

# **TOWN OF NORTH HARMONY ZONING BOARD OF APPEALS**

**WEDNESDAY, 09/25/2024, 7: 00 P.M.**

**ZBA MEMBERS PRESENT:**            **GREG MICHALAK**                            **WILLIAM ORTMAN**  
   **ROGER VAILLANCOURT** **DAN THOMAS**  
   **DAVE ENSMINGER**                            **SHEILA KYSER**  
   **Julie Conklin, Zoning Board Clerk**  
   **Kelly Johnson, Attorney**

**OTHERS PRESENT:**                    **Bob Klimasewski**                    **James Hojnacki**  
   **Emmett Tenpas**                    **Nancy Hojnacki**  
   **Nancy Carrol**                    **Thomas Kam**  
   **Mike Pheil**

**Mr. Michalak** brought the hearing to order at 7:00 PM.

**Mr. Thomas motioned to adopt the minutes of the 8/28/2024 Zoning Board of Appeals Hearing as submitted by the Zoning Clerk. Mr. Ortman seconded. Motion carried.**

**Announcement for record by zoning clerk**

- Legal Notice for Post Journal – 9/14/24
- Notice to Neighboring Properties – 9/11/24

**Mrs. Johnson** swore in all who expressed intent to speak.

**Mr. Michalak motioned to move into executive session to get legal advice on the application for Mr. Hojnacki at 7:03 p.m. Mr. Vaillancourt seconded. Motion carried.**

**Mr. Michalak motioned to return from executive session at 7:16 p.m. Mr. Thomas seconded. Motion carried.**

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- **Jim Hojnacki requesting an Area Variance to expand entryway closer to side setbacks than allowed according to Town of North Harmony Zoning Law Article IV, Section 403 located at 2870 Chautauqua Ave., specifically SBL 367.05-1-9**

**Mr. Michalak moved to open the public hearing.**

**Mr. Hojnacki** spoke about the history of his property and that it is in need of some exterior work.

- Expansion of the side entrance which requires a variance – side setback

## **Topic Discuss**

The blueprint specs submitted shows a total lot coverage of 29%; the zoning code states limit of 25% (the deck would not be included in the lot coverage but the addition of the roof over the deck would be included in the lot coverage) Currently the property lot coverage is estimated at 22%, and then include covering the deck it would bring it to 29%. (per Section 202 Definitions: Building Area)

- **Mr. Tenpas** stated that they did not plan to put the roof over the whole deck.

**Mr. Klimasewski** (neighbor to the northside) spoke on their view of the lake and feels that the remodeling of the house will significantly impact the view from the house and impact his property value.

**Mr. Klimasewski** feels there should be variances required on the following items:

- Southside porch
- Gable roof extension by the lake (less than 50')
- Northside gable roof edge would come within 6' ft of property line

**Mr. Klimasewski** feels that granting these variances would seriously impact the character of the neighborhood and would adversely affect property values. These variances are substantial and significant, and self-created.

**Mr. Kam** (neighbor on the southside) spoke on the impact this construction would have on his property. His home sits further back than Mr. Hojnacki's. The construction would impact his view by 20% to 25%. He stated that he would grant the southside entryway variance and that it would not impact his home.

**Mr. Michalak** would like Mr. Bradley Lawson, CEO's comments/input on the construction, project as a whole, clarification of measurements; roof over deck, setbacks and lot coverage to clarify what is being asked before the construction of any roofing of the deck.

**Mr. Tenpas** mentioned that a section of the zoning code allows for pre-existing construction to be developed without a need for ZBA vote. (Section 807-Non-Conforming Yard Changes)

**Mr. Tenpas** asked if they could get the southside variance approved and that they would return with either another variance request or make changes and one will not be needed.

**Mr. Michalak** spoke of the two letters that were received (in opposition) regarding Mr. Hojnacki's requests.

- Robert & Tammy Klimasewski
- Thomas Kam

Report from the Chautauqua County Planning Board's report said that it was a matter of local concern.

**Mr. Michalak motioned to close the public hearing. Mr. Thomas seconded. Motion carried.**

**Mr. Thomas** read through section 904. (findings attached)

Mr. Michalak made a motion to approve the variance request by Mr. Hojnacki to complete the southside entryway porch setback of 7' 7" as submitted in application and the request for North side & Lakeside setbacks and further discussion with the zoning officer regarding lot coverage be tabled at this time. Mr. Vaillancourt seconded. Yes (5): Vaillancourt, Thomas, Michalak, Ensminger, Kyser. No (1) Ortman.

**Future Meeting Dates:**

- Scheduled for Tuesday, October 22, 2024
- Tentatively for Wednesday, November 20, 2024
- Tentatively for Wednesday, December 11, 2024
- November & December may be combined depending on the applications

**Mrs. Conklin** stated that Mr. Dan Saunders pulled his application for the fence for the Stow Cottages.

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**By a motion made by Mr. Michalak, Mr. Ortman seconded and with none being opposed the hearing was adjourned at 7:57 PM**

*Julie Conklin*  
*Zoning Board Clerk*