

Board of Appeals
November 1, 2019
5:00pm

1. Call to order. Meeting called to order by chairman Shutes at 5:02pm
2. Pledge of allegiance - was recited by all.
3. Roll call - Present: Shutes, Foley, Giezentaner, Steeb, Bauer.
4. Approve August 20, 2019 minutes. Corrections noted by Giezentaner. Approved.
5. Public hearing.

The Board was advised by Foley that the petitioner had sought an extension of their original variance approval, due to the inability to secure contractors to perform the work within the approved timeframe. The Board agreed that the extension was warranted and approved.

The ZBA split the variance request into two portions: (1) the request to add a bathroom to the second floor of the barn, and (2) the request to add a deck to the footprint of the barn.

- (1) The request to add a bathroom to the second floor of the barn.

After much discussion among the Board members, and questions of the petitioner, a MOTION was made by Foley to table the request to the next ZBA meeting, seconded by Bauer. Unanimous support. The petitioner will re-draw the plan showing only a sink and a toilet, seek Health department approval, and re-appear before the Board at the November 19 meeting seeking approval of adding only a sink and a toilet.

- (2) The request to add a deck to the footprint of the barn.

The Board had much discussion about what was included in the original approval of the variance request. The Board concluded that a 10' x 5' deck, supported by cantilever and cable, was approved. The petitioner presented a copy of the plans which were originally approved, showing the cantilever deck. The petitioner pointed out that the deck would face toward their pond, and be hidden from the road.

The Board reviewed the following standards:

Findings of Fact guideline - each standard must be met:

1. **Practical difficulties.** Strict compliance with the specific dimensional standards will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose.

MET. Extension of the deck will allow the applicant to enjoy the view of his property, and will substantially improve the safety of the deck, through posts in the ground.

2. **Substantial justice.** The variance will give substantial relief and justice to the applicant,

consistent with justice to other property owners in the same district.

MET. Other property owners are allowed to enjoy the view of their property from a safe deck.

3. **Unique circumstances.** The need for a variance is due to unique circumstances peculiar to the land or structures involved, that are not applicable to other land or structures in the same district.

MET. The expansion of the footprint via a deck with posts will be hidden from view of passersby.

4. **Preservation of property rights.** The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same zoning district.

MET. See #2 above.

5. **Public safety and welfare.** The requested variance can be granted in such a fashion that the spirit of this ordinance will be observed and public safety and welfare secured. In addition:

- a. The granting of a variance will not increase the hazard of fire or otherwise endanger public safety.

MET. A deck does not increase any hazard.

- b. The granting of a variance will not unreasonably diminish or impair the value of surrounding properties.

MET. Surrounding property owners will likely never see the deck.

- c. The granting of a variance will not alter the essential character of the area or surrounding properties.

MET. See #3 above.

- d. The granting of a variance will not impair the adequate supply of light and air to any adjacent property.

MET. See #3 above.

6. **Not self-created.** The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.

MET. Had the previous barn not burned down, the applicant would not be in need of a variance.

7. **More than mere inconvenience.** The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience or

an inability to attain higher financial return.

MET. As noted in #1 above, a deck with posts is substantially safer than a deck extended via cantilever beams.

8. Minimum action necessary. The reasons set forth in the application justify the granting of the variance, and the variance is the minimum necessary relief to allow reasonable use of the land, building, or structure. The granting of a lesser variance will not give substantial relief and justice to the applicant, consistent with justice to other property owners in the same district.

MET. The applicant merely wants to enjoy the view of his property from the deck.

The Board again had much discussion, and due to:

- a. the unique situation of the property
- b. the location and orientation of the barn
- c. the pond view
- d. All standards of the ordinance having been met

A MOTION was made by Foley to expand the deck to UP TO 10' from the barn, with posts, as shown in the drawings attached to today's request. Support by Steeb. No further discussion. Motion passed, with Giezentaner opposing.

6. Other business. None.

7. Adjourn. Motion to adjourn by Bauer. Seconded. Carried.

Prepared by Vance Shutes

11/17/19