

Effingham Zoning Board of Adjustment
Meeting Minutes August 6, 2014

5 Present: Jory Augenti, Tim White, Mike Cahalane, Jim Pittman, Paul Bartoswicz, Fran Marchand
Guests: Knute Ogren (applicant), Sheila and Eric Jones (interested parties)
Minutes prepared by Barbara Thompson

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

Approval of Minutes:

Paul moved and Tim seconded to accept the minutes of the July 2nd public hearing with changes. The motion passed. Line 106 Poll of Criteria: Add the word “yes” to no’s 1,3
15 and 4 so that it reads that ‘All voted yes.’

Mike moved and Jory seconded to accept the minutes of the July 21st public hearing as presented. The motion passed.

Correspondence: None

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Public Comment: None

New Business: Mike reported the Law Lecture Series is now available digitally and asked the members if they would like him to pursue an order (\$30) with Claudia. The
25 members agreed. Mike will see that the series is distributed to everyone.

Old Business: Mike reminded the board that work needs to be done on the Rules of Procedure and to ask that this be added to the September agenda.

30 **Public Hearing 7:15 PM**

Case #076

Knute Ogren

Application for Variance re: Sect’s 708 (lot density) and 402 (setbacks)

Tax Map 201, Lot 50

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Jim opened the hearing with roll call, an explanation of the procedure the board will follow and a reading of the application. Mr. Ogren submitted a revised application. Jim clarified with Mr. Ogren that this was the application he wished the Board to use in the case. Mr. Ogren confirmed this. Mr. Ogren would like to add a small deck and cement
40 slab to facilitate the installation of a hot tub and to replace a dilapidated walkway.

Public Comment

Mr. Ogren explained the addition/extension of the deck would help with snow removal as well as making an easy access to the hot tub. He explained his lot is one of the two
45 smallest lots on School St. and that all the other lots are 5 acres or more, making his lot a hardship. He further stated the tub would not be greatly visible from any direction and

50 would not further encroach on any setbacks. He said he had spoken with his neighbors, none of whom had an issue with his desires. Mrs. Hartford offered to write a letter in support of Mr. Ogren's plans. He went further and praised the Code Enforcement Officer for all her help and answering all his questions in order to make the application process more simplified.

Discussion

55 Jim briefly discussed the replacement of the walkway; what would be involved and how large the walkway would be and asked Mr. Ogren to elaborate. Jim also asked if this was related in any way to the hot tub. Mr. Ogren said no. He just wants to replace a walkway made up of mismatched stones, bricks, patio blocks to make snow removal easier.

60 Jory wanted to discuss lot density. The figures were reviewed.
Lot size: 11,325.6 sq ft based on the Town's figure of .26 acres
Existing structure: 1426 sq ft
Existing structure plus hot tub: 1506 sq ft
Results: 13.3% lot coverage including the tub and deck or 374 sq ft total overage

65 Fran asked if the paved driveway has any effect on lot density. It isn't a structure but it does affect permeability. Jory said this really doesn't have anything to do with his application.

70 Jim closed public comment at 7:50pm.

Deliberation

75 Jim asked if all agreed the issue is lot area vs. structure area. All agreed. Further re: Section 708 he posed that based on the calculations, the non-conformance is increased. There is no creative way to fix this violation. Re: Section 402, Jim felt there was no additional encroachment made by the hot tub. Everyone agreed. He posed the idea that maybe Section 402.1 pertaining to accessory buildings might help with this issue. Jory did not seem to think so as a hot tub is not a building. The only thing that applies here is the 10% rule because it is the stricter requirement. There was some discussion re: structures vs. buildings.

80 In the end all agreed that the violation of Section 708 is not going to get any better as the pre-existing structure is already over 10%.

Motion

85 Paul moved and Tim seconded to have a straw poll on the 5 criteria. The motion passed.

Poll of Criteria

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1. Not contrary to public interest. All voted yes.
 2. Not contrary to the spirit of the ordinance. All voted yes.
 3. Granting variance will do substantial justice. All voted yes.
 4. Value of surrounding properties is not diminished. All voted yes.

Approved _____
Approved with changes _____
Unapproved _____

- 95 5. Literal enforcement of the provisions of the ordinance will result in an unnecessary hardship. All voted yes. Jory voiced for the Board that Mr. Ogren's lot in the area where it is located comes under hardship. Most if not all of the surrounding lots are much larger. Therefore, lot size is a determining factor.

Motion

100 Based on the straw poll, Mike moved and Tim seconded to accept the results of the straw poll as the final vote unless someone had an issue. The motion passed without discussion or descent.

Jim will prepare the Notice of Decision and have it ready for distribution for Monday August 11th.

105 Jim closed the Public Hearing at 8:26 pm.

Paul moved and Jory seconded to adjourn the meeting. The motion passed and the meeting adjourned at 8:28 pm.

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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.