

**RECORD OF PROCEEDINGS
Danbury Township Board of Zoning Appeals**

Minutes of

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

December 19, 18

Held _____ 20 _____

The Danbury Township Board of Zoning Appeals was called to order at 6:30 p.m. by Chair, Sherry Roberts, at the Danbury Township Hall. The Pledge of Allegiance was recited. The roll call showed the following members present: Ms. Sherry Roberts, Mrs. Loretta Grentzer, Ms. Sharon Michael, Mr. Joseph Fetzer, Mr. Brad Bauer and alternate Ms. Cathy Bertovich. Mr. Clyde Shetler, alternate was absent. Also present were Kathryn Dale, Zoning & Planning Administrator and visitors Peter Corrado, John Feick and James & Margo Morrow.

Mrs. Dale read the rules of order for the meeting proceedings.

The Chair asked Mrs. Dale if all the documents relating to the case had been received and were in proper order. She indicated that they were. The Chair swore-in the Zoning and Planning Administrator, Kathryn Dale.

The Chair asked Mrs. Dale to introduce the first case of the evening.

**Adjudication Hearing
Case BZA #2018-239
335 Central**

Request for an Area Variance to Section 3.1.5.D & 7.9.3 to allow for an addition onto the second story to encroach into the front-yard setback (9" proposed/ 5' required), to enclose an existing porch that is 8" from the north property line (3' required) and for the additions to exceed the 20% addition requirement onto a nonconforming structure (16.57s.f. allowed/93.93s.f. proposed; 28.4%. James Morrow, Owner & Applicant/ Feick Design Group, Agent.

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none.

Mr. Fetzer moved and Mr. Bauer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Mrs. Dale shared that the applicant is proposing to enclose two existing covered porches. The 3'10.5" x 7'10.5" porch on the 1st floor is located at the NE corner of the house and is currently 2'8¾" (but 0.73" to overhang) from the north property line, where 3' is required. This porch currently is partially enclosed with lattice and the space would be converted into a closet area for the 1st floor bedroom and constructed with similar materials as the main house.

The second enclosure will take place at the front of the home on the 2nd floor. There is currently a 10' x 12' porch here that is partially covered over. Three and one half feet (3'6") of the porch encroaches into the road right-of-way. The area to be enclosed on the 2nd floor is 6'7" x 12' and only that portion already roofed over; not any of the porch that encroaches into the road right-of-way. The front wall of the proposed addition will be 9" from the front property line where 5' is required.

The homeowners came before the BZA in 2009 (BZA-2009-122) and received an Area Variance to change the roof pitch over the 1st floor, single-story living space at the rear of the home; keeping the overhang distance the same to the north property line, which did not meet the 3' side-yard setback. The original structure contained 1,104.49s.f., 20% of this would allow for a 220.9s.f. addition. In 2009, two additions were also constructed on the south side of the house totaling 204.33s.f. or 18.5%. The 2009 additions did not require any variances since they met setbacks, lot coverage and were less than 20%. This current application under consideration for 109.5s.f. of additional living space onto the original structure will now exceed the 20% limitation by 92.93s.f. or 28.4%.

Mrs. Dale concluded by reviewing the decision standards the Board will be considering. The property in question will yield a reasonably return and can be beneficially used without the variance because the property can continue to be used for a single-family residence. The request is not substantial because the footprint and roof area of the existing home is not being enlarged. The essential character of the neighborhood nor impact on adjoining properties would be substantially altered by the variance because the construction will take place under existing roofs and will be constructed with similar materials as the existing home. There is no indication that there would be a detrimental effect on government services since the property is currently serviced and the additions will not result in any impediments to safety services. The applicant's narrative statement indicates they were not aware of the zoning requirements at the time they purchased the home, but have added onto the house previously and were aware that zoning existed in the Township. The property owner's predicament cannot be obviated through some method other than a variance to because these are enclosures under existing roof area on an already nonconforming structure that was partially granted a variance in 2009. The spirit and intent would be observed and substantial justice done by granting the variance because all other requirements of the zoning code are met with regard to lot coverage and

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parking, the additions are not impactful and make little noticeable change to the structure and it is the minimum variance needed to accomplish the applicant's goal.

John Feick, agent on behalf of the owners present, 224 E. Water Street, Sandusky came forward and was sworn in. The Chair presented him with the packet of documents provided for consideration and he attested that it was as they submitted.

Mr. Feick stated these are two, very small additions. The reason this is being done is because the owners had a full-time home in Solon. They were summer only residents here in Lakeside, but they have sold their Solon home and now have a huge residence to fit into this house and incorporate instead of a storage barn. Without impacting the cottage feel of the house and make this a year-round residence, they need to gain some storage area. So we have 2 small areas and he presented 3 photos to the Board. The first picture Mr. Feick explained was of the front of the house showing the roof and the enclosed area underneath. They are going to move the front wall out as far as the roofline since the roof covers more of the deck than what is enclosed. He said if they look at this project when it is complete, no one will ever know that the wall was inset before because they plan to use the same windows & door and materials and color on the exterior as it is today. He said they just need some additional storage in that upper front bedroom. Mr. Feick presented a second photo of the house as it is today from the south side showing how the roof projects more over the deck and the area they plan to enclose. Mr. Fetzer asked for clarification that there will still be an "outside" portion of this porch. Mr. Feick confirmed that there would be.

Mr. Feick moved onto the rear, back addition and submitted a photo showing that 3' space, again, all currently under roof. He stated the trellises that were installed will come out and be replaced with a permanent wall, the stairs will be removed, but the wall will be constructed of the same material as the rest of the house. He said the area will become a closet for additional storage. Ms. Roberts asked if there will be access then from this part of the house. Mr. Feick said no, other than a utility room with will have access from the exterior of the house and not from the interior.

Ms. Grentzer said, when we say "additions", this is really more "enclosures" as opposed to an actual addition. Mr. Feick said that is correct. Ms. Grentzer said sometimes you think of an addition as an outward expansion. Mr. Feick stated that when he & Ms. Dale spoke about this, it's really not an addition in the true sense since there is no roof change and the footprint remains the same, but since we're building in the setback area, we thought it was best to come thru this process just so it was on record.

Ms. Dale stated she will enter into the record the photo's Mr. Feick entered as Morrow Ex. 3-A (Front of house photo), 3B (south side photo of the house) and 3-C (Rear photo of house).

The Chair asked if there were any questions from the Board. There were none.

There was no one else with standing who wished to testify.

Ms. Grentzer made a motion to close the public comment segment of the hearing, seconded by Mr. Bauer. All were in favor and the motion carried.

Mr. Bauer motioned to recess into executive session to deliberate the merits of the case. Ms. Grentzer seconded the motion and the roll call vote was as follows: Ms. Michael – yes; Mr. Fetzer – yes; Mrs. Grentzer – yes; Mr. Bauer – yes and Ms. Roberts - yes. The motion carried and the Board recessed at 6:45 p.m.

Mr. Fetzer moved and Ms. Michael seconded the motion to reconvene. The roll call vote was as follows: Ms. Michael – yes; Mr. Fetzer – yes; Mrs. Grentzer – yes; Mr. Bauer – yes and Ms. Roberts - yes. The Board reconvened at 7:00 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for the Appeal request BZA Case #2018-239:

With regard to BZA-2018-239 being a request for an Area Variance to Section 3.1.5.D & 7.9.3 to allow for an addition onto the second story to encroach into the front-yard setback (9' proposed/ 5' required), to enclose an existing porch that is 8" from the north property line (3' required) and for the additions to exceed the 20% addition requirement onto a nonconforming structure (16.57s.f. allowed/93.93s.f. proposed; 28.4%) for the property located at 335 Central:

1. The property in question **will** yield a reasonable return and **can be** used beneficially without the variance because the property can continue to be used for a single-family residence.
2. The variance **is not** substantial because the footprint and roof area of the existing home is not being enlarged.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because the construction will take place under existing roofs and will be constructed with similar materials as the existing home.

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- 4. The variance **would not** adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because the property is currently serviced.
- 5. The property owners indicated they **did not** purchase the property with knowledge of the zoning restriction, but have added onto the house previously and were aware that zoning existed in the Township.
- 6. The property owner's predicament **cannot** feasibly be obviated through some method other than a variance because these are enclosures under existing roof area on an already nonconforming structure that was partially granted a variance in 2009.
- 7. The spirit and intent behind the zoning requirement **would** be observed and substantial justice done by granting the variance because all other requirements of the zoning code are met with regard to lot coverage and parking, the additions are not impactful and make little noticeable change to the structure and it is the minimum variance needed to accomplish the applicant's goal.

Ms. Grentzer moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (6) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **supports** the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by: Ms. Michael. Roll Call Vote was as follows: Ms. Michael – yes; Mr. Fetzer – yes; Mrs. Grentzer – yes; Mr. Bauer – yes and Ms. Roberts - yes. Vote 5-0, the motion passed.

Ms. Dale stated the Board has elected to formally sign the decision sheet this evening and that the Applicant may pick up their permit as soon as tomorrow. The Morrow's & Mr. Feick thanked the Board for their time. Pleasantries were had between the applicants and Board about the holiday season and cookies that had been distributed during the recess. Ultimately the applicants were dismissed.

Signing of Decision Sheets

Mr. Fetzer motioned to approve the decision sheet as presented. Mr. Bauer seconded. All in favor and the motion carried.

- a. **BZA #2018-239 335 Central.** Request for an Area Variance to Section 3.1.5.D & 7.9.3 to allow for an addition onto the second story to encroach into the front-yard setback (9' proposed/ 5' required), to enclose an existing porch that is 8" from the north property line (3' required) and for the additions to exceed the 20% addition requirement onto a nonconforming structure (16.57s.f. allowed/93.93s.f. proposed; 28.4%. **James Morrow, Owner & Applicant/ Feick Design Group, Agent.**

Approval of November 21, 2018 Board of Zoning Appeals Special Meeting Minutes

Mr. Fetzer made a motion to approve the November 21, 2018 special meeting minutes, Ms. Grentzer seconded. All were in favor and the motion carried.

Old Business

There was none.

New Business

There was none.

Other Business

There was none.

Reports and Communications from Members and Staff

There was none.

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Adjournment

Ms. Grentzer moved to adjourn the meeting and Mr. Fetzer seconded the motion. All in attendance were in favor and the motion carried.

The meeting was adjourned at 7:30 pm.

RECORDING SECRETARY

Sherry Boland

Louella Greuber

S.I. Mulcahy

John R. Fetzer

[Signature]

BOARD OF ZONING APPEALS