

**Town of Milford
Zoning Board of Adjustment
January 18, 2018
Ed & Carol Bisson
Special Exception**

Present: Steven Bonczar, Chair
J. Plourde, Vice Chair
Joan Dargie
Rob Costantino
Wade Scott Campbell, Alternate
Tracy Steel, Alternate
Robin Lunn, Zoning Administrator

Absent: Michael Thornton
Karin Lagro, Alternate
Laura Dudziak, Board of Selectmen Representative

Secretary: Peg Ouellette

Case #2018-01

Ed and Carol Bisson, for property located at 441 Savage Road, Milford, NH, Tax Map 40, Lot 6, in the Residential R district, is seeking a Special Exception of the Milford Zoning Ordinances per Article V, Section 5.04.2.A.7 and Article II, Section 2.03.1.C to allow the reduction of the front yard setback on an existing home that is a pre-existing non-conforming structure.

APPROVED March 1, 2018

Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the procedures of the Board. Since there was a full agenda, he stated the Board's rules allowed for adjournment at 10 p.m. Any cases not completed or heard would be continued or tabled to the next regularly scheduled meeting with no additional notice to applicants or abutters. One regular Board member being absent, it was suggested by S. Bonczar to seat Tracy Steel as a voting alternate for this case, seconded by J. Plourde. Wade Scott Campbell was present as a non-voting alternate; he could participate in the deliberation but not vote.

S. Bonczar read the notice of hearing and invited the applicants to come forward and explain what they wanted to do.

E. Bisson and his contractor came forward. E. Bisson said this had started three months ago with a simple home improvement to put in concrete steps. Would not allow him to put a rail in. He approached a contractor. Wanted to remove step and put in landing because ice was coming off side of the house –

not safe situation coming out the front door. Contractor started it and then Building Inspector (Tim Herlihy) came by saying he noticed they hadn't applied for building permit. Mr. Bisson wasn't aware of that; he said the builder told that was taken care of. T. Herlihy told him to have the builder call the next day. Contractor applied and admitted he was wrong not getting the permit at the start. Then it escalated. Structure was deemed to be a farmer's porch. Not so. It was simply a landing with roof to keep ice from falling on someone and allowing a railing, for insurance purposes, to meet insurance criteria. After numerous visits to Planning office, couldn't get a specific answer as to what they wanted. His wife went to the office and asked specifically they wanted. It had nothing to do with structure. It had everything to do with the property marking and they were lacking one foot to be legal. Asking for variance of 9 ft. to be within limit to be legal.

J. Plourde said it was special exception, not variance. Different criteria.

S. Bonczar said it was a lot harder to get a variance.

Contractor said were trying to locate markers from history of property over a period of time. They found someone who knew where his marker was. Contractor and owner couldn't find it. Pretty straightforward. Few issues with starting with drawing and moving on. Weren't going to settle that here. Structure had proper allowance for steps. No rails or guards. Taking out large cement step. All designs way above what normally used for a deck. T. Herlihy didn't have problem with them. But kept going back to how far from the road the structure would be.

S. Bonczar said the house was within 30 ft. setback as it was. It was non-conforming. They were there for relief to expand or alter that non-conforming structure.

E. Bisson said house was build in 1952.

S. Bonczar said it was nonconforming to ordinance today. That was taken into consideration. Many properties in town were non-conforming because they were built before zoning laws.

E. Bisson not sure they had zoning laws in those days.

S. Bonczar stated two things they look at: 1. The encroachment in the 30 ft. front setback; 2. There was an alteration to a non-conforming structure. If he said use before, he meant structure.

J. Dargie questioned "expansion." It was a replacement.

J. Plourde asked if the porch was less close to the road than the steps.

E. Bisson said no.

J. Plourde said, keeping same distance from the road?

E. Bisson provided a picture, to be marked Exhibit A.

S. Bonczar said the concrete steps, the stoop and then the step, wasn't much smaller than that landing and step?

C. Bisson said right.

J. Plourde asked who called it a farmer's porch.

C. Bisson said T. Herlihy.

Contractor said they were there for footage, and from there they had to measure and there they had 30 ft. and then they had to do paperwork.

S. Bonczar opened meeting for public comment. None. He asked for further questions from the Board.

None. He closed the public comment.

S. Bonczar read the non-conforming part they were looking at. It was pretty evident it was within the setback. He read from Sec. 2.03.1.C.1 re Intent under "Non-Conforming Use and Structures – Continuance, Discontinuance or Change."

J. Plourde added it was more of comfort level for the Board. Distance between road and a structure. Important if a car ran off the road. According to American Association of State Highway & Traffic Officials (AASHTO) guidelines for "clear zones", the distance between edge of the road and an obstruction, i.e. a house or utility pole, etc. In this type of area with speed being 40 MPH, average daily traffic of 750 or less, 7 ft. from the road was acceptable. Wanted to make known that was the standard, and this complied with that.

R. Costantino said as far as safety concern, you couldn't get up there from the road, up a big bank to the house.

103 J. Plourde said especially looking at alteration or change.
104 S. Bonczar said from the road. Town measures from the property line in 8 to 10 ft. or more. On Jennison
105 Rd. it must be 8 ft. from where right of way ends and where the pins were set. In this case, talking edge of
106 the road.
107 J. Plourde said in this case they had plenty of room to meet that standard.
108 R. Costantino felt they made improvement for safety and didn't alter what they had.
109 S. Bonczar said it was allowed by ordinance, he believed in Res. R, by special exception. Any
110 comments? None.
111 S. Bonczar moved on to vote.
112
113 **VOTE: On Special Exception:**
114
115 **1. Is the Special Exception allowed by the ordinance?**
116
117 **J. Dargie – yes**
118 **J. Plourde – yes**
119 **R. Costantino – yes**
120 **T. Steel – yes**
121 **S. Bonczar – yes**
122
123 **2. Are all the specified conditions present under which the Special Exception may be**
124 **granted?**
125
126 **R. Costantino – yes**
127 **T. Steel – yes**
128 **J. Dargie – yes**
129 **J. Plourde - yes**
130 **S. Bonczar - yes**
131
132 S. Bonczar said the application was unanimously approved and reminded applicant of the 30-day appeal
133 period.