

ZBA Meeting
September 19, 2017
Nelson Town Office – 7 p.m.
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ZBA Chairman Tobin called the September 19, 2017 ZBA meeting to order at 7:00 p.m. Present: Carl Shaw, John Foley, John Tobin, Eric Lints, Kathryn Eberst and Deborah J. Costello, ZBA Secretary. Also present was Roger Cook, Code Enforcement Officer.

1. Minutes

A motion was made by John Foley and seconded by Carl Shaw to approve the August 2017 minutes as presented. There was no further discussion. All voted in favor. The motion carried.

**2. Suzanne Burns – 3693 North Lake Road – Waterfront Zone – Tax Map #121.18-1-1
has constructed a 12 ft. x 16 ft. deck – 22 ft. setback from the road and 5” lakeshore setback
Public Hearing**

Roger Cook, Code Enforcement Officer, had cited Ms. Burns for the construction of a 12 ft. x 16 ft. deck without prior approval or a building permit. Ms. Burns appeared before the Planning Board September 12th and noted she would require two (2) variances; a 22 ft. variance from the road and a 5” lakeside variance. John Foley, John Tobin, Eric Lints and Kathryn Eberst visited the site. Carl Shaw did not.

Public Hearing

Chairman Tobin opened the Public Hearing at 7:05 p.m. Nancy Zlomek, 3711 North Lake Road, stated the deck is very attractive, not elevated to block any views and usable for Suzanne and her family. An email was received from Michael & Terri Emrich who stated they were not in favor of the deck but gave no reasons why.

Board member Eric Lints explained to the applicants the procedure is not supposed to happen in this manner. Approval is needed and a building permit issued prior to any work being done. The applicants were reminded this puts them at a disadvantage and there is the possibility they could be denied the variances and asked to tear the deck down. By following the correct procedure, suggestions could be offered that meet the zoning requirements and variance requests.

Ms. Burns’s partner indicated they had reviewed the zoning regulations and couldn’t find anything relating to the deck and didn’t know anything was needed until they received a notice of violation from Roger Cook, Code Enforcement Officer. At that time, they located the Appendix outlining the setback requirements.

Board member Carl Shaw referred to the note from the Planning Board which indicated the Planning Board is concerned with additional runoff. Board member John Foley noted the 22 ft. setback from the road is extremely substantial. There was a discussion about the 22 ft. variance and how that number was arrived at and from what point it was calculated. Ms. Burns’s partner questioned the proximity of Ms. Burns deck to the road and other current existing structures. It was noted that those were likely constructed prior to the current zoning law and don’t have to be changed to meet the current

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zoning code. It was noted Ms. Burns has a piece of property she pays taxes on and wants to enjoy the waterfront. The Board understood that and noted that people have to operate within the limitations of the zoning laws and get a variance if unable to stay within those confines.

Board member Eric Lints asked how the Board could render a decision without knowing from where the setback is. Chairman Tobin also expressed his concerns with the 22 ft. variance and noted the 5" from the lake was not negligible. Chairman Tobin explained to the applicant that things were done so much out of order it is offensive to the Board and the applicant is asking for 5" lakeside variance to cover something done without a permit.

The Board discussed the code requirement for "Front yard setback from street" of "25 ft. or 10% of lot depth" and asked to have that clarified.

A motion was made by John Foley and seconded by Kathryn Eberst to deny the 22 ft. roadside variance and the 5" lakeside variance. The Board asked a poll be taken.

Carl Shaw – deny
John Foley – deny
John Tobin – deny
Eric Lints – deny
Kathryn Eberst – deny

There was no further discussion. All voted in favor. The motion carried.

The Board suggested Ms. Burns speak with Roger Cook for some guidance as to what the next step might be and noted there are options. Ms. Burns partner pointed out that when you drive down North Lake Road you see other structures encroaching on the road and Ms. Burns deck is farther back from the road and hardly noticeable unless you are looking down the road and then to be denied use of the land to do what she wants to do. Chairman Tobin noted the Board is also looking out for the applicant and pointed out the Board has to look at this application for the deck as if it's not constructed and there's a request for a 5" variance in which you would have been asked to move it back to meet the setback requirements.

As there was no further business before the Board, a motion was made by Eric Lints and seconded by Carl Shaw to adjourn the meeting. There was no further discussion. All voted in favor. The motion carried. The meeting was adjourned at 7:25 p.m.

Respectfully submitted,

Deborah J. Costello, Secretary
Zoning Board of Appeals
Town of Nelson

