

**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

July 7, 2020

**APPROVED: Approved 9/1/20**

AGENDA: 20VAR05 - VARIANCE, ROBERT MONK, 41 Lancelot Lane, #104-049  
BY-LAWS

ATTENDING: Alan DeStefano (Chairman), Richard LaFlamme (Vice Chairman), Lorraine Bohmiller, Larry Denton, Melody Mansur

ABSENT: Ashley Dolloff (alternate), Jackie Elliott (alternate)

OTHER: Christina Goodwin (Land Use Manager), Tyler Simonds (Planner), Robert Monk (applicant, via Zoom)

**MINUTES OF JUNE 2, 2020:**

L. Denton made a motion, second by R. LaFlamme, to approve the minutes as written. The motion carried by roll-call vote 5-0.

**20VAR05 - VARIANCE: ROBERT MONK**

Mr. Simonds read the application, the abutters' list, where the hearing was advertised and that there was one (1) response from Ellen Rawlings of Camelot Acres Association, which supports the Variance.

Mr. DeStefano asked if the Board had any questions. Mr. Denton needed more detail as it is hard to see. A discussion followed in which the position of the deck in the setback was explained.

L. Denton made a Motion, second by L. Bohmiller, to accept the application as complete. The motion carried by roll-call vote 5-0.

Mr. Monk explained that the project started out as a deck and stair repair and then he extended the deck, unfortunately with no Land Use Permit. He thought that the setback was from the edge of the road, which is 7'9".

Mr. Denton asked how he found out he was out of compliance. Mr. Monk stated when he applied for the building permit application, he was told that he may have encroached on the setback limits. He then hired Mr. Brown to complete a survey. Mr. Denton inquired on how he knew he had to have a permit. Mr. Monk stated that he was repairing and extended but didn't do the permit application and was notified by the Town.

The criteria for a Variance was then addressed.

1. NOT CONTRARY TO THE PUBLIC INTEREST: It is similar to, the other homes in the area and is given the relation to the elevation from the road, it doesn't crowd the lot or impose on the public way.

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#### **MONK VARIANCE continued:**

2. SPIRIT OF THE ORDINANCE: Due to the topography (not parallel to the road) and only a small portion encroaches on the setback.
3. SUBSTANTIAL JUSTICE: Similar to abutters and there was a pre-existing non-conforming location of the house.
4. NO DIMINUTION OF SURROUNDING PROPERTY VALUES: It improves the values.
5. HARDSHIP (I and II): It does not impede the public way, gives the same appearance as abutting properties, supplies a safe way to their basement, and because of the position of the house.

Ms. Bohmiller asked when the house was built and was told 1968. Mr. DeStefano called for any public in favor. Hearing none, he asked for any public opposed. None were received. Mr. DeStefano closed the public portion of the hearing and asked the Board if they wished to address the criteria one by one or as a group.

L. Denton made a motion, second by R. Laflamme, to address the application criteria as a whole. The motion carried by roll-call vote 5-0.

Mr. Denton stated that one corner of the house is in the setback and the lot may have been created before the setback criteria were in place. However, some others have attempted to make their deck smaller to be as much out of the setback as possible. Mr. DeStefano added that he is sorry that Mr. Monk made a mistake when calculating the setback, but we have to the type of situation this is. Mr. Denton said that he feels the Board would have asked the deck be made smaller if the applicant had come for the Variance before building the deck. Mr. DeStefano mentioned that we need to be careful not to set precedence. The applicant could have complied with regulations. Ms. Bohmiller stated that the house was built before Zoning and the applicant assumed he was okay. Mr. DeStefano reminded the members, that Mr. Monk thought the setback was from the limit of the road and not the lot lines, but he didn't research enough. Mr. DeStefano added that allowing this would make it more non-conforming. He asked if the Board feels that that there is proof of hardship. A discussion followed in which they felt that the deck could have been redesigned to meet the setback requirement.

R. LaFlamme made a motion, second by L. Denton, to deny the Variance for Robert Monk as there is no proof of hardship. The motion carried by roll-call vote 5-0. Mr. DeStefano explained that there is a 30-day right of appeal.

**COMMUNICATIONS:** None.

A short discussion was held on setting precedence.

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**BY-LAWS:**

Mr. Simonds went over his recommendations for updating the by-laws. Questioned were applicant vs. appellant and listing fees. Mr. DeStefano read the regulation for amending and it was thought that it could be placed on the next meeting's agenda. Ms. Goodwin will reach out to the Town's Attorney about the items discussed for confirmation on changing.

**NEXT MEETING:**

The next Zoning Board meeting is scheduled for August 4, 2020 at 6:00pm.

With no other business, L. Bohmiller moved to adjourn at 7:02pm, R. Laflamme second. The motion carried by roll-call vote 5-0.

Respectfully submitted,

Jan Laferriere

Land Use Administrative Assistant