

## Ashfield Zoning Board of Appeals

### Public Hearing

Thursday, July 16, 2013

Town Hall, Ashfield

7:00 pm

MINUTES

Case #: **2013-2**

**Tracey Ingebretsen**, 21 Matinecock Avenue, East Islip, NY 11730

Application for Variance or Special Permit to obtain a building permit for a deck added to a house at 308 Buckland Road, Ashfield, Assessors Map 4.1, lot 10 (Book 1298 page 220; book 1453, pages 33, 34).

Present: Stuart Harris, Chair; Mollie Babize; Kit Nysten; Anne Yuryan, associate member.  
Glenn Ingebretsen (representing family), Dr. Norman Pike, Patricia Greene.

Supporting documents:

- Application for Variance or Special Permit to Extend, Alter or Change a Pre-Existing Non-Conforming use or Structure, received with fee by town clerk 6/17/13
- Application for Special Permit to add dwelling units to a building existing prior to 1975, stating building was constructed 7/20/1976
- Deed dated April 8, 1972, transferring ownership of a lot from Daniel R. Abbotts and Edward Moody to Richard McDonald, Patricia McDonald, William Hayde and Corrine Hayde and recorded at the Registry of Deeds (Book 1298, Page 220).
- Deed, dated January 26, 1976, from William and Corrine Hayde to Richard and Patricia McDonald land and two dwelling units to be subdivided, and establishing the property line between the units. (Franklin Registry of Deeds, Book 1453, page 33)
- Quitclaim Deed, dated November 19, 2004, conveying land from Richard McDonald to Kelly McDonald and Tracey Ingebretsen, recorded Book 4778, pages 95-96 (noting earlier deeds).
- "Plans of building, Buckland Road, Ashfield, MA" stamped July 20, 1976
- Letter dated January 21, 1976, from Attorney Paul A. Trudel, Greenfield, MA, to Mrs. Richard McDonald describing the deeds and the lot division.
- Copy of Ashfield Assessors Map 4.1 showing the lot in question (#10)
- Undated plan of deck showing dimensions and indicating distance to property line.

The hearing was opened at 7:03 p.m.

Tracey Ingebretsen and Kelly McDonald have a house at 308 Buckland Road, to which they have attached a deck which is less than 25 feet from their side boundary. They would like to keep the deck. This is a petition for relief from a side yard setback requirement.

Legal notices were published in the Greenfield Recorder on July 1 and July 8, 2013; 13 abutting property owners were notified, along with the planning boards of all adjacent towns, and the Building Commissioner. No mail was received either supporting or contesting this petition.

Glenn Ingebretsen (husband of Tracey McDonald Ingebretsen) explained the houses were already built when the property was subdivided, creating two non-conforming lots with 150' and 170' of frontage. The lot is a little less than two acres. He believes the house plans always included a deck, but the subdivision didn't take into consideration that deck would extend closer to the sideline. Kelly McDonald built the deck perhaps two years ago, based on measurements of the deck on the twin cottage to the north. He did not apply for a building permit.

Norman Pike owns approximately 14 acres he inherited from his great-grandfather; his concern is to maintain access for future logging. His property (Map 4.1, lot 6) does not directly abut the property under consideration. He and his daughter, Patricia Greene, have no objection to this petition.

Mollie Babize noted that none of the documents show the relationship of the building to the property line or, for that matter, to the road. Mollie would like to visit the site to see that relationship.

At 7:33 the members of the board went to a properly posted site visit of the property, with Mr. Ingebretsen, and returned at 8:03.

Measurements on site determined the cottages are 52' apart at the west end, 55' apart at the east end. This cottage is on the southerly of the two lots. The deck measures 5'3" from the wall of the house at the west end, and extends another 3'9" at the east end. It appears the edge of deck is 21' from the approximate property line.

The Zoning Board did not receive a letter from the building commissioner, who usually cites the section that is in violation. Mr. Ingebretsen says he received a letter saying there was no permit on file and to file for a variance. He has subsequently appeared before the Conservation Commission, who have no objection to the deck.

The Board closed the hearing at 8:25 pm and began deliberation, noting that the creation of non-conforming lots is not under consideration here. Without a legal survey, the exact location of the property line between the two cottages cannot be firmly established. The Board reviewed the criteria for a Special Permit, and determined the deck does not appear to extend the non-conformity, nor to have any negative impact on the neighborhood. The deck does not affect public health or safety; does not create disturbances of sound, light, or noise; will not cause drainage issues or water pollution; was built to minimize topographic change and tree removal; does not impact traffic patterns; and is completely compatible with the neighborhood character.

Mollie Babize moved to issue a Special Permit, allowing the construction of a deck to the building at 308 Buckland Road, Map 4.1, lot 10. Kit Nylan seconded, and the motion passed unanimously. Stuart Harris will draft the decision.

Deliberation on case 2013-2 was closed.

Continuation of deliberation of case 2013-1, John LaBelle. Stuart Harris spoke with the Building Commissioner and Town Counsel, and will set a date for the next ZBA meeting to continue deliberation on this case.

Meeting was adjourned at 9:00 pm.

Respectfully submitted by Mollie Babize