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Public Hearing: A request from Robert & Kathryn Ward for a variance to permit extension of a portion of the second floor at rear of building by overhanging the first floor wall by two feet. The property is located at 118 Main Street.

Attorney Michael Donovan represented the Wards. A letter from Attorney Donovan was read which requested that Don Gross and Charlie McCrave recuse. Gross recused and McCrave declined to recuse and this letter will become part of the minutes and file.

McCrave read the request from the Wards. Attorney Donovan presented photos of the "octagon house" and stated the property is 1.3 acres with 210' of road frontage, both exceeding requirements of the zoning ordinance.

The reasoning behind the request is that the home is functionally obsolete as indicated in letters which were submitted by a realtor and an appraiser. These letters will become a part of the file.

A diagram of the floor plan of the second floor was presented along with letters from a contractor, architect, and plumber supporting the feasibility of the construction. These letters will also become a part of the file.

A letter from an abutter not opposing the application was presented. Attorney Donovan also presented a letter indicating how the proposed application meets the criteria established by New Hampshire law for area variances versus the

wording of the zoning ordinance. This letter is also a part of the file.

Questions and comments from the Board and public include:

The floor plan does not detail the overhang to satisfy the request for a 2' overhang. Are the eaves, soffit, and drip-edge included in the 2'? A detailed drawing to include the roof line in relation to the property line is requested.

Can work on the building be done on the Ward's property or does Guillemette's property need to be used? *In 2003 Guillemette gave permission for concrete trucks to use his property, however, this work can be completed without using Guillemette's property.*

What is the pitch of the roof for water runoff and snow removal and how far out from the building will the roofline be? Will the increased size of the roof for water runoff create a drainage problem? *The roof will pitch from east to west. It will be a low-pitch metal roof, and there will be no eaves or overhang on the gable end. As far as water runoff, there is well-drained soil here and the water would run off to the sides rather than towards Mr. Guillemette's property.*

Would the roof connect with the first floor wing? *Yes, but only behind the "octagon," and it would run north and south.*

The overhang would be two feet and would not encroach onto the abutters' property? *Yes.*

Newcomb states he would like to see a plan with the dimensions indicated.

Will the second floor be cantile-

vered? *Yes, there will be a 2' cantilevered wall.*

Guillemette's survey from 2007 was re-presented and re-added to the file. The survey shows that the fence is about 6' on the Ward's side of the property line.

The discussion has been about the extension to the building; however, the application is for a setback. The issue is how much the extension will encroach on the setback and what the setback will be once the building is complete.

The discussion referred to Mr. Guillemette's property as a "contractor's yard"; however, the Board will refer to Mr. Guillemette's property as his residence.

If the use of adjacent property (i.e. contractor's yard) as a method of determining the setback, a 1' 6" setback would be fine, but how would a zoning ordinance be administered?

The distance from the property line to Mr. Guillemette's barn, the size of the lot and distance to his house was discussed; however, a zoning ordinance does not administer setbacks involving the distance to the property next door. The issue with that is if this variance was granted with the building 1' 6" from property line, then in two years Mr. Guillemette proposed building the same distance from the property line, would Mr. Ward be in favor of the application?

Mr. Donovan responded that the distance to the barn relates to the spirit and intent of the zoning ordinance, and Mr. Guillemette would have to demonstrate a necessary hardship due to the size of

his property and why he would want a building that close to the property line.

McCrave responded that in his limited experience, the definition of a hardship runs with the land and there should be some peculiarity associated with the land that makes it different and unreasonable for the zoning ordinance to apply to that particular parcel. This situation states the hardship relates to the building and asked if there was some case law to support that approach. Will speak to town attorney regarding some of these questions.

Donovan states that they have tried to be careful to say that the hardship pertains to both the land and building as the house was set in its present location prior to zoning.

There are other ways to accomplish what the Wards want to accomplish, but as far as the Wards are concerned, they are not economically feasible. Therefore, should variances be granted for economic relief?

Donovan responded that economic difficulties are a hardship; however, the Bocca decision established different criteria for area variances, and if an economic analysis indicates if the alternatives are clearly substantially more expensive, then that can be a factor in determining a variance.

Guillemette states that everything being discussed exists already and is cantilevered about 1.8" from property line, and that he feels rules and regula-

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