



**Stratham Zoning Board of Adjustment
Meeting Minutes
July 11, 2017
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM**

Members Present: Arol Charbonneau, Chairman
Bruno Federico, Board of Selectman Representative
Garrett Dolan, Full Time Member
Phil Caparso, Full Time Member

Members Absent: Chris Brett, Full Time Member
Deidre Lawrence, Full Time Member

Staff Present: Mark Morong, Code Enforcement Officer

1) Call to Order/Roll Call

The Chairman took roll call and explained the procedure of the hearing to the applicants.

2) Approval of Minutes

a. April 11, 2017

Mr. Federico made a motion to accept the minutes of April 11, 2017 as written. Mr. Caparso seconded the motion. Motion carried unanimously.

3) Public Hearing(s)

- a. Case #636: Christopher Kuntz, 58 High Street, Stratham, NH for the property located at 58 High Street, Stratham, NH, Tax Map 18, Lot 124.** A Variance Application request to grant relief from Stratham Zoning Ordinance Article IV, Section 4.1.1, Table 4.2 of the Stratham Zoning Ordinance has been filed. The applicant is seeking relief to change the footprint of the existing structure resulting in further encroachment into the front setback.

Mr. Caparso made a motion to accept the variance application for ZBA Case #636 as complete. Mr. Dolan seconded the motion. Motion carried unanimously.

Christopher Kuntz introduced himself and explained to the board that he is proposing to put a second floor addition onto his house at 58 High Street, which is currently a single story home, as well as a garage and a connecting mudroom. Mr. Kuntz stated he has met with Mr. Morong to discuss the plans and what will be needed for the addition and discovered the house is within the Town of Stratham setbacks. The house was measured from the centerline of High Street and the edge of the foundation is at the town's current setback of 30'. Mr. Kuntz explained that he is proposing to rip off the existing front porch, which extends off the house by 12 feet, and replace it with a 6'x 38' farmer's porch. Mr. Kuntz stated the renovation will be more pleasing for the neighbors and the town, and will create a safe pathway for his wife and 10 month old child.

Mr. Charbonneau asked Mr. Kuntz for confirmation that the house currently sits on the setback line and the existing porch encroaches the line by 12'. Mr. Kuntz stated the existing porch and the roofline encroach on the setback. Mr. Dolan asked Mr. Kuntz if the garage will maintain the same front line to which Mr. Kuntz explained the garage will be set back approximately 4' from the house line. Mr. Caparso asked for confirmation that the porch will be reduced from 12' to 6', the garage will move back an additional 4'. Mr. Kuntz replied the porch will be reduced to 6' and there is no garage currently, and the planned garage will sit back by 4'. Mr. Morong confirmed the garage will be within the front, side, and rear setbacks. Mr. Charbonneau asked Mr. Kuntz for the square footage. Mr. Kuntz stated the existing porch is 16x12 and the proposed porch will be 38x6. Mr. Caparso stated the change will make the house more compliant with the zoning regulations. Mr. Dolan stated the change will mitigate the impact. Mr. Dolan questioned if there is any other impact with this project. Mr. Morong stated he has done some research on the Beech Court subdivision and found; there were three lots, one was used to make the road, another lot had some restrictions for different setbacks, but this lot is clear and did not have any conditions set on it.

Mr. Charbonneau asked if there was anyone who would like to speak in favor or against; no one came forward. Mr. Caparso motioned to close the public session on Case #636. Mr. Dolan seconded the motion. Motion carried unanimously.

Mr. Charbonneau read the criteria and the board discussed:

No variance shall be granted unless all of the following conditions are met:

- i. The variance will not be contrary to the public interest.

Mr. Charbonneau stated he sees any harm to the public interest and would be an improvement. Mr. Caparso, Mr. Dolan, Mr. Federico agreed.

- ii. The spirit of the ordinance is observed.

Mr. Charbonneau stated the goal is to control front setbacks and this case appears to be in compliance and reach this goal by reducing the porch by 6'. Mr. Federico agrees and states they are improving the situation. Mr. Dolan stated the strict interpretation of the zoning ordinance would not allow Mr. Kuntz to have anything off the front of the house, which poses an issue of how to get out of the front door so the mitigation factor, dropping it back from 12' to 6', accomplishes the need for Mr. Kuntz to have egress out of his house and the zoning board to see the construction is more compliant with the zoning ordinance. Mr. Dolan states the spirit of the ordinance is observed. Mr. Caparso and Mr. Federico agreed.

- iii. Substantial justice is done.

Mr. Caparso stated substantial justice is done for the town because the ordinance is more in compliance with this variance than without, and for the property owner it would cause substantial hardship if the variance wasn't granted. Mr. Caparso explained in both instances, for the town and the individual, substantial justice is done. Mr. Charbonneau and Mr. Dolan agreed. Mr. Dolan stated this is a result of something that was missed along the way regarding setbacks. This will result in substantial justice to both the property owner and the town.

- iv. The values of surrounding properties are not diminished.

Mr. Charbonneau stated this will improve property values. Mr. Dolan, Mr. Federico, and Mr. Caparso.

- v. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

- 1. For purposes of this subparagraph, "unnecessary hardship: means that, owing to special conditions of the property that distinguish it from other properties in the area.
 - a. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property, and
 - b. The proposed use is a reasonable one.

Mr. Charbonneau stated the proposed use is a reasonable one, but a relationship exists because the purpose of the ordinance is to control the setbacks. Mr. Federico explained that High Street is one of the oldest streets in the town, all the houses in this section of town are very close to the road, and were probably built before setbacks were even considered. The zoning came to be in

the early 1980's with setbacks and this house predates zoning. Mr. Kuntz confirmed the house was built 1965.

2. If the criteria in subparagraph 1. Are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Mr. Caparso states, as Mr. Dolan pointed out, a strict application of the zoning laws would not allow any porch and the property owner would not be able to leave their home. Mr. Caparso explained this proposal provides a remedy that is fair to both the homeowner and the town. Mr. Kuntz is reducing the size of the porch by ½, thus it'll be more esthetically pleasing, will cut down on the impact of the setbacks, and he will be able to use the front door of his house.

3. The definition of "unnecessary hardship" set forth in this section shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Mr. Charbonneau stated there is a hardship because the home predates zoning and is within the setback. Mr. Caparso stated this cannot be strictly enforced otherwise Mr. Kuntz would have to move his house. Mr. Dolan stated this is a preexisting condition.

Mr. Caparso made a motion to move ZBA application #636 to a vote. Mr. Dolan seconded the motion. Motion carried unanimously. Mr. Dolan made a motion to **GRANT** the variance application request from Stratham's Zoning Ordinance, Article 4, Section 4.1.1, Table 4.2. Motion carried unanimously

Vote: Mr. Charbonneau – Yes; Mr. Dolan – Yes; Mr. Caparso – Yes; Mr. Federico – Yes

Mr. Charbonneau explained to the applicant there is a 30-day period for any appeals so any work performed before that 30-day period the applicant is doing so at their own risk.

Mr. Dolan made a motion to adjourn at 7:25 pm. Mr. Caparso seconded the motion. Motion carried unanimously.