



Zoning Board of Adjustment Meeting
Tuesday, September 4, 2018 7:00 PM
City Hall Council Chambers

MINUTES
Approved 10/1/2018

Call to Order by the Chair

Mr. Hurd was absent. Mrs. Kier stepped in as Acting Chair and asked for a roll call.

I. Attendance/Roll Call

Present & Participating: Patrick Howe, Abigail Kier, Tracy Pope, Richard Collins

Absent: Carolyn Towle, Michael Hurd, James Petrin

City Staff: Michael McCrory, City Planner

Mrs. Kier asked Mr. Howe to sit in for Mr. Petrin.

II. Minutes of Previous Meeting – August 6, 2018

Motion: To accept the minutes as written

Made by: Mr. Howe **Second:** Mr. Collins

Vote: Unanimous in favor

III. Old Business

There was no old business to discuss.

IV. New Business – None

- A. (ZO 2018-00009) David & Erika Osgood, 7 Grannis Street:** Application for a variance to permit construction of a deck within the front setback at **7 Grannis Street**. Tax Map 69, Lot 45. Zoning District: R1

Mrs. Kier read the public notice and asked for an abutters' roll call.

Planner's Report

Mr. McCrory stated that the applicant filed an application for a building permit to add a deck to his house. At that time, it was discovered that the deck – as proposed - would be within the front setback and thus would require a variance. The deck won't extend any further into the setback than the house.

Mr. Howe asked why a variance is needed if the deck won't extend any further into the setback than the house. Mr. McCrory said any addition to or expansion of a structure that is in a setback already is considered an increase in encroachment. Mr. Howe disagreed that this is the case in this application. Mr. McCrory maintained that it applies in this case, but added it was something he wanted to discuss

with the Board at this meeting under Other Business. He said traditionally a deck is considered subject to setbacks.

Mrs. Kier invited Mr. Osgood to speak about his application. He declined.

Mrs. Kier called for a motion.

Motion: Approve the Application for a Variance from Section 22-209, Yards in the Residential One District, to permit a deck within the front yard setback at 7 Grannis Street (Tax Map 97, Lot 14) with the following conditions of approval:

1. The proposed structure shall be constructed substantially in accordance with the information provided by the applicant in the Application for a Variance for ZBA Case No. ZO 2018-00009 and testimony during the public hearing for said case.
2. The applicant shall obtain and receive all necessary permits and approvals to complete the work.
3. This variance shall be recorded in the chain of title.

Made by: Mrs. Pope **Second:** Mr. Howe

Mr. Collins said it won't make any of the property values go down. Mrs. Kier agreed.

Mrs. Pope said that granting the variance would not be contrary to the public interest. She said the deck wouldn't any closer to the street than the house already is.

Mrs. Pope said it is in the spirit of the ordinance as it exists today. Mrs. Kier agreed and said the spirit of the ordinance is to prevent overcrowding and staying within the footprint wouldn't cause overcrowding.

Mrs. Pope said the variance would provide substantial justice because it will allow the applicant to have a deck.

Mr. Howe said it was obvious it wasn't going to hurt any of the abutting landowners because none of them were at the meeting.

Mr. Collins said the deck wasn't going any closer to the side property line than the house.

Mrs. Kier said the deck would keep the same profile of the house, just squared off, and thus wouldn't have any impact on the ordinance.

Mr. Howe asked Mr. Osgood if he had any plans to put a roof over the whole deck. Mr. Osgood said no, he did not.

Mrs. Kier asked the criteria had been met. Mr. McCrory said the board had addressed everything on the list.

Mrs. Kier said that all of the criteria had been met and called for a vote.

Vote on the motion: Unanimous in favor

V. Communications

- A. Legislative Update
- B. *Town and City Magazine*

VI. Other Business

Mr. McCrory said there had been a number of deck variances in the past year, and since the board typically doesn't have an issue with them, he thought there may an opportunity to address decks in the zoning ordinance – to reasonably reduce the owner's burden when they want to add a deck or expand an existing one. He said he was not advocating for the wholesale removal of setbacks for decks, but there are other tools that might be employed. He said he wanted to explore these tools a bit more.

Mr. Howe asked what the original was for setbacks. Mr. McCrory said it was to address overcrowding, but it depends on the district as to how overcrowding is addressed. The setbacks vary depending on the context of the neighborhood. He provided some examples of how they vary by district.

Mr. McCrory said he wanted get feedback from the board on some ideas – if there are ideas the board agrees upon, they could be petitioned to the Planning Board.

Mrs. Pope said perhaps allowing expansions that are no greater than the predominant setbacks in the immediate neighborhood might work.

Mr. Howe said when he received tonight's application, he wondered why it was coming before the board. The proposal wasn't going outside the footprint of the house, so why did it need a variance?

Mr. McCrory said he didn't think that a less-stringent ordinance would be detrimental to the character of the community.

Mrs. Pope asked if Mr. McCrory could look at setbacks for corner lots.

Motion: That we direct Mike McCrory to look into setbacks and the zoning ordinances as they refer to decks

Made by: Mrs. Pope **Second:** Mr. Collins

Vote: Unanimous in favor

VII. Adjournment

Motion: To adjourn

Made by: Mr. Collins **Second:** Mrs. Pope

Vote: All in favor

Respectfully submitted,

deForest Bearse