

LIVINGSTON ZONING BOARD OF APPEALS

July 11, 2017

The meeting opened at 7:00 pm with the Pledge of Allegiance.

Attendance:

Chairman Thomas Alvarez
Charles Schneider
Stan Yarian
Robert Fleming
Charles Dickens
Sarah Price.
Attorney Ted Hilscher.

Absent:

CEO Jay Trapp

The minutes of the June 06, 2017 meeting were read and a motion to accept the minutes as read was made by Sarah Price and 2nd by Charles Schneider. All present voted AYE.
Motion passed unanimously.

Correspondence: None.

The application for Robert Brugna is continued for an area variance application. The pre-existing deck and staircase was replaced without appropriate approval before construction was completed. Fee paid.

7:12 the public hearing continued for Mr. Brugna for an area variance.

Attorney Matthew J. Griesemer represented Mr. Brugna. He reports:

1. Mr. Brugna has some plans to downsize.
2. Mr. Griesemer discussed 5.6 b of the zoning law. (EXEMPTION OF SUBSTANDARD LOTS).
3. 4" will be moved from Mr. Kowan's property.
4. A notarized letter was submitted that the removed deck was 10 x 10. (But not sworn to).
5. New deck is 150% larger and should be allowed.
6. It is a unique lot. The only flag lot in the area on the front of the lake and takes the position that is conforming.
7. That there is a conflict of interest that Board member Charles Dickens lives across the lake.

Attorney Hilscher responded:

1. Charles Dickens is on the other side of the lake and is not near the applicant and therefore does not have to recuse.

2. The Board needs to determine the original size of the deck.
3. Zoning law 5.5 does not allow an applicant to increase the non-conformity of a non-conforming dimensional requirement.

Chairman Alvarez opined that Zoning Law 5.6 pertains to single family dwellings on substandard lots and is not relevant to the current application.

Gerta Dropp representing Edward Schollmeier (Neighbor on the west side) read a statement from him. On file. There is no working compromise between the two aforementioned landowners.

Josh Kowan (neighbor on east side) was ok with any decision which resulted in the removal of the 4 inch encroachment on his property.

A motion to close the public hearing at 7:45 was made by Charles Schneider and 2nd by Stan Yarian. All present voted AYE.

The Board has collected the facts and concluded that Mr. Brugna's deck was originally constructed at the approximate dimensions of 8 feet x 8 feet, and later expanded to the current size of 14feet x 16 feet.

The Board considered the 5 following questions and answered as follows:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. Answer Yes.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. Answer Yes.
3. Whether the request area variance is substantial. Yes.
4. Whether the proposed variance will have an adverse effect or impact in the physical or environmental conditions of the neighborhood or district. Yes.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the granting of the area variance? Yes.

All members present voted yes. Unanimous. Motion made by Sarah Price and 2nd by Charles Schneider.

After it was determined that the answers to all the 5 questions were yes, a motion to deny the area variance that Mr. Brugna seeks to construct a deck 14 feet x 16 feet was made by Charles Schneider and 2nd by Sarah Price. All voted AYE. Motion passed unanimously. As a result of his current application for a building permit Mr. Brugna will need to (a) return the deck to the dimension of 8 x 8, with no part of the deck closer than 5 feet from the Schollmeier line and (b) remove 4" of encroachment on Mr. Kowan's property.

A letter will be sent to CEO Trapp advising him of the Boards decision.

There being no further business before the Board, a motion to adjourn was made by Sarah Price and 2nd by Stan Yarian. All present voted AYE.

Motion passed unanimously. Meeting closed at 8:10.

Next scheduled meeting will be held August 01, 2017.

Respectfully submitted

Eileen Yandik
Secretary ZBA