

SOMERSWORTH ZONING BOARD OF ADJUSTMENTS
MINUTES OF MEETING
July 6, 2022

MEMBERS PRESENT: Richard Brooks, Keith Perkins, Ken Hilton – Alternate, Matt Keiser Chair, and Kenneth Vincent (left at 7:08), Brad Fredette

EXCUSED MEMBERS: Anthony Jones-Alternate

STAFF PRESENT: Dana Crossley Planning Secretary

The meeting was called to order at 7:03PM.

1) Approval of the minutes:

Fredette **MOVED** to accept the June 1, 2022 minutes.

Vincent seconded the motion.

The **MOTION CARRIED** 5-0

2) OLD BUSINESS

A) Any old business that may come before the Board. - No other old business.

3) NEW BUSINESS

A) **Patrick and Karen Ryan are seeking a variance from Table 5.A.1 to allow an 8' front porch within the 25' front setback on a property located at 421 Old Rochester Road, in the Residential Single Family (R1) District, Assessor's Map 70 Lot 17, ZBA#09-2022 PUBLIC HEARING**

Keiser opened the public hearing.

Vincent stated he would be recusing himself from this item as he knows that applicant personally and did not feel he could vote unbiased.

Keiser appointed Hilton as a voting member.

Vincent left the meeting at 7:08 PM.

Crossley stated the applicant is seeking to construct an 8' wide porch across the front of the house and proposed breezeway within the 25' front setback. The existing house appears to be at the 25' setback line. Noted the applicant also intends to remove the existing front porch, build a breezeway on the side of the house that would be compliant with setbacks but also the proposed new front porch would be in front of that as well.

Patrick and Karen Ryan were in attendance to represent the application.

P. Ryan stated the proposal would not impact other surrounding properties but rather add to the aesthetics of their property. The porch would allow for improved aesthetics and have no impact to surrounding properties.

Have spoken with neighbors and received their signatures in support of the project. He stated their home is at the setback line and cannot enhance it without the variance. The change would only impact their home and would provide a better area for people to access their home and for them to sit comfortably. He stated rainwater drains from the road towards their home and create large puddles and this porch would allow them access to the house without having to go through water. The proposed porch would not impact the surrounding area but rather enhance their property.

Keiser asked for clarification on the proposed breezeway addition, if the porch in front of that would be within the setback or compliant with the setback requirements.

K. Ryan stated that portion of the project would not encroach within the setbacks.

P. Ryan explained it would be setback farther.

Keiser opened for public comment.

No public comment received.

Fredette stated one of the criteria that must be met, requires there to be something unique about the property that makes it different from the surrounding properties in the area and would necessitate granting the variance. Asked the applicant to expand upon that.

P. Ryan stated that when their house was built, believes it had different setback requirements. The setback line is right at the front of their existing house.

K. Ryan add that there is an existing porch that is within the setback, they want to extend that to allow for an expanded area for them to utilize and would make the house look better.

Brooks stated they have to consider what the hardship is, such as what prevents them from using the property in some way due to a hardship. Noted it appears they could add a porch on other sides of the house.

K. Ryan stated they cannot add a porch to the back because of the location of their septic and intend to construct a garage in the future as well.

Keiser asked if there is an existing deck on the back of the house.

K. Ryan stated yes, a small deck.

P. Ryan stated he feels this would add to the overall value of the neighborhood.

K. Ryan stated the proposed porch would be approximately 18” off the ground. Their property sits down from the road and the water that runs off the road onto their property puddles in the yard so much that during storms there is about 6” of water and this porch would allow them for easier access to their home.

Hilton inquired if that would create a hardship.

P. Ryan stated yes and that at least once a year they get wet walking into the house.

K. Ryan added that in the winter it creates an ice problem.

Brooks inquired if they have looked into controlling the run off.

P. Ryan stated the only way to do so would to install French drains or build up the property to push the water back towards to road.

Fredette asked what the depth of the platform of the existing porch was.

K. Ryan explained it is about a step up.

Fredette noted what he believed the required code requirement was.

P. Ryan stated the deck area was there when they purchased the house.

Keiser closed the public hearing.

Fredette stated based on his understanding of building code and what the property owner has at this property does not think they would be able to complete a code compliant stairway in the space they have. Stated that could qualify as a hardship.

Keiser noted the applicant could build up the grade on site.

Brooks added that some crushed stone may help with the step and water issues. Stated he does not see that as a hardship for this application.

Hilton stated those fixes would not add value to their home. Noted the applicant is wanting to make the property nicer, make the community better, enhance their home and if all the neighbors are in agreement with the proposal. The steps coming up to the new porch have been described to be on the side and not closer to the road and overall, the proposal seems like it would enhance the property and all included. He stated to him the hardship of the water and having to deal with the weather and road would allow for the proposal that would enhance the property. He stated he feels there is a hardship aspect.

Fredette expressed concern that even with a grade change there is the concern that water would still flow and pool next to the house and have potential for more issues with the foundation. He stated there is an existing 4' into the setback and then adding an additional 4'. Noted that the character of the neighborhood is that there are many different styles and houses in different locations on the lots. If the neighborhood was more uniform would consider that differently. He stated so long as anything within the front setback does not create an issue with plowing does not see an issue.

Brooks stated French drains are an option to install those to mediate some of the water concerns and direct it away from the house. He stated another concern that should be considered is the road. This is one of the few houses in the corridor that sit right at the 25' setback mark where most of the houses sit back farther. He stated this is a heavily trafficked road that people drive fast and when encroaching that front setback there is a safety concern getting close to the road. He stated he feels that with that aspect it goes against the intent of the ordinance.

Perkins noted that though it would be only 4 additional feet wider than the existing porch it would also be 32' longer. He stated he does not think that the hardship and the contrary to the spirit of the ordinance criteria has been met.

Keiser stated in review of the 5 criteria, does not think the proposal would diminish surrounding property values especially since it is obvious, they have done a lot to improve their home. He stated it would not be contrary to public interest and substantial justice would be achieved as it would give them the front porch they seek. Stated he does not believe the application meets the spirit of the ordinance by putting a large porch in

the front setback. He stated it would change the characteristic of the neighborhood as other houses are not within the front setback and would appear significantly different. He stated in regards to the hardship criteria, they have to consider if the application of the zoning to this lot if it is fairly applied and if setback requirement creates the hardship when the ordinance is being applied equally to all of the properties in the area. He stated he does not feel they meet that criterion and that this no unique factors of the property allow for the encroachment within the setback. He stated to him the hardship and the spirit of the ordinance criteria have not been met.

Regional Impact MOTION: Fredette stated I move that the variance request of Patrick and Karen Ryan **DOES NOT HAVE POTENTIAL FOR REGIONAL IMPACT.**

The MOTION is SECONDED by Brooks. The MOTION CARRIES 5-0.

MOTION: Fredette stated after review of the application, the file and all the information presented to the Board, I feel that criteria 3 – the hardship and criteria 5 – contrary to the spirit of the ordinance of the five criteria have **NOT** been satisfied and I move that the request of Patrick and Karen Ryan for a variance from Table 5.A.1 to allow an 8' front porch within the 25' front setback **be DENIED.**

The MOTION is SECONDED by Brooks. The MOTION CARRIES 4-1 (Hilton voted in the negative)

B) Any other new business that may come before the Board.

None

Fredette **MOVED** to **ADJOURN** the meeting.

Perkins seconded the Motion.

The **MOTION CARRIED** 5-0 at 7:27 PM.

Respectfully Submitted,
Dana Crossley, Planning Secretary