

**ZONING BOARD OF ADJUSTMENT  
TOWN OF BARNSTEAD  
TOWN HALL  
JANUARY 19, 2015 @ 7:00 P.M.**

**MINUTES**

**CALL TO ORDER:** Eileen Murley, chair, called the meeting to order at 7:00 P.M.

**ROLL CALL:** Eileen Murley, chair, Rick Duane, Gordon Preston, Thomas McCarthy, Steven Vail, alternate, Mary Clarke, alternate, Ed Tasker, alternate and Paula Vardaro, recording secretary

Eileen Murley asked Steven Vail to sit in for David Brown as a voting member – he agreed.

Eileen Murley read Case No. 1214-224: Allen and Susan Terry, 57 Fire Lane #13, Map 24, Lot 15, are requesting a 13’8” and a 7’ variance to Article 3; section 3-3.01. The applicant would like to rebuild their home which is currently 16” at its closest point and 8’ from the side yard setback. This does not meet the side setback of 15’ as allowed by the Town of Barnstead Zoning Ordinance which states: Permitted Encroachments -On lots forty thousand (40,000) square feet or less where the width of the lot is less than two hundred (200) feet, the required side yard setbacks may be reduced six (6) inches for every two (2) feet of width that is less than the required two hundred (200) feet, with the limitation that a minimum of fifteen (15) feet shall not be exceeded.

The applicant is also requesting a variance to Article 4, section 4-2.07, shoreline lots, for the new deck with a 10’ width, where an 8’ deck is allowed as a matter of right by the Town of Barnstead Zoning Ordinance. The applicant is able to move the new house back 2’ thus allowing for a 10’ deck - keeping the 29’ shoreline setback.

Eileen Murley explained the process to the applicant as follows – The applicant will present the case, read the 5 criteria for the variance and the Board will ask questions. A public hearing will be opened for any comments from the general public, and then more questions can be asked by the Board. The Board will then deliberate. It is not a guarantee that a decision will be given tonight if the Board feels they need more information and therefore the meeting will be continued.

Al Terry told the Board that they would be replacing the existing house and moving it back from the water 2 feet, but leaving the deck where it is – thus being able to increase the side of the deck from 8’

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to 10'. The house can't be moved any further away from the water due to the septic system. He told the Board that a 10' deck wouldn't affect more water run-off. Al Terry stated that an 8' deck is very small when it comes to putting out a table and chairs, there isn't any room for someone to get by and presents a safety issue for someone getting by the furniture. He passed around a picture of a log cabin which will replace the current house. No matter what happens tonight he recommends that the Board change the 8' wide limitations to make it at least a 10' wide deck – he also pointed out that the State allows a 12' deck. He showed the Board where the house next to him was located and there is about 32' between the two houses. Al Terry said they looked at moving the new house to the left, but because of the contour of the land and the terrain he can't do that and the State agreed with him about not disturbing the land and the terrain.

He also owns the house next to him and went to the ZBA years ago for a variance, but was only granted an 8' wide deck.

Eileen Murley asked about the relocation of the shed and the carport.

Al Terry stated the new house would be too close to the structures. It will still be the same size, but in a different location.

Eileen Murley asked about the setbacks in the new location.

Al Terry said the setbacks will be the same.

The applicant read the 5 criteria for the Board. He told the Board that he wanted to do a lot line adjustment, but is unable to swap equal land with the two parcels, but there is still 32' between the two buildings. He pointed out that some houses and the decks on the lake are closer than his is. Most of them are cottages and were built a long time ago.

Rick Duane stated that the existing house is a 1 story, but the new house is going to be a 2-story.

Al Terry said no – it would be 1 ½ stories with a walk-out.

Steve Vail asked if it was going to be put on a slab or a full foundation.

Al Terry said it will be a full concrete walk-out basement.

Tom McCarthy asked about the survey and the notification of abutters.

Al Terry stated all the abutters have been notified and the surveyor supplied a plot plan not a survey of the property.

Eileen Murley commented that a survey is not required for a variance.

Rick Duane asked about the relocation of the sheds and if they would need a variance for them also.

Al Terry said it was a shed under 200 square feet and a carport, so no variance is needed.

He added that a complete survey will be submitted when he applies for a building permit.

Eileen Murley asked for a discussion regarding the building being moved back two feet to accommodate a 10 foot wide deck.

Ed Tasker said that Mr. Terry raises a very good point – the usability of an 8' deck. This might be something we need to discuss with the Planning Board. He didn't have a problem with having a 10 foot deck because it doesn't encroach upon the water – only the house would.

Gordon Preston asked where the septic system and leach field were located.

Al Terry said there wasn't a septic system only a 1,000 gallon dry well or cesspool – he pointed out on the plan where the leach field was. He didn't want to get into a septic system because of the State

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restrictions.

There was a brief discussion about the number of bedrooms, bathrooms and the system.

Rick Duane asked if this would be a year round home.

Al Terry said no.

Eileen Murley said that moving the house back 2 feet won't really allow for a 10 foot deck according to the ordinance. Until the zoning ordinance is changed it should stay at 8 feet. She felt it would be troubling to allow the 10 foot deck.

Gordon Preston asked where the 8 foot wide deck came from.

Rick Duane stated the Board had requests for variances for 8 foot decks – so they decided to put in a reasonable number for the width of the deck. This way the people could build a deck without having to come before the Zoning Board for a variance. He felt it has worked.

Al Terry said that the State allows a 12' deck on waterfront lots. He added that there is a danger to the 8 foot deck and going around furniture.

There was a brief discussion on when this was put into the zoning ordinance. It was noted that the 8 foot allowance was voted on and added in 2009.

Gordon Preston asked about the variance that was noted on the plans submitted.

Al Terry said the surveyor took the plans from the house next door, which needed a variance, and used them, but didn't eliminate the previous notes.

Eileen Murley asked if there was any further discussion.

Gordon Preston stated he didn't have a problem with the deck if he moved the house back 2 extra feet.

Maybe we should submit a warrant for a 10' wide deck for the March election.

Mary Clarke noted they were changing the footprint of the house.

Eileen Murley agreed, but stated that portion was not in the shoreline protection.

Eileen Murley opened the public hearing at 7:32 P.M.

No comments were given.

Eileen Murley closed the public hearing at 7:33 P.M.

Gordon Preston made a motion to grant a variance for the side setbacks.

Steven Vail seconded the motion.

Eileen Murley told the applicant that in order for approval – they need 3 votes in the affirmative. The chair doesn't vote unless there is a tie.

The Board voted unanimously to approve the motion.

Discussion continued regarding the 10' deck.

Gordon Preston stated if we allowed a 10' deck we would be setting precedence.

Eileen Murley agreed that was a concern.

Al Terry asked the Board to consider it because it is a safety issue and thought the Board should take that into consideration.

Mary Clarke asked how far off the ground the deck was.

Al Terry said it is about 8 ½ - 9 feet off the ground.

There was a brief discussion about the existing deck, its construction and the new proposed deck.

Rick Duane made a motion to grant the 10 foot deck.

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Steven Vail seconded the motion.

The Board voted unanimously to deny the 10 foot deck.

Eileen Murley told the applicant their request for a 10 foot deck has been denied. They will receive the written decisions in the mail within 5 days. There is an appeal period of 30 days if anyone is interested in appealing this. If you start construction within this 30 day period – you do so at your own expense.

Susan Terry asked how they could change the requirement to a 10’ deck.

Eileen Murley explained – it would be a change to the zoning ordinance which requires a vote on the ballot and wasn’t sure what the filing period was.

Paula Vardaro told the Board that the question for the ballot has been posted and the public hearing for it is this Thursday.

There was a brief discussion about the filing period, posting and if they could make changes.

Gordon Preston said it be very hard to follow all of the legal requirements and get it on the ballot.

Eileen Murley stated that the Planning Board owns the Zoning Ordinance so they would be the ones to write the ballot question.

**CORRESPONDENCE:** None

**OLD BUSINESS:** None

**NEW BUSINESS:** Eileen Murley informed the Board there will be a February meeting, but because of the holiday being the third Monday they will push the meeting back one week. The February meeting will be on the 23<sup>rd</sup>.

**MINUTES - 11/17/14:** Gordon Preston Made a motion to approve the minutes as written.

Rick Duane seconded the motion.

The Board voted unanimously to approve the minutes as written.

**ADJOURNMENT:** Rick Duane made a motion to adjourn the meeting.

Mary Clarke seconded the motion.

Eileen Murley adjourned the meeting at 7:45 P.M.

Respectfully Submitted

Paula Vardaro

Recording Secretary