

**TOWN OF NORTH HARMONY
ZONING BOARD OF APPEALS
WEDNESDAY, 6/24/09 7:30 PM**

ZBA MEMBERS PRESENT:

**GREG MICHALAK
JOE KOMAR**

**ROGER VAILLANCOURT
BILL ADAMSON**

Dave Stapleton, Attorney

Others Present:

**Charles & Rosemary Merchant
Susan Kochin**

**Tom Phillips
Carolyn Adamson**

Mr. Michalak, acting Chairman, brought the hearing to order at 7:54 PM.

#1. Charles Spinner requesting an Area Variance to construct a trex walkway closer to side setbacks than allowed in Section 401 of the Zoning Code at property located at 3152 Chautauqua Ave., Specifically Sec. 350.13-1-17 (old# 23-2-7). (Ref. ZBA Minutes 9/24/08)

Tom Phillips, Contractor, appeared to represent the Spinner's. He said the Spinner's would like to construct a 47 ½' long x 5' wide trex walkway 7' from the property line on the south side of their home connecting to their deck. He provided photos and drawings which the board reviewed. He said the Spinner's currently have a trex walkway on the north side of the home. Mr. Michalak read into the record a letter from the Spinner's which stated their reason for asking for the trex deck as opposed to a concrete walkway. The letter indicated that a permeable trex deck would allow for ground absorption of storm water while the impermeable concrete would cause run-off.

Mr. Stapleton referred to the minutes of the 9/24/08, ZBA hearing and refreshed the board on the criteria required for the granting of the initial variance requested by the Spinner's. He also noted that the Chilcote's, neighbors to the south had expressed concerns about the variance. Mr. Stapleton asked Mr. Phillips if he had a survey. Mr. Phillips provided the survey as well as photos of the now completed deck on the lakeside of the home and the trex walkway on the north side of the home for the boards review. Mr. Michalak reviewed **Town Law Sec. 267-b, Area Variance, Items 1-5. 1) No; 2) No; 3) Yes; 4) No; 5) Yes.**

Mr. Michalak asked if anyone wished to speak regarding the application.

Charles Merchant of 3122 Chautauqua Avenue expressed his support of the Spinner's variance request and stated that the Spinner's have done a very good job of creating an aesthetically pleasing project. Neighbors, Pam and Blair Smolder, sent a letter expressing their support of the project.

Mr. Michalak motioned to grant an Area Variance to Charles and Patrice Spinner, to construct a 47 ½' x 5' trex deck/walkway on the south side of property located at 3152 Chautauqua Ave. (Sec. 350.13-1-17) as outlined in their application and providing that the following criteria is adhered to:

- **deck/walkway be no closer than 7' to the property line**
- **deck height be no greater than existing bottom of house siding**
- **no railings be placed on deck/walkway**

Mr. Komar seconded and the motion was carried unanimously.

#2. Thomas Kochin requesting an Area Variance to construct a deck closer to the side setback than allowed in Section 401 of the Zoning Code at property located at 3499 Mason St., Specifically Sec. 332.20-1-45 (old# 21-1-40).

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Mr. Michalak asked Mrs. Kochin to explain to the board what they would like to do. Mrs. Kochin said they would like to add a 10 ½' x 18' deck onto the front of their home. She said the road edge is 30' on the left side and 26' on the right side from the existing front of the home. Mr. Stapleton noted that the request was for side setback and stated for the record that there would also need to be a variance for the road side setback. The board members reviewed the application, survey and photos presented by the applicant and the following facts and concerns were noted:

- actual property line is located 15.4' on left side and 13.9' on the right side from house front
- Mason Street is a private ROW ranging in width from 16-48' and is owned and maintained by property owners (town requires 50' wide in order to have a road turned over for town maintenance)
- no other homes on that side of the road have decks that close to the road edge
- concern that deck would be 3' from the ROW which is very narrow (i.e. plowing snow and build up of plowed snow)

Mr. Michalak reviewed **Town Law Sec. 267-b, Area Variance, Items 1-5. 1) No; 2) No; 3) Yes; 4) No; 5) Yes.** Mr. Michalak asked if anyone wished to speak regarding the application.

Mr. Michalak motioned to grant an Area Variance to Thomas Kochin to construct a 10.5' x 18' deck on property located at 3499 Mason St. (Sec. 332.20-1-45) provided the following criteria are strictly adhered to:

- **deck be located no closer than 3.4' to the Mason St. ROW on the north side**
- **deck be located no closer to side property line than the existing house structure**

Mr. Vaillancourt seconded and the motion was carried unanimously.

The hearing was adjourned at 8:45.

Nancy Thomas
Town Clerk