

**ZONING BOARD OF APPEALS**  
Mallory Town Hall  
9 Route 39 North  
Sherman, Connecticut 06784-0039

**ZONING BOARD OF APPEALS MEETING MINUTES**  
**AUGUST 2, 2011**

Chairman Baird called the meeting to order at 7:02 p.m. at Mallory Town Hall. Commissioners present: Chairman Dale Baird, William Jones, Samantha Addonizio, Joseph Chiaramonte, Kathy Fazzone, and Alternates Lucy Pollack, Helen Bray and Gary Smolen. There was no audience member recording or video taping the meeting.

**Public Hearing**

**Case #615: Mark Dienstag** – 10 Skyline Drive – requesting variances of Section 331.5 “Minimum Setback Requirements” from a side yard setback of 25’ to 19.1’ and Section 384 “Non-Conformity, Other Than Use” to convert the existing covered deck into enclosed living space.

Mr. Glenn Martone, builder, was in attendance representing the applicant. He stated that the Dienstag’s wanted to add onto their existing 57” wide kitchen by enclosing part of the existing covered deck. The new addition would come out 6’ (which makes the requested side yard setback of 25’ to 21.1’), will be located inside and be 2’ less than the existing deck. Piers and a girder will be added for support within the existing footprint. There are no plans to enclose the underneath portion of the new addition due to the deck being 11’ high off the ground. Mr. Martone also stated that the deck and the roof are pre-existing, and that they would work within the confines of the non-conformity of the existing deck. An option of moving the proposed kitchen over 4’ was discussed so that the side yard setback could be met. Mr. Martone did not like this option due to the fact that it would leave a 4’ x 6’ unusable portion of the deck and if a door was added it would take away a lot of kitchen counter space. Also, a large picture window would have to be removed. Any change in the outer wall becomes difficult because it is a log cabin with log walls. The Commission also discussed the non-conformity definition and how it pertains to this case. Commissioner Addonizio motioned to close the public hearing. Commissioner Jones seconded the motion. All voted in favor.

**Deliberations**

**Case #615:** There was discussion regarding the increase in non-conformity of the structure by adding on this addition. Commissioner Addonizio and Fazzone both commented on the fact that the deck already has a floor and a roof, and that all the applicant wants to do is enclose this

space. Commissioner Chiaramonte commented that it is an increase of the non-conformity, and a violation of the side yard setback, but that the applicant is only asking for a modest relief of 3 ½ feet and the deck and roof are already existing. It was also discussed that this addition will not affect the neighbors in any way. Commissioner Fazzone stated that it is hard to impose the current regulations on buildings that were previously built so close to property lines.

Commissioner Jones questioned as to whether anything has changed since the day the property owner purchased the property and if the current owner was aware of the non-conformity of the dwelling. The Commission discussed the fact that each case is unique and different and should be treated as such.

Commissioner Addonizio motioned to approve the variances for Section 331.5 “Minimum Setback Requirements” from a side yard setback of 25’ to 21’ and Section 384 “Non-Conformity, Other Than Use” to convert a portion of the existing covered deck into enclosed living space. Commissioner Chiaramonte seconded the motion. Variances were granted with a vote of 4-1. Commissioners Baird, Chiaramonte, Fazzone, and Addonizio all voted in favor. Commissioner Jones voted against.

Commissioner Smolen motioned to approve the minutes of November 2, 2010 as amended.

Commissioner Addonizio seconded the motion and all voted in favor.

Commissioner Chiaramonte motioned to approve the minutes of December 7, 2010 as amended.

Commissioner Smolen seconded the motion and all voted in favor.

Commissioner Baird motioned to approve the minutes of April 5, 2011 as amended.

Commissioner Smolen seconded the motion and all voted in favor.

Commissioner Addonizio motioned to approve the minutes of May 3, 2011 as amended.

Commissioner Fazzone seconded the motion and all voted in favor.

Commissioner Jones motioned to approve the minutes of May 31, 2011 as amended.

Commissioner Chiaramonte seconded the motion and all voted in favor.

Commissioner Chiaramonte motioned to nominate Dale Baird as chairman. Commissioner Addonizio seconded the motion. All voted in favor.

Commissioner Smolen motioned to nominate Will Jones as vice-chairman. Commissioner Fazzone seconded the motion. All voted in favor.

Commissioner Chiaramonte motioned for adjournment. Commissioner Jones seconded the motion and all voted in favor. Meeting was adjourned at 8:44 p.m.