



**Zoning Board of Adjustment
Town of Eaton
Evans Memorial Building
Eaton, NH 03832
603-447-2840**

August 15, 2022

The Zoning Board of Adjustment met on Monday, August 15, 2022 in the Town Hall. Present were Chairman Steve Larson, Carol Mayhofer, Megan Hoffer and Alternates John Border and Stan Dudrick. The meeting was called to order at 6:02 pm. Chairman Larson appointed Alternates John Border and Stan Dudrick to act as regular members for this meeting.

Review of Minutes

John Border made a motion, seconded by Carol Mayhofer, to waive the reading of the Minutes and to adopt the Minutes of July 18, 2022 as written. Motion unanimously carried.

Chairman Larson read the Public Notice and gave an overview of the procedure for Public Hearings.

Case # 202206 – Iiro & Pirjo Lehtinen – Variance

At 6:15 pm Chairman Larson opened the Public Hearing on an application from Iiro & Pirjo Lehtinen for a Variance to Article IV, Section B(9) for relief from the setback to Hatch Pond for property on Eaton Road (R04-007).

All notices required by statute have been posted and abutters notified. There were no conflicts of interest. Chairman Larson read a letter from abutter Tristan Wilkins into the record.

Iiro Lehtinen gave an overview of the deck and dock and submitted information and photographs for the Board's review. The packet included information from NHDES regarding shoreland accessory structures under the Shoreland Water Quality Protection Act (SWQPA), which the Town of Eaton has adopted. Iiro Lehtinen requested that the Board approve the deck as a water access structure as it will protect the shoreland. Chairman Larson read a letter from the Lehtinens, which address all five conditions to be met for the Variance.

The Board reviewed photographs of the deck and dock and noted that the dock requires a State permit. John Border questioned whether the dock is seasonal. Iiro Lehtinen noted that the dock is removed from the water in the fall. Chairman Larson noted that the applicant states that the deck is to access the dock, prevent shoreline erosion and maintain the water

quality of the pond. Chairman Larson questioned the size of the deck. Iiro Lehtinen noted that the deck is 8x12. Chairman Larson noted that the deck overhangs the dock and that there are legs in the water. Iiro Lehtinen stated that the deck was built in 2020 and that it does overhang the dock. John Border stated that the State regulations specify that a water access structure is acceptable as long as it does not overhang the water. Chairman Larson noted that the Town has stricter regulations, which take precedence over the State because they are more restrictive. Chairman Larson noted that due to the size of the deck, it is considered living space. Stan Dudrick noted that the deck appears to be a permanent structure and that the Town adopted the setback so that the shoreline is not covered with structures. Chairman Larson questioned how much space is needed for water access. Iiro Lehtinen explained that the access is also for fishing, swimming and recreational activities without impacting the water quality.

Chairman Larson opened the Hearing for public comment. Mike O'Neill stated that the photograph makes the deck larger than it really is and stated that the deck seems to fit into the shoreline. There being no further public comment, Chairman Larson closed the Public Hearing.

John Border stated that the definition of a structure in the Town's Zoning Ordinance does not include decks. Steve Larson stated that the Town requires Building Permits for decks as it is considered a structure and noted that the Planning Board should review this section for possible clarifications. Carol Mayhofer noted that there is a setback of 125 feet for structures. Chairman Larson noted that there is a safety issue to access the water and that the terrain forces water access structures for safety.

1. Granting the variance would not be contrary to the public interest. Chairman Larson stated that the Town voters said no structures within 125 feet of the water. Stan Dudrick noted that access to the water would be controlled if permitted as a water access structure. Megan Hoffer noted that access to the water is for more than just putting your feet into the water. John Border noted that the deck is contrary to the public interest.
2. The spirit of the ordinance would be observed. Chairman Larson noted that the deck could be reduced in size. John Border stated that docks do come onto the shoreline, but that it is not the Town's jurisdiction. Stan Dudrick questioned whether access could be by a clearing on the land with no deck.
3. Granting the variance would do substantial justice. The Board noted that NHDES allows for water access structures. Carol Mayhofer stated that granting the variance is not substantial justice.
4. For the following reasons, the values of the surrounding properties would not be diminished. The Board noted that the deck does not impact the surrounding property values.
5. Denial of the variance would result in unnecessary hardship. Carol Mayhofer noted that this property is not unique and that the abutting property is steeper for access to the water.

Chairman Larson questioned whether structures are needed to access docks. John Border stated that stone steps are not considered structures and could be used as an access. Megan Hoffer stated that if the dock were not present, the deck would be considered a water access structure. Chairman Larson questioned whether access to the water could be obtained from the land with no structure. Carol Mayhofer stated that there is nothing that makes this property unique. Chairman Larson stated that there should be safe access to the water and the dock.

Chairman Larson questioned if a change in the application would result in an affirmative response for all conditions. Chairman Larson suggested requiring the dock to be reduced in size to 4x8 so that access to the dock is safe. John Border noted that the State allows stairs to be 6 feet wide. Carol Mayhofer stated that a path could be used for access. Chairman Larson noted that a solid structure is needed to get from the land to a dock. John Border stated that it is definitely an issue to access a dock from the shore if the land is sloped.

Chairman Larson made a motion, seconded by John Border, to amend the application with the approval of the applicant for the proposed deck be reduced to 6 feet in width and 8 feet in length. Motion carried by roll call vote 4-1 with Carol Mayhofer voting in the negative. Iiro Lehtinen approved the reduction of the deck size from 8x12 to 6x8.

Chairman Larson made a motion, seconded by Stan Dudrick, that based on the findings of fact and the amendment to reduce the size of the deck to 6x8, that the Variance to Article IV, Section B(9) be granted. Motion carried by roll call vote 4-1 with Carol Mayhofer voting in the negative.

Chairman Larson made a motion, seconded by Megan Hoffer, to adjourn the meeting. Motion unanimously carried. The meeting was adjourned at 7:28 pm.

Respectfully submitted

Lianne M. Boelzner

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