

TOWN OF BENNINGTON

ZONING BOARD OF ADJUSTMENT

Minutes of the Public Hearing – October 18, 2007

Case #2007-03 – Patrick & Georgeann Greene – Tax Map 17 Lot 32 – Area Variance

Present: Christopher Clough, Alternate
Judy Heddy, Vice-Chair
Peter Martel
Barbara Moorehead
Jane Pelletier, Chair
John Tyler

Guests: Georgeann Greene
Patrick Greene

Chairperson Jane Pelletier called the Public Hearing of ZBA Case #2007-03 to order at 7:03 p.m.

Chairperson Pelletier reviewed the case folder and confirmed that notice had been sent via certified mail to the property owner and abutting property owners on October 9, 2007 and a Public Notice was published in the Monadnock Ledger-Transcript on October 11, 2007. Notice was also posted in advance at the Bennington Town Hall and GEP Dodge Library; the Public Hearing fees were paid on October 16, 2007.

Patrick Greene explained to the Board that he had applied for a Building Permit Application to construct a farmer's porch on the front of his house. After meeting with the Building Inspector, Mr. Greene was notified that the proposed construction did not meet setback requirements as required in Article VII, Section C of the Bennington Zoning Ordinance. The Board reviewed a Denial of Building Permit #24-07 as signed by Peter Hopkins, Code Officer/Building Inspector for the Town of Bennington.

The Board reviewed a copy of the Greene's assessment card with a building sketch. Based on the assessment sketch, Mr. Greene explained that he wanted to construct a farmer's porch that would fill-out from an existing 5' x 7' mud room to the edge of the house. The farmer's porch would measure approximately 5' deep by 17' wide. The Board requested Recording Secretary Kristie French depict on the building sketch on the assessment card where the proposed farmer's porch would be constructed and submit that drawing into the record of the Greene case.

The Board reviewed Article XVII-13 of the Zoning Ordinance, the definition of front setback.

The Board reviewed the Greene's application for an area variance with Mr. and Mrs. Greene. Mr. Greene explained that the proposed farmer's porch was in violation of setback requirements, but was no greater than a 22' wide by 25' deep section of the house that jets out beyond the proposed area of expansion. Mr. Greene also explained that due to the topography of the lot, it

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would be impossible to add a similar farmer's porch onto the rear of the kitchen area/rear of the house. Mr. and Mrs. Greene also explained that the proposed farmer's porch was an aesthetically pleasing property improvement that would be noticeable as people came into town from the Antrim town line.

In viewing the Area Variance application and the building sketch, the Board noted that the application and the plans did not include dimensions for access to the farmer's porch. The Board discussed access to the farmer's porch with the Greene's, who were unsure of the exact location of where they would locate the stairs. The Greene's did state that they planned for only a one-step or two-step stair construction to access the porch.

There being no abutters and no members of the general public in attendance, the Board closed public input after Mr. and Mrs. Greene discussed their proposed construction. Although they were advised that they did not have to leave the room during deliberation, Mr. and Mrs. Greene voluntarily left the room while the Board deliberated the case.

Mr. Martel advised the Board that at the recent Fall Planning and Zoning Conference, ZBA attendees were advised not to vote separately on the five criteria for an area variance, but to vote on the application in its entirety. Acting on Mr. Martel's report, the Board considered the Greene's application as follows:

1. The Board felt that the addition of a 17' wide by 5' deep farmer's porch would not diminish property values in the neighborhood and would create a more attractive house.
2. The Board felt that granting the variance would not be contrary to the public interest because the proposed addition would not create a further encroachment on the roadway (as compared to the existing 22' wide by 25' deep section of the house that is closer to the roadway) and would not block traffic views from the Bible Hill Road intersection.
3. The Board felt that a special condition existed for the property due to the topography of the lot and the current location of a well. Because of the topography in the rear of the lot and the location of the well, a farmer's porch could not be logically constructed elsewhere. Furthermore, an existing mudroom encroaches in the setback and the proposed addition would be an extension of the mudroom dimensions along the remainder of the front of the house. Allowing the proposed addition would not decrease the existing setback on the lot.
4. The Board felt that granting the variance would do substantial justice because the building was constructed prior to zoning regulations and is considered a grandfathered structure. The existing setback for the mud room is also grandfathered and the construction of the farmer's porch would not exceed the existing grandfathered setback.
5. The Board felt that the proposed addition was not contrary to the spirit of the ordinance because the house was constructed prior to zoning and the specific portion of the residence where the addition is proposed already has established setbacks. Although it is the intent of the zoning ordinance to establish setbacks and prevent encroachment within

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those setbacks, the proposed addition would only be filling out dimensions already established by the mud room's existence.

The Board discussed the dimensional requirements for access to the farmer's porch based on conversation with Mr. and Mrs. Greene. Realizing that the stairs for the farmer's porch would also encroach into the setback, the Board felt it would be reasonable to authorize up to five feet of additional depth to allow for construction of an access point onto the farmer's porch.

Motion was made, seconded, and the Board unanimously voted to approve the Area Variance from Article VII, Section C to permit the construction of a 17' wide by 5' deep farmer's porch with a 5' deep allowance for stair access.

Mr. and Mrs. Greene rejoined the Public Hearing and were notified of the Board's decision. The Board explained that they would need to reconvene to review and approve the Minutes of the Meeting, Findings of Facts, and formally approve a written Notice of Decision of the case.

The Board will reconvene on Thursday, October 25, 2007 at 6:30 p.m. to review and approve their Notice of Decision for ZBA Case #2007-03.

The Public Hearing was closed at 8:05 p.m.

Respectfully Submitted,

Kristie French, Recording Secretary