

**VILLAGE OF MONROE
ZONING BOARD OF APPEALS
MEETING
MAY 9, 2017
MINUTES**

PRESENT: Chairman Baum, Members Margotta, Martuscelli, McCarthy and Zuckerman;
Assistant Building Inspector Cocks; Kelly M. Naughton, Esq.

ABSENT: None

Chairman Baum called the meeting to order at 8:00pm with the Pledge of Allegiance to the flag.

1. James Impallaria – Area Variances (233-5-15)

Present: James Impallaria

The application of James Impallaria, pursuant to the Village of Monroe Zoning Law, Section 200-24 (H) for an area variance to permit the construction of 10' x 16' open deck attached to the rear of the main dwelling unit with less than the required minimum rear setback. The proposed rear setback is 14' from the property line, not the required minimum setback of 44'.

A second variance is sought pursuant to the Village of Monroe Zoning Law, Section 200-22 (c) for an area variance to construct an 8' x 51' roofed front porch addition attached to the main dwelling unit with a 30' front setback, not the required 40' as indicated in the Table of Bulk Requirements. The property, which is the subject of said action by the Board, is located in an SR20 Zoning District and is identified as Section 233, Block 5, Lot 15 on the tax map of the Village of Monroe and is also known as the address 27 McGarrah Road.

Mr. Impallaria's public hearing had been scheduled on August 9, 2016 but was pulled from the agenda because it fell under the restrictions of the building moratorium that was enacted on June 13, 2016. Chairman Baum said that at tonight's public hearing they would only discuss the variance for the deck because it was not subject to the moratorium.

As had been agreed at the August meeting Secretary Doherty mailed the public hearing notice by first class mail with a certificate of mailing. Secretary Doherty advised that the mailing had been done in a timely manner.

Chairman Baum announced that the public hearing notice had not been published in the newspaper. By law it must be published at least 10 days before the date of the public hearing. The Chairman said that on advice of counsel the Board can hear the application

tonight but they cannot take any action until next month when the public hearing notice has been published.

Chairman Baum asked the Board members if they wished to proceed with the application for the variance for the deck in light of the nonpublication. Member Martuscelli and Member Margotta said it should be the applicant's decision as to whether or not they proceed. Member Zuckerman said that the moratorium may be over by the next meeting in which case Mr. Impallaria's application can be heard in its entirety. Member McCarthy concurred with Member Zuckerman. Mr. Impallaria said it would be preferable to start the hearing tonight and adjourn it to the June meeting so that if the Board wanted some additional information he could get it in before the next meeting. The Board decided to proceed.

Mr. Impallaria began by saying his house had a concrete deck and staircase at the back door when he purchased it. The concrete had deteriorated to the point where it had to be removed. Mr. Impallaria would like to replace it with a deck that is similar in depth but wider. The previous deck was about 5' X 7' and it was used for entering and exiting the house. What he would like is a deck that is longer (16') so he can put a table and chairs on it. Member Margotta asked how far the door was from the end of the house. Is it 4' from the corner of the house? Mr. Impallaria responded that it was probably less. He said that the survey that was given to him, which is included in his ZBA application, is not correct. Member Margotta suggested that the applicant get a more accurate drawing.

Member Zuckerman said the deck is going to be 14' from the property line. Mr. Impallaria responded that the house does not conform to Village law. Legally he can't have the house there because it doesn't have the required setbacks. Member Zuckerman said that the applicant is asking the Board to say that "two wrongs may make a right." Member Margotta said Mr. Impallaria knew that the house had a small yard when he bought it. It's not as if this is a hardship that came out of nowhere. Mr. Impallaria agreed but he said that since there was already a platform of concrete masonry there he thought he would be able to build a deck in roughly the same area even though it would be larger.

Discussion ensued as to what part of the yard would be described as the "rear" yard. Building Inspector Cocks said that the front yard faces McGarrah Road and the rear yard is where the deck is located. Building Inspector Cocks said that the house was not built to meet the setback requirements.

Member Zuckerman asked if the applicant had spoken to his neighbor on Cregan Place about this? Mr. Impallaria said that he had spoken with his neighbor who didn't mind the deck. Member Zuckerman asked Mr. Impallaria if he could get a letter from his neighbor saying that he does not object to the deck. Member Margotta suggested that Mr. Impallaria chose

this location for his deck for privacy reasons, but he said that a deck could be in a different location that conformed to setback requirements and the privacy issue could be addressed with landscaping. Mr. Impallaria said that the deck was off the back door of the house. Even if he chose to replace it exactly as it was when he bought the house he would still need a variance.

Looking at a survey and using a scale, Chairman Baum calculated that the landing extended five feet from the back door, the deck was eight feet wide and the base of the stairs were about 14' from the property line. Chairman Baum said, "And now we're going to 16' wide and 10' deep." He asked what the height of the deck would be? Mr. Impallaria responded that it will be three feet off the ground.

Building Inspector Cocks read from the 1966 Code book in effect when the house was built which said that the rear setback for a house should be 60', the side yard setbacks should total 65' with one side yard being at least 30' and the front setback should be 50'. Chairman Baum asked if any building variances were granted? Building Inspector Cocks said no.

Chairman Baum opened the hearing up to the public. Two people from the public were in attendance. One person came forward and identified himself as Shane O'Sullivan, a high school student attending a class about government. Neither individual testified as to the matter at hand.

On a motion made by Chairman Baum and seconded by Member Margotta, it was unanimously: **Resolved to adjourn the meeting to June 13, 2017 and that the public hearing notice be published in the newspaper at least 10 days prior to the meeting:**

Ayes – 5

Nays – 0

Absent/Abstaining – None

ADOPTION OF MINUTES FROM NOVEMBER 8, 2016 MEETING

On a motion made by Chairman Baum and seconded by Member Margotta, it was: **Resolved that the minutes be adopted.**

Ayes – 3

Nays – 0

Absent/Abstaining – Member McCarthy (Abstain) and Member Martuscelli (Abstain)

ADOPTION OF MINUTES FROM APRIL 18, 2017 MEETING

Several minor changes to the draft minutes were received without objection.

On a motion made by Chairman Baum and seconded by Member Zuckerman, it was: **Resolved that the minutes be adopted as amended.**

Ayes – 4

Nays – 0

Absent/Abstaining – Member Margotta (Abstain)

ADOPTION OF DECISION FOR STEVE BROWN / HUDSON VALLEY REALTY – AREA VARIANCE

On a motion made by Member Margotta and seconded by Member Zuckerman, it was: **Resolved that the decision be adopted.**

Ayes – 3

Nays – 0

Absent/Abstaining – Member McCarthy (Abstain) and Member Martuscelli (Abstain)

ADOPTION OF DECISION FOR ELIZABETH AND MATTHEW JOHNSON – AREA VARIANCE

On a motion made by Member Martuscelli and seconded by Member McCarthy, it was: **Resolved that the decision be adopted.**

Ayes – 4

Nays – 0

Absent/Abstaining – Member Margotta (Abstain)

OLD BUSINESS

Board members were advised that they must get employee ID cards from the Police Department as soon as possible.

NEW BUSINESS

The Board was advised that no new applications were received.

ADJOURNMENT:

On a motion by Member Margotta, seconded by Member McCarthy, with all in favor, **there being no further business, the meeting was adjourned at 8:50pm.**

Ayes – 5

Nays – 0

Absent/Abstaining – None

Respectfully submitted,

A handwritten signature in cursive script that reads "Elizabeth A. Doherty".

Elizabeth Doherty

ZBA Secretary