

**Town of Milford
Zoning Board of Adjustment Minutes
January 15, 2015
Roland P. & Clara Y. Ayotte
Request for Rehearing by Suzanne Fournier
Case #2014-18**

Present: Zach Tripp, Chairman
Fletcher Seagroves, Vice Chair
Mike Thornton
Joan Dargie
Katherine Bauer – Board of Selectmen’s representative

Absent: Laura Horning
Len Harten, Alternate

Secretary: Peg Ouellette

Paul F. Cunningham, PH.D, and Suzanne L. Fournier are requesting a rehearing of Case #2104-18 filed in accordance with RSA 677:2 and 677:3, and the Rules of Procedure, Rule XIII, of the Town of Milford Zoning Board of Adjustment.

Minutes Approved on February 12, 2015

Z. Tripp opened the meeting by stating that this was a request for a rehearing of Case #2014-18. He stated that since this was a rehearing, there would be no public comment. This request was tabled from the meeting on Dec. 18, 2014.

Z. Tripp said ideally there would be a full board, but since this was tabled once, they should go ahead. The rest of the Board agreed.

Z. Tripp stated the criteria for granting a rehearing:

1. Whether the applicant has standing.
2. Whether the applicant provided new evidence that was not available at the time of the original hearing.
3. Whether the Board made errors that were an injustice to the applicant.

He stated they would be voting on whether to approve a rehearing. If approved, they will schedule it for the next available meeting and rehear the case. The Board proceeded to discuss the criteria.

1. Does the petitioner have standing?

F. Seagroves – yes. They are an abutter, so they have the right to challenge the decision.

M. Thornton – yes

J. Dargie – yes

Z. Tripp – yes

2. Has petitioner provided new evidence that was not available at the time of the hearing?

F. Seagroves – couldn't find any. They were tasked with giving a variance where they needed 200 ft. of frontage and only had 150 ft. Abutter mentioned other things that had no effect to the 150 ft. frontage. In some of the cases some of that will be taken care of when the subdivision was done.

He felt the decision was correct to give a variance to give applicant relief from 200 ft. to 150 ft.

M. Thornton – it was presented in a new way but he didn't see any new evidence.

J. Dargie – one of the things they point out was that the two lots can be combined but the Board discussed making a decision on not having two lots together so that had no effect. She didn't see any new evidence.

Z. Tripp – agreed. He reviewed the application outlining error they felt the ZBA made. By definition, there is no new evidence.

3. Did the Board make an error?

F. Seagroves – didn't think they did. He didn't see any in the minutes. They didn't show in hearing the case that any errors were made.

M. Thornton – he reviewed and didn't find an error.

J. Dargie – not any specific.

Z. Tripp – reading from his notes, said he would attempt to go through the alleged errors.

1. Applicant claims error because they considered two lots that could not be combined.

Application was for lack of frontage. Evidence stated that one of the lots can only be used to access the back lot. Access to the new project lot only being off Savage Rd. Restriction of the older lot is still in place and satisfies S. Fournier's letter which would provide access to the back lot, which it still does. 2. Error by only looking at frontage. This was not an error. Applicant had plan they believed conformed except for frontage and went before the Planning Bd. to get approval for subdivision. They needed ZBA to determine that it met the five criteria. They evaluated the plan in front of them and didn't rule on lot consolidation for subdivision. 3. The Board ignored evidence and alleged censorship. S. Fournier was allowed to speak. He tried to focus her comments on the case. She alleged he censored J. Dargie's comments. He apologized if that was perceived. He was attempting to answer her questions without leading her. Noncommittal answers were an attempt to answer her without leading her down a specific path. They incorporated S. Fournier's comments and J. Dargie's answer re the two lots. They only evaluated frontage on Savage Rd. and not on Woodland Dr. 4. Applicant didn't believe they read the spirit of the ordinance correctly. Every variance by nature violates the spirit. Each lot in each neighborhood is individual. Each is unique and cannot be compared to the other lots. They looked at this lack of frontage on this lot in this neighborhood. No error in judgment. 5. Hardship judgment error. Hardship has a couple of prongs. In commenting it was a hardship since all properties share equally when hardship exists. Didn't feel it was an error.

Vote:

Z. Tripp stated that after reviewing the petition and hearing all the evidence and taking into consideration personal knowledge of the property this Board of Adjustment member has determined the following findings of fact:

1. Uphold the decision of the Zoning officials?

F. Seagroves – yes

M. Thornton – yes

J. Dargie – yes

Z. Tripp – yes

Z. Tripp requested a motion to uphold the previous decision on Case #2014-18.

M. Thornton made a motion to uphold the decision.

F. Seagroves seconded.

The Board voted unanimously in favor.