a letter from an approving abutters. Jack Dearborn asked for disapproving abutters. There was none. Jack Dearborn closed the public hearing.

Malcolm Wright made a motion to accept point #1. Marc Morette seconded. Motion passed. 4-0-1  
Malcolm Wright made a motion to accept point #2. Marc Morette seconded. Motion passed. 4-0-1  
Marc Morette made a motion to accept point #3. Malcolm Wright seconded. Motion passed. 4-0-1  
Marc Morette made a motion to accept point #4. Michael Meyer seconded. Motion passed. 5-0-0  
Marc Morette made a motion to accept #5 in entirety. Malcolm Wright seconded. Jack Dearborn requested the northern most corner of the building be no closer than 14' and the eastern corner of the building be no closer than 24' to the north boundary as drawn on the diagram. Motion passed. 4-0-1

## **V. MINUTES**

Marc Morette move to accept May 3, 2016 as amended. Michael Meyer seconded. Motion passed. 5-0-0.

## **VI. ADJOURNMENT**

Malcolm Wright moved to adjourn at 8:00 pm. Marc Morette seconded. Motion passed. 5-0-0.

*Tina Ripley*

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