

Town of Moretown Development Review Board
79 School Street, Moretown, Vermont 05660

Minutes of Hearing Held May 27, 2021

Because of the Covid-19 Pandemic this hearing was held by Zoom videoconference with the call-in link provided to all persons participating in the initial hearing May 13. Present for the Board were John Riley, Paula Woods and David Russo. Participation in the hearing held was as noted below.

Application of Amy and Alan Cunningham for Variance from Rear Yard Setback to Construct a Deck at 437 Freeman Hill Road. (Continued Hearing)

John Riley called the meeting to order at approximately 6:35 p.m. This matter was continued from May 13th hopefully with a larger panel to participate. Unfortunately, because of illness and other DRB member commitments there were still only three board members able to attend. The Applicants elected to go forward with the matter notwithstanding unanimous approval would be required.

In advance of the hearing the Board received the zoning permit application for a deck consisting of 17 feet by 10 feet, a prior survey depicting the existing residence and the proposed deck location, a sketch plan, and the variance application and addendum completed.

David Specht advised as Zoning Administrator he believed he did not have authority to grant the application as it did not qualify as an allowable expansion of a non-conforming structure under Ordinance Section 4.8, and so a variance was required.

The Cunninghams indicated they believed the existing distance from their residence to the rear property line to be 12 feet at the closest point. Although the survey plan seems to show the residential structure as slanting somewhat towards the rear line, it is the Cunningham's belief the house runs more parallel than shown on the plan.

The Board reviewed provisions of Section 4.8 relating to Non-Conforming Structures and Uses. This portion of the Ordinance was recently updated to add clarifying corrections and language, with no intent to substantively modify the provisions.

John Riley remarked that in his many years on the Board, generally the provision has been construed as permitting structures that violate existing setback requirements to be expanded, so long as the degree of noncompliance is not increased.

Under Section 4.8(A)(2) a non-conforming structure which is devoted to a conforming use may be reconstructed, structurally altered, restored or repaired, in whole or in part, with the provision that the degree of non-conformance shall not be increased. The current application appears to propose to alter the non-complying residence in a manner which would not have its degree of non-compliance increased.

The Board took note that 4.8(C) which also addresses alteration of a non-conforming structure, and imposes a cost limit for the expense, further states the expansion must itself comply with the regulations, and references setbacks. This provision seems somewhat inconsistent with Section 4.8(A) described above. The Board concluded, that in light of the prior interpretations of the DRB, and that the deck will not further encroach into the setback, it should be allowed under the Ordinance.

John Riley made a motion to approve the application as presented, on the condition that the deck be constructed in a manner and location so as to be no closer to the rear property line than the existing residence, believed to be 12 feet. Dave Russo seconded. All approved.

There being no further business the meeting adjourned at 7:00 p.m.

Dated this 7th day of June, 2021.

Respectfully submitted

Moretown Development Review Board



By John Riley, Acting Clerk