



**ZONING BOARD OF APPEALS**

**May 7, 2013**

**7:00 pm**

**Mallory Town Hall**

**FINAL**

**Commissioners present:** Dale Baird, Joseph Chiamonte, Kathy Fazzone, Alternates: Samantha Addonizio, Lucy Pollack, and Gary Smolen

**Absent:** Will Jones, & Rick Hudson

Christine I. Branson, Planning and Zoning Administrative Clerk, also in attendance.

There were audience members, but none recording or video-taping the meeting.

Chairman Dale Baird called the meeting to order at 7:06 p.m.

Commissioners G. Smolen and L. Pollack were elevated to Voting status.

Public Hearing Case # 630

Joan O'Brien – 4 Echo Road (Aka Map 052, Lot 061) - requesting a variance of Section 332.5 "Minimum Setback Requirements" from front yard setback(s) and Section 384 "Non-Conformity, Other than Use" to construct a second story addition within the footprint of the existing legal non-conforming dwelling as shown on survey map entitled "Property Survey Prepared for Joan M. O'Brien, 4 Echo Road, dated March 13, 2013, Revised April 5, 2013 to show 2<sup>nd</sup> floor addition". Zone B

Mrs. O'Brien has proposed to add 12 ft. height to existing second story used now as attic space to allow an additional two bedrooms and two full bathrooms. The structure was damaged when a tree fell on the roof this past winter, the applicant saw an opportunity to upgrade the dwelling to add bedrooms and bathrooms to the upper portion of the dwelling along with the repairs to the roof. The proposed plan would not alter the original footprint, and the roof overhang would actually be one foot less than presently exists.. Mrs. O'Brien said there the existing septic would accommodate the additional bathrooms. A reserve septic plan has been submitted by Beatty Brothers and approved by the Health Department. The Commission discussed two road front sides of the property that will need to comply with a 50 ft setback. The Commission stated they were having difficulty determining the hardship related to the request of the variance. Mrs. O'Brien stated the lay of the land in relation to the confines of the septic, reserve septic, and well placement make it difficult to add onto any other portion of the house, or add to the footprint. Abutting neighbor, Patrick Reffaele asked to see the proposed plan because he was curious to see what the change entails. Additionally, Kevin Keenan asked to clarify what a "pre-existing, non-conforming, set-back" was, since the structure was built in 1952. He stated his understanding of the proposal is not adding to the non-conformity. The Commission disagreed with this interpretation and explained that any time an alteration or increase to the existing non- conforming structure, it adds to the non-conformity.

Commissioner G. Smolen moved to close the Public Hearing of Case 630.

Seconded by: Commissioner K. Fazzone. Vote: For: (5) Unanimous  
(Commissioners: Baird, Chiamonte, Fazzone, Smollen, and Pollack)

**Business:**

Case # 630 Joan O'Brien – 4 Echo Road (Aka Map 052, Lot 061)

The Commission discussed the Regulation which this application was warned, Section 332.5. In addition the Commission discussed the Regulation 322.5 in reference to a "Corner Lot", interpreted as two front setbacks. The house as it sits twenty feet into the setbacks. The Commission recognized the existing house is 1088 square feet, but found difficulty seeing hardship. The Commission discussed the (1970's) change in Zoning Setback Regulations which have made it difficult for small properties within the lake community to comply with the setbacks as they exist today. The following Motion was denied.

Commissioner G. Smolen moved to grant approval for Case # 630 Joan O'Brien – 4 Echo Road proposed second story addition.

Seconded by: Commissioner K. Fazzone Vote: For: 2 (Smolen & Baird) Against:3 (Fazzone, Chiaramonte, Pollack)

**MOTION DENIED**

**Approval of Minutes:**

December 4, 2012 Commissioner K. Fazzone moved to approve December 4, 2012 Regular Monthly Meeting as amended.

Seconded by: Commissioner L. Pollack Vote: For: (6) Unanimous  
(Commissioners: Baird, Addonizio, Chiaramonte, Fazzone, Smolen, and Pollack)

April 23, 2013 Commissioner G. Smolen moved to approve Special Meeting as amended.

Seconded by: Commissioner J. Chiaramonte Vote: For: (6) Unanimous  
(Commissioners: Baird, Addonizio, Chiaramonte, Fazzone, Smolen, and Pollack)

**Reoprts:**

Application and Fees Review- Administrative Clerk, Christine Branson presented a chart showing fees, website addresses, information packets and ZBA application forms, of close by towns to the ZBA for consideration of updating the application and/ or fees. A brief discussion followed. Chairman Baird suggested the Board look over the information provided and come to the next meeting with recommendations.

Commissioner S. Addonizio moved to adjourn the Meeting at 8:35 P.M.

Seconded by: Commissioner K. Fazzone VOTE: For: 6 (Unanimous)  
(Commissioners: Baird, Addonizio, Chiaramonte, Fazzone, Smollen, and Pollack)

Respectfully Submitted by,



Christine I. Branson, Planning and Zoning Administrative Clerk

May 10, 2013

Approved with Amendments at 10/1/2013 Meeting