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SUPERVISOR
LAURIE C. DUDLEY
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TOWN COUNCIL
KENNETH PORTER
SUPT. OF HIGHWAYS
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CATHERINE EDMAN
BUDGET OFFICER
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TOWN OF NORTH ELBA

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RONALD J. BRIGGS
ATTORNEY FOR THE TOWN

ZONING BOARD OF APPEALS MEETING MINUTES June 29, 2020

MEMBERS PRESENT

John Hopkinson
Linda Friedlander
Todd Rissberger
Charlie Roscoe
Bill Morris

MEMBERS ABSENT

ALSO PRESENT

Bill Kissel, Board Attorney
Darci LaFave, Code Enforcement Officer
Terry Tubridy, Planning & Zoning Coordinator

Adk or Bust Trust/DeHaan (Case #176)

Sue & Jason DeHaan present, as applicants, via GoToMeeting teleconferencing. Michael Tuck & Brendan Ferguson present as representative for the applicants.

Applicants are proposing to demolish an existing house, located within the Village Center District, and rebuild with a foundation shift of approximately two feet south of the north lot line. The shift resolves an existing roof encroachment onto the lot to their north. The foundation shift requires an area variance as the Land Use Code (Code) allows for a side setback of either zero or ten feet.

Mr. Tuck: recaps the site visit conducted before tonight's meeting. Reviews the existing house and its location within the shoreline setback and its encroachment onto the property of their neighbor to the north. A new house cannot be moved further from the shore due to an easement providing access to this neighbor's property (18 Grace Way).

Reviews the proposed project. The existing foundation is failing and cannot be used to support a new house. The new foundation's location eliminates the existing roof overhang onto 18 Grace

Way. The new design includes a north roof overhang approximately 2'6" from the lot line, the addition of windows on the north wall of the new house, and a basement-level window well with retaining wall along the north lot line. Notes the neighbor's house and other structures to the north are also inside the current shoreline setback of 50'. States the APA has issued a non-jurisdiction letter for this proposal.

Ms. Friedlander: is this a residence?

Mr. Tuck: yes.

Mr. Hopkinson: cites Section 4 of the Code which states a pre-existing non-conforming structure cannot be rebuilt to non-conforming standards if the existing structure is completely removed.

Mr. Kissel: granting the requested variance will provide relief from Section 4 and allow the nonconformity for this property.

Mr. Tuck: the Review Board specifically cited Section 4 as their reason for referring this case to the Zoning Board.

Ms. Friedlander: the spirit of the law is to provide an avenue of relief from the Code where practical.

No further questions from the Board.

Mr. Hopkinson: reads a letter of support from Wendy Fletcher and James Hughes; the neighbors at 18 Grace Way.

Public hearing opens at 5:48 PM.

Mr. Tubridy: 18 neighbors within 200' were properly noticed. The public hearing notice was properly printed in the Adirondack Daily Enterprise on 6/18/2020.

A letter opposing approval of the area variance was received from Mr. Sean Ayres.

Mr. Hurley: states the Review Board could only approve a side setback of 0' or 10'. This house was built well before the current Code. The proposal replaces an existing rundown with a new house which will benefit the neighborhood. The new house will not be taller or wider. Recommends approval of the area variance.

Public hearing closes at 5:52 PM.

Mr. Hopkinson proceeds to ask the Board to answer the five questions listed in NYS law for area variance zoning requests:

1. WHETHER AN UNDESIRABLE CHANGE WILL BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY THE GRANTING OF THE AREA VARIANCE?

Mr. Rascoe: NO; Ms. Friedlander: NO; Mr. Rissberger: NO; Mr. Morris: NO; Mr. Hopkinson: NO.

The Board answered NO, 5-0.

2. WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT?

Mr. Rascoe: NO; Ms. Friedlander: NO; Mr. Rissberger: NO; Mr. Morris: NO; Mr. Hopkinson: NO.

The Board answers NO, 5-0.

3. WHETHER THE BENEFIT SOUGHT BY APPLICANT CAN BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE?

Mr. Rascoe: NO; Ms. Friedlander: NO; Mr. Rissberger: NO; Mr. Morris: NO; Mr. Hopkinson: NO.

The Board answers NO, 5-0.

4. WHETHER THE PROPOSED VARIANCE IS SUBSTANTIAL?

Mr. Rascoe: NO; Ms. Friedlander: NO; Mr. Rissberger: NO; Mr. Morris: NO; Mr. Hopkinson: NO.

The Board answers NO, 5-0.

5. WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED, WHICH CONSIDERATION SHALL BE RELEVANT TO THE DECISION OF THE BOARD OF APPEALS, BUT SHALL NOT NECESSARILY PRECLUDE THE GRANTING OF THE AREA VARIANCE?

Mr. Rascoe: NO; Ms. Friedlander: NO; Mr. Rissberger: NO; Mr. Morris: NO; Mr. Hopkinson: NO.

The Board answers NO, 5-0.

After taking into consideration the above five factors, does the benefit to the applicant outweigh the detriment to the neighborhood or community?

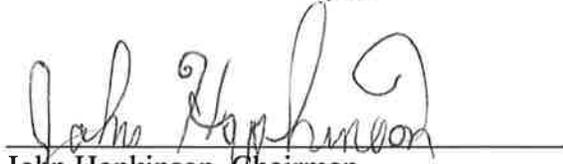
Mr. Rascoe: YES; Ms. Friedlander: YES; Mr. Rissberger: YES; Mr. Morris: YES; Mr. Hopkinson: YES.

The Board answers Yes, 5-0.

Mr. Rissberger makes a motion to approve the area variance.
Ms. Friedlander seconds the motion.
All members vote in favor with no conditions. The motion is approved, 5-0.

ZBA Case #176 closed.

These minutes were reviewed by the Board on 8/31/2020. Mr. Morris made a motion to pass the minutes with minor administrative corrections. Ms. Friedlander seconded the motion. All present members voted in favor (Mr. Rascoe absent). The motion was approved 4-0.



John Hopkinson, Chairman
Zoning Board of Appeals

RECEIVED
Date 9/15/20
Town Clerk Chelsea Heester
Date 9/16/20
Village Clerk Christina Q. Coy

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SUPERVISOR
LAURIE C. DUDLEY
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ZONING BOARD OF APPEALS MEETING MINUTES June 29, 2020

MEMBERS PRESENT

Todd Rissberger
Linda Friedlander
Charlie Roscoe
Bill Morris

MEMBERS ABSENT

John Hopkinson

ALSO PRESENT

Bill Kissel, Board Attorney
Darci LaFave, Code Enforcement Officer
Terry Tubridy, Planning & Zoning Coordinator

Calvey, Donna & Douglas (Case #177)

John Hopkinson recuses himself. Todd Rissberger performs duties as Vice Chairman.

Jessica Hoffman present as applicant's representative.

Applicants are proposing to build a second-story fire escape inside a side setback to meet building code requirements.

Mr. Rissberger: reads the application for an area variance in the side setback. Introduces Ms. Hoffman.

Ms. Hoffman: the house was built in 2012/2013 as a reunion house. The house must now have a second-story fire escape because of the new Short-Term Rental (STR) law. Applicants wish to place the fire escape on the south side of the house, facing 90 Hillcrest Avenue. The fire escape will come off the back deck, run west along the side of the house and make a 180-degree turn to run east into the backyard. The total width of the stairs will be 8' and will extend 3'2" into the side setback.

Mr. Morris: how far will the stairs be from the lot line?

Ms. Hoffman: we are asking for a 3'2" variance which puts the stairs 6'8" from the lot line.

Ms. Friedlander: asks about the letter from John & Karen Huttlinger stating their concerns about this proposal.

Mr. Rissberger: asks if the Huttlinger letter is valid.

Mr. Tubridy: the Huttlingers are within 200' of the property.

Ms. Friedlander: does this application change the use of the property?

Mr. Rissberger: the use does not change and there is no increase in capacity for the house.

Mr. Rascoe: the Calveys must meet the fire code per the STR law.

Mr. Morris: was any other design considered?

Ms. Hoffman: we looked at other options, but this design made the most sense.

Mr. Kissel: did the new law require fire escapes where none were required before?

Ms. LaFave: yes.

Public hearing opens at 6:12 PM.

Mr. Tubridy: 29 neighbors within 200' were properly noticed. The public hearing notice was published in the Adirondack Daily Enterprise on 6/18/2020. One letter was received from the Huttlingers expressing their concerns about increased noise and occupancy because of the stairs.

Chris Kaldrovics: I own the property at 90 Hillcrest Avenue, which is on the south side of the Calvey house. This design places the stairs very close to my property line. The stairs are large, and the house is already large for that property. It may be costly but relocate the stairs to come off the back deck into the backyard. I have discussed my concerns with the Calveys.

Rick Thompson: a request for a variance as a matter of convenience is not something the Board should consider. Setback standards were established for a reason and this is not a good reason to approve a variance.

Mr. Morris: asks Mr. Kaldrovics if more screening would help.

Mr. Kaldrovics: no. They are just too close to the lot line.

Ms. Friedlander: the stairs should be in the backyard.

Ms. Hoffman: stairs into the backyard would require modifying the existing rear deck and stairs. It would also block the view of the yard and significantly reduce recreational space in the backyard.

Mr. Rissberger: a new design would impact the green space in the backyard.

Ms. Hoffman: an alternative would be one long stairway down the south side of the house. This would require changing some the windows to tempered glass.

Mr. Kaldrovics: why did was a fire escape required? This house is large and should not be allowed into the setback. I do not want an ugly metal staircase and it needs to be redesigned.

Ms. Hoffman: the design of the fire escape matches the existing deck and stairs.

Mr. Kaldrovics: I would like to have input on tree planting if the variance is approved.

Ms. Hoffman: the applicant is OK with this. We will provide a landscape plan.

Public hearing closed at 6:22 PM.

Mr. Rissberger proceeds to ask the Board to answer the five questions listed in NYS law for area variance zoning requests:

1. WHETHER AN UNDESIRABLE CHANGE WILL BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY THE GRANTING OF THE AREA VARIANCE?

Mr. Rascoe: NO; Ms. Friedlander: YES; Mr. Rissberger: NO; Mr. Morris: YES.

The Board splits with two YES and two NO.

2. WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT?

Mr. Rascoe: NO; Ms. Friedlander: YES; Mr. Rissberger: NO; Mr. Morris: YES.

The Board splits with two YES and two NO.

3. WHETHER THE BENEFIT SOUGHT BY APPLICANT CAN BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE?

Mr. Rascoe: YES; Ms. Friedlander: YES; Mr. Rissberger: NO; Mr. Morris: YES.

The Board answers YES, 3-1.

4. WHETHER THE PROPOSED VARIANCE IS SUBSTANTIAL?

Mr. Rascoe: NO; Ms. Friedlander: YES; Mr. Rissberger: NO; Mr. Morris: YES.

The Board splits with two YES and two NO.

5. WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED, WHICH CONSIDERATION SHALL BE RELEVANT TO THE DECISION OF THE BOARD OF APPEALS, BUT SHALL NOT NECESSARILY PRECLUDE THE GRANTING OF THE AREA VARIANCE?

Mr. Rascoe: NO; Ms. Friedlander: NO; Mr. Rissberger: NO; Mr. Morris: NO;

The Board answers NO, 5-0.

After taking into consideration the above five factors, does the benefit to the applicant outweigh the detriment to the neighborhood or community?

Mr. Rascoe: YES; Ms. Friedlander: NO; Mr. Rissberger: YES; Mr. Morris: NO.

The Board splits with two YES and two NO.

Mr. Rascoe: we can place a condition requiring the applicant to meet with the neighbor to come up with an acceptable design.

Mr. Morris: the neighbor already opposes the variance request. It is not a good idea for the Board to specify this condition.

Mr. Kissel: there are not enough votes for approval or denial. I recommend the applicants work with the neighbor (Mr. Kaldrovics) to come up with a solution.

Ms. Friedlander: is a ladder escape acceptable?

Ms. LaFave: no.

Mr. Rissberger: we have a split vote and cannot approve or deny the request. Work with the neighbor or come back with a new design.

ZBA Case #177 closed.

These minutes were reviewed by the Board on 8/31/2020. Mr. Morris made a motion to pass the minutes with minor administrative corrections. Ms. Friedlander seconded the motion. All present members voted in favor (Mr. Rascoe absent). The motion was approved 4-0.


John Hopkinson, Chairman
Zoning Board of Appeals

RECEIVED	
Date	9/15/20
Town Clerk	Chelsea Keller
Date	9/16/20
Village Clerk	Wanda A. Giff

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LAURIE C. DUDLEY
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JACK FAVRO
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ZONING BOARD OF APPEALS MEETING MINUTES June 29, 2020

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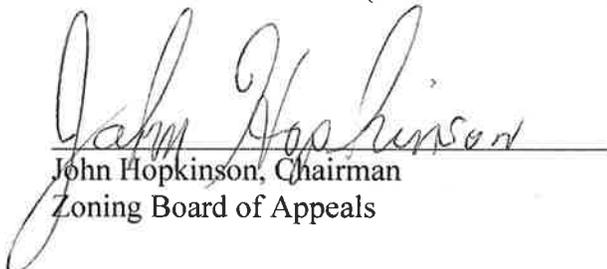
Board Business

Minutes

Ms. Friedlander makes a motion to approve the minutes of 4/27/2020.
Mr. Morris seconds the motion.
All members vote in favor. The motion is approved 5-0.

Meeting adjourned at 6:37 PM.

These minutes were reviewed by the Board on 8/31/2020. Mr. Morris made a motion to pass the minutes with minor administrative corrections. Ms. Friedlander seconded the motion. All present members voted in favor (Mr. Rascoe absent). The motion was approved 4-0.


John Hopkinson, Chairman
Zoning Board of Appeals

RECEIVED	
Date	<u>9/15/20</u>
Town Clerk	<u>Chelsea Deeter</u>
Date	<u>9/16/20</u>
Village Clerk	<u>Anta Qisy</u>