

Effingham Zoning Board of Adjustment
Meeting Minutes April 3, 2013

Present: Tim White, Jim Pittman, Mike Cahalane, Jory Augenti, Fran Marchand
Minutes prepared by Barbara Thompson

The meeting was called to order at 7:02 pm.

Minutes: Jory moved and Mike seconded to accept the minutes from March as presented.
The motion passed.

Public Comment: none

Correspondence:

OEP – April 19th annual planning and zoning conference, May 11 in Manchester.
Jim recommends this as a valuable learning experience. Jim will email links to everyone.

LRPC – Open house March 7

LRPC seeking nominations for outstanding volunteer for exemplary effort to
maintain and improve the quality of the region. Due May 3rd

Old business: none

New Business:

7:20 PM

Public Hearing Case #070

Shaine and Isabelle Cheney

Tax Map 411 Lot 51

Jory moved and Tim seconded to have Fran appointed as an alternated. The motion
passed. Jim appointed Fran to sit on the board as a voting member.

Presentation: Mr. Cheney explained the purpose of his variance. He wishes to construct
a deck on the back of his home but does not have enough allowance left from a 30%
expansion to construct the desired 12x24 deck.

Jim read the application for the record.

Questions from the Board:

Fran question whether there is any encroachment on wetlands. The stream that is near
the property is not a fourth order stream and therefore not under the Shoreland Protection
rules. Mr. Cheney says the deck would not extend beyond where the septic tank is
located.

Jory asked Mr. Cheney to expand on his definition of hardship. Mr. Cheney felt it had to
do with issues in relation to other homes in the area. Jory explained that hardship

actually has to do with the piece of property. Jory explained there are no restrictive characteristics (hardships) in the lot that would require that the deck could only be built in the proposed area.

In reviewing previous cases in the current LGC publication, Tim pointed that the courts tend to have a bias towards the landowner. The bias answering the question of whether the use is a reasonable one for the property as it exists. Where does the public interest lie in rigidly enforcing the zoning ordinance?

Fran questioned if there is any kind of statute of limitation for a building permit denial. After some discussion the members agreed it would be a good idea to contact the Town Attorney. Jory pointed out that there have been no changes in zoning during the 2 years since the denial that would have any effect on this case, so a time limit would be irrelevant. Fran felt it was worth checking in case it would cause the Cheneys to have to reapply.

Jory suggested the hearing be continued so the Board could contact the Town Attorney and to do further research on the hardship requirement. Mike moved and Tim seconded to continue the hearing until the May 1st meeting. The motion passed and the hearing was continued at 7:15 pm.

Other Business:

Jory moved and Mike seconded to appoint Fran as a full member of the board. The motion passed.

Jory moved and Mike seconded to leave all the officers the same as last year. The motion passed. Jim is chair, Fran is vice chair, Tim is secretary.

Jory moved and Tim seconded to adjourn the meeting. The motion passed and the meeting adjourned at 8:58 pm.

These minutes are considered draft until approved at a future regular meeting of the ZBA. Any changes or corrections will be noted in the next meeting minutes.