

Approved: _____
Approved with changes: _____
Unapproved: _____

Effingham Zoning Board of Adjustment
November 7, 2018

Members Present: Jory Augenti, Tom Hart, Dave Strauss, Chuck Fuller, Tim White

Members Absent: None

Others Present: Dianne Park, Rebecca Boyden, Gary Jewell, Gregg Simon

Meeting called to order at 7:00pm.

Minutes

A motion was made by Tom, seconded by Jory, to approve the minutes from October 24, 2018 as written. All were in favor.

Public Hearing

Public Hearing called to order at 7:15pm.

Case #089 Judith A. Blanco Tax Map 106 Lot 2. Agent for the applicant is Gregg Simon, 44 Blueberry Rd., Center Ossipee, NH 03814. The applicant has constructed a kayak shed which is too close to the side setback and needs a variance.

Each member of the board was roll called by verbal confirmation. Dave read the rules for the hearing. The application was accepted as complete on October 24, 2018. Dave read the application. Included with the application was a letter from an abutter in favor of the project.

The Zoning Enforcement Officer (ZEO) gave facts and background information of the application. The ZEO went to look at the structure and after meeting with the applicant found they had all state permits but the applicant did not realize they needed a variance from the town. The applicant was extremely cooperative.

Gregg Simon has been appointed agent for the applicant. Gregg was present and gave facts of the case.

- He built the Kayak Shed thinking all permits were in place.
- The structure is 12'x14' not the 10'x12' as stated in Criteria #3 of the application.
- He is not a licensed contractor.

Gary Jewell was present as a representative for the Greenleaf Family of Lake Shore Drive., who are abutters to this project. Their concerns are:

- Sanitary conditions-No bathroom facilities on the property
- Why did the applicant not get a variance since the Greenleaf's needed one for a shed that was built on their property?
- Believes the shed is closer to the side set back then stated in the application.

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Gregg Simon addressed the Greenleaf's concerns by stating the applicant has a residential home 3 miles away from the property and this property is only used for the Kayak Shed.

Gary suggested the sisters (applicant Judith Blanco and abutter Deborah Cunha) merge their properties. If the properties were merged there would be no setback issue.

The board did not find a copy of the state permit in the file but the ZEO had a copy and will make sure it gets into the file.

Facts of the Case

- ZEO listed confusion between the Effingham Town Offices and the owner in relation to the state permit.
- September 12, 2018 the ZEO sent a formal letter to the applicant.
- September 19, 2018 the ZEO and the applicant corresponded via email.
- September 20, 2018 the ZEO and the applicant corresponded via phone.
- September 30, 2018 the permit application was filled out.
- Gregg Simon, agent for Judith Blanco-applicant, stated the permit was posted during construction.
- Gregg asked the applicant about all necessary permits and was assured everything was in order.
- Gregg brought to the board's attention the discrepancy between the actual shed size and the size listed on the application.
- The applicant placed the shed in the best possible location so as not to disturb surrounding trees.
- Gary Jewell, agent for abutter Greenleaf, brought forward the abutter concerns
 - Sanitary conditions
 - Why didn't the applicant have to get a variance?
 - Lot size concern
- Gregg addressed the sanitary condition concern stating the applicant owns a home 3 miles away with sanitary facilities.
- Gary suggested the sisters merge their property thereby making the setback issue null and void
- The ZEO gave the board a copy of the state permit.
- The side setback requirement for that district is 20'. The shed has a side setback of 12'. The variance is for an additional 8'.
- Abutter Greenleaf surveyed his property before the shed was built.

Dave explained the board has 30 days to make a decision and once the decision is made the applicant will be notified within 5 days. Dave also explained the applicant's right to a rehearing.

Dave explained the deliberation process to the public stating once the Public Hearing is closed there will be no more public comment.

Public Hearing closed at 8:07pm.

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The board addressed the five criteria.

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed.
3. Substantial justice is done.
4. The values of surrounding properties are not diminished.
5. Literal enforcement of provisions of the ordinance would result in unnecessary hardship.

Subjects for discussion were:

- This property is a non-conforming lot
- Property line markers
- Merging of adjacent property was not relevant to the case
- Positioning of the shed
- Sanitary conditions were not relevant to the case as this was a storage shed
- Would it be a hardship for the applicant to tear down the shed and make it smaller?
- 20% issue

There was a motion by Dave, seconded by Tom, to take a straw poll vote. All were in favor.

| Criteria | 1 | 2 | 3 | 4 | 5 |
|----------|---|---|---|---|---|
| Chuck | N | Y | Y | Y | Y |
| Tim | N | Y | Y | Y | Y |
| Dave | N | Y | Y | Y | Y |
| Tom | N | Y | Y | Y | Y |
| Jory | N | N | Y | Y | Y |

There was a motion by Dave, seconded by Chuck, to approve the applicant's request for a variance from Article 4 Section 402 of the Zoning Ordinance to permit the existing constructed storage building that is located twelve feet from the northeasterly side line of the land shown on Tax Map 106 Lot 2 when 20 feet is required, in accordance with a plot plan drawn by Folsom Design & Construction Management, dated April 30, 2017, and submitted by the applicant as part of this hearing. No conditions are attached to this variance. All were in favor.

Agenda items were discussed for the December 5, 2018 meeting.

A motion was made by Tom, seconded by Tim, to adjourn the meeting.
Meeting adjourned at 9:10pm.

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