

Town of Sanford
Zoning Board of Appeals
917 Main Street, Suite 300
Sanford, Maine 04073
(207) 324-9145 Fax (207) 324-9166

Date: October 22, 2012

To: Joel Fougere
35 June Street
Sanford, ME 04073

Dear Applicant,

This is to inform you that the Board of Appeals has voted to act on your application for a Dimensional Variance at its meeting on October 22, 2012 and made the following findings and conclusions:

A. Findings of Fact:

1. Name of applicant: **Joel Fougere**
2. Mailing address: **35 June Street, Sanford, ME 04073**
3. Telephone: **(207) 838-1347**
4. Location of property for which variance was sought: **35 June Street, Sanford, ME**
5. Tax Map: Map & Lot Number – **Map H26, Lot 12**
6. Zoning district in which property is located: **Single Family Residential Zone (SFR)**
7. The property **is not** located in the Shoreland/Resource Protection Zone.
8. Name of current property owner: **Joel Fougere and Andrea Maxwell**
9. The applicant is the owner of record according to the current records of the Town of Sanford.
10. The applicant has requested a dimensional variance from the required side setback of ten (10) feet.
11. A Public Hearing on the variance was held on October 15th and again on October 22, 2012, before the Board of Appeals with four (4) of the (7) members present.

B. Conclusion of Law:

1. The evidence does not establish that strict application of the Ordinance precludes the ability of the applicant to pursue a use permitted in the zoning district in which the property is located because the applicant can still use the house for residential purposes without the deck or the enclosed porch.
Board voted (4) in favor, 0 against.

2. The evidence does establish that strict application of the ordinance will result in significant economic injury to the applicant because if they remove two (2) feet off the enclosed porch, it would result in increased economic loss.

Board voted (4) in favor, (0) against.

3. The evidence does establish that the need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood because the existing enclosed porch did not show any violation therefore the homeowner adding the deck to the existing porch at the same distance from line without knowledge of a preexisting violation created a unique circumstance.

Board voted (3) in favor, (1) against.

4a. The evidence does establish that granting the variance will not produce an undesirable change in the character of the neighborhood because the closest structure on abutting property is more than 23 feet away and does not affect setback.

Board voted (4) in favor, (0) against.

4b. The evidence does establish that granting the variance will not unreasonably detrimentally affect the use or market value of abutting properties because the abutting property is not a buildable lot.

Board voted (4) in favor, (0) against.

5. The evidence does not establish that the practical difficulty is not the result of action taken by the petitioner or a prior owner because both the enclosed porch and deck were built in violation of the setback.

Board voted (3) in favor, (1) against.

6. The evidence does not establish that no other feasible alternative to a variance is available to the petitioner because the applicant can request a consent order for the violation from the Council.

Board voted (4) in favor, (0) against.

7. The evidence does establish that the granting of the variance will not unreasonably adversely affect the natural environment because it is a single family residential zone area and continues to be used as a residence.

Board voted (4) in favor, (0) against.

8. The evidence does establish the property is not located in whole or in part within the shoreland areas as described in Title 38, M.R.S.A. section 435 because the tax maps and the survey say it is not in the shoreland zone.

Board voted (4) in favor, (0) against.

C. Decision:

On the basis of the above Findings of Fact and Conclusion of Law, the Board of Appeals voted (4) to (0) to deny the dimensional variance. The application does not meet the practical difficulties criteria for a dimensional variance because three (3) out of the eight (8) criteria were not met, questions 1, 5 and 6.

D. Appeals:

Parties aggrieved by this decision may appeal it to the Superior Court within 45 days of the date of decision **October 22, 2012** pursuant to 30-A M.R.S.A. 2691 and 4353 and Maine Rule of Procedure, Rule 80B.

Date: October 22, 2012

Applicant: Joel Fougere

Chairperson- Mark I. Patterson

Board Member – Kimberly Stewart

Board Member- Naila Aslam-Khan

Board Member- James T. Wendel

NOTE: THE ORIGINAL DOCUMENT IS SIGNED BY THE BOARD OF APPEALS AND IS HELD ON FILE AT THE CODE ENFORCEMENT OFFICE, SANFORD, MAINE 04073.