

**Town of Sanford  
Zoning Board of Appeals**

The Sanford Zoning Board of Appeals scheduled a meeting on Monday, October 22, 2012 at the Sanford Town Hall. The meeting was called to order by Mark Patterson at 8:15 P.M.

Members Present: Mark Patterson  
Naila Aslam-Khan  
James Wendel  
Kimberly Stewart

Members Absent with Notice: Kyle Landry, Jane Bowker & Paul Demers

Representing Code Enforcement: Shirley S. Sheesley, Chief Code Enforcement Officer.  
Jamie Cole, Code Enforcement Officer.

The ZBA meeting commenced with the Pledge of Allegiance.

Mark Patterson, Chairperson, thanked all for accommodating his schedule and the late start to the hearing.

Next came Old Business and the continuance of the hearing from October 15, 2012, regarding the appellant, Joel Fougere, seeking a Dimensional Variance for a porch and deck located at 35 June Street, Map H26, Lot 12 located in the SFR zone.

The appellant delivered to the Board, new information received from Livingston & Hughes, Land Surveyors, showing actual side setbacks on the deck and porch from the appellant's boundary line.

Mark asked the appellant to explain the findings as some of the information had changed.

Their neighbor, Maura Herlihy, was able to provide the accurate measurement from their property line to the porch as the Herlihys recently had a survey done by Corner Post on their property. The distance measured 8' 10 ½ " to the front of the porch and 8' 7 ½ " to the back corner of the porch.

Conversation continued with the ZBA Board and the appellant regarding measurements and how they were determined in order to accurately arrive with the violation amount.

The porch was so old that it wasn't figured into the survey done by Livingston & Hughes when the question was asked by Mark.

Pins have now been placed on the side of the appellant's property.

Again, Mark asked the question as to what the appellant was asking for.

- a. Dimensional variance for the deck?
- b. Dimensional variance for the porch?
- c. Dimensional variance for the deck and porch?

Mark deferred the question to Shirley, CEO, who responded by indicating that although the Town may not pursue the porch, it remains in violation and the appellant might consider going for both the porch and the deck.

When considering all options, the CEO referred to the possibility of a consent agreement with the Town Council. However, before submitting for a consent agreement, Shirley believes the Council would first prefer a response from the Zoning Board of Appeals.

An inquiry from the appellant as to the possibility of obtaining a letter of “no action” was asked of the Chairperson.

Without a variance or a consent agreement, the porch/deck would always be an issue when (if) current owner tried to sell the property.

As Shirley indicated earlier, either a variance, consent agreement or a corrective action would be necessary in the resolution of the above violation. She further went on to say that a variance stays with the property, whereby a consent agreement is for the building, and if the building is ever moved it would have to meet with the required setbacks.

Another option was suggested by Jim Wendel regarding the current violation with both the porch and the deck. His suggestion was to take the deck out of the equation and focus on the porch.

Mark Patterson indicated there is a lot more latitude with a consent agreement than with a variance agreement explaining why he thought it would be a better direction for the appellant.

The spokesperson for the appellant gave his personal thoughts and opinions regarding the direction he felt the appellant should take, looking long term and not just the present.

Next, Joe Herlihy spoke as an abutter stating his wife was the owner of 5 and 11 Genest Lane. He referenced the 15’ strip between his property and that of the appellant’s property. Joe confirmed that they had a class A survey done in 2000 for the purpose in settling the estate following the death of a family member. Joe Herlihy gave a brief background as to his qualifications and his concern for his neighbor.

With no questions from the Board to Mr. Herlihy, Mark turned to Shirley for her rebuttal and/or comments.

Shirley advised the ZBA that she could not speak for the Council and stated that if the variance was granted, end of problem. If not, the probable next move would be a consent agreement between the Town and the appellant. She advised the Board that if they did grant a variance to specify the distance (amount) being granted.

The only other question to the Board came from the spokesperson asking the Board if once the hearing was closed to the public and they should have a question, are they permitted to ask? Mark informed the appellant they can open the hearing and then close the hearing should the Board feel it necessary.

The hearing was next closed to the public and the Board entered into deliberations.

You may review the Findings of Fact dated October 22, 2012, included with the minutes.

Following the Board's vote and decision, the Board elected to make suggestions related to the above appeal for consideration by the Town Council. They are as follows:

- a. The ZBA suggests that the Town Council consider a letter of consent agreement for "no action" on both the porch and deck setback violation.
- b. The Council should consider drafting a dominiums' change ordinance to grant the CEO the ability to enter into a consent agreement on similar cases.
- c. The Board voted (4) to (0) in favor of the above suggestions.

The Board entered into discussion with the appellant and the abutter along with Jamie from Codes regarding the possibility of writing a new ordinance and how that all works. Mark asked Jamie for his support in going out to other CEO's on how they have handled similar situations and their results. Jamie indicated there could be an overwhelming response and he would forward the results as they come in.

Shirley questioned the granting of minor variances as it could possibly encourage violations. Her job is to enforce the ordinances, i.e., if you were to build something thinking you'll get a dominiums variance would defeat the zoning ordinance in place.

With no additional business, the motion was made to adjourn.

**Meeting adjourned at 9:42 P.M.**

