

ZONING BOARD OF ADJUSTMENT MINUTES
October 26, 2010

Present: Joyce Carlisle, John Gralenski, Ray Danforth, Ben Mayerson, Ray Halle – alternate

The meeting opened at 6:40 PM.

Election of Officers

The first item of business was to elect officers. Ben Mayerson nominated the following slate of officers: Chairperson – Raymond Danforth, Vice Chairperson – John Gralenski, Clerk – Joyce Carlisle. This nomination was seconded by John Gralenski and passed unanimously.

Joyce Carlisle delegated the clerk’s administrative duties to Administrative Assistant Jo Carpenter.

Review of Rules of Procedure

The Board’s Rules of Procedure, adopted 10/2/2008 were reviewed. It was noted that 144 hours should be replaced with “5 business days”.

Ben Mayerson made a motion to amend the *Rules of Procedure* as noted above and to adopt the amended *Rules of Procedure*. This motion was seconded by John Gralenski and passed unanimously.

The meeting was recessed at 6:45 PM.

Present: Board as listed above, Moriah Landry agent for Shelburne Union Church, Kim Landry, David Landry, Tom Hayes, Nina Hayes

Chairperson Raymond Danforth reconvened the meeting at 7:00 PM.

Ray explained that the Shelburne Union Church is seeking a variance from Section # 5 Item #9 of the Shelburne Zoning Ordinance – setbacks from public right of way and side boundary lines.

Ray also commented that Moriah is building the steps for her Senior Project but the ramp will be constructed later by the church.

Chairperson Ray Danforth opened the public hearing on the variance request at 7:02 PM.

Jo Carpenter stated that the application for the variance was received on October 14th; the hearing was posted and advertised on October 19th and the ad was run again on October 24th; the abutters were notified on October 19th.

Chairperson Raymond Danforth outlined the procedure for the hearing as follows:

- Moriah Landry, agent for the church, will present her application
- The Zoning Board may question her
- The public will be allowed to speak for and against the project
- Rebuttals will be allowed.

Chairperson Raymond Danforth explained that it was discovered after Moriah had submitted her application that a new updated application form existed. He said that the new form is slightly different because there are no longer two different kinds of variance. Ray said that all the necessary information is contained in the application that Moriah submitted.

Ben Mayerson made a motion to continue the hearing using the old application submitted by Moriah Landry. This motion was seconded by John Gralenski and passed unanimously.

Moriah explained that her Senior Project is to remove the existing church steps which are rotting and unsafe and replace them with new steps which will be slightly larger and will encroach on the setbacks a little more – only about 5 inches. Moriah presented drawings of what she plans to do. She said that she hopes to finish the steps and walk this fall. The ramp will be added later. (Written explanation submitted as Attachment 1)

Ray Halle asked who would be building the steps. Moriah said that she and her father will build the steps.

Ray Halle asked if the project will interfere with snow plowing. Moriah said that it would not interfere with snow plowing.

Raymond Danforth asked Moriah to present her written application. The Board each had a copy of the application.

John Gralenski asked if the existing steps are constructed of pressure treated lumber. Moriah said that they are not. They are made with pine boards.

Ben Mayerson asked if the new ramp will be a substantial change. Moriah said that it would be a substantial change.

Raymond Danforth asked why a new ramp is needed. Moriah explained that the existing ramp is old and is not ADA compliant. She said that she plans to remove the ramp and steps but just rebuild the steps this fall. She said that not having the ramp immediately will not be a problem because the church is not used in the winter.

Ray Halle asked if Moriah had spoken to the church committee about the ramp. Moriah said that she has spoken to them and the plan is to build the ramp out of earth and then pave or use concrete for the walkway.

Raymond Danforth asked if the project would be entirely finished before winter. Moriah said that she plans to do the seeding in the spring.

John Gralenski commented that it is an ambitious project.

Chairperson Raymond Danforth asked if anyone would like to speak in favor of the proposed project and variance request.

Abutter Nina Hayes said that she is definitely in favor of the project because it will improve the church and the surrounding village area.

David Landry spoke about the project. He said that he and Moriah had originally tried to have the ramp come straight out from the steps but it was too long so decided to put in the curved ramp shown on the plans.

David said that Moriah is trying to work with the church budget but will be writing a letter to ask for donations. He said next year he will work with the church committee to put in the ramp. He said that the ramp will come out from the side of the steps and will sweep around toward the Village Road. He said it will be constructed of earth and perhaps concrete but there will be no dirt against the church. He said that the walkway at the end of the ramp will come straight out to Village Road. He said that there will be railings on the upper deck of the steps but none are planned for the ramp. He said he hopes that bushes will be planted along the ramp.

Chairperson Raymond Danforth asked if anyone wished to speak against the proposed project and variance request.

No one spoke against the project.

Chairperson Raymond Danforth closed the public hearing at 7:35 PM.

The Board decided to begin deliberations on the variance application. Chairperson Raymond Danforth explained that he will ask for a vote on each of the criteria and then a final vote on granting or denying the variance.

Granting the variance would/would not diminish surrounding property values

The Board agreed that property values would not be diminished because the new steps will be in the same footprint and the ramp will actually be more attractive than the current one. Both will be of better construction so the church will actually look more attractive.

John Gralenski made a motion that granting the variance would not diminish surrounding property values. This motion was seconded by Ben Mayerson and passed unanimously.

Granting the Variance would/would not be in the public interest

The Board agreed that a safety situation as well as a non-compliance situation now exist and the project would rectify both situations and in doing so would be in the public interest.

Ben Mayerson made a motion that granting the variance would not be contrary to the public interest. This motion was seconded by John Gralenski and passed unanimously.

Granting the variance would/would not be do substantial justice

The Board agreed that the project would do substantial justice because it will give safe and ADA compliant access to the church.

John Gralenski made a motion that granting the variance will do substantial justice. This motion was seconded by Ben Mayerson and passed unanimously.

Granting the variance would/would not observe the spirit of the ordinance

The Board agreed that the spirit of the ordinance would be observed because the steps are being replaced almost in kind and will be safer and the ramp will give ADA compliant access to the church.

Ben Mayerson moved that granting the variance request for this project is in the spirit of the ordinance. This motion was seconded by John Gralenski and passed unanimously.

Unnecessary Hardship

The Board agreed that because of the size of the lot and the location of the church on the lot – both dating back to the 1800’s – there is no way to build a ramp and new steps that will meet the setbacks defined in the current zoning ordinance.

The Board also agreed that the proposed use is reasonable and the church must have safe steps and ADA compliant handicap access.

Joyce Carlisle made a motion that not granting the variance would result in unnecessary hardship for the current use of the property as a church. This motion was seconded by Ben Mayerson and passed unanimously.

Ben Mayerson made a motion to grant the variance and to approve the approximate footprint of the proposed steps as designed and the conceptual idea of the ramp, which is to be built no closer than 3 feet from the east boundary of the property (abutters - Warren and Nina Hayes) and up to the northern property line and to also approve the walkways to the edge of the road pavement. This motion was seconded by Joyce Carlisle and passed unanimously.

Joyce Carlisle commended Moriah Landry for her application and drawings. The whole Zoning Board agrees with Joyce’s commendation.

The finding of fact was written from the Variance worksheet. The approval of the variance was signed by the Chairperson of the Zoning Board of Adjustment. A copy was given to the applicant.

Chairperson Ray Danforth reminded the applicant the decision can be appealed within 30 days.

John Gralenski moved to adjourn the meeting. This motion was seconded by Ben Mayerson and passed unanimously.