

HULL ZONING BOARD OF APPEALS

Applicant: Peter and Bernadette Raftery

Property: 6 Harold Place

Date: Thursday, October 3, 2013

Time Meeting Began: 7:56 p.m.

Time Meeting Concluded: 8:23 p.m.

Place of Meeting: Hull Municipal Building, Louis C. Costa Room, 253 Atlantic Avenue

Zoning Board Members Present for Hearing:

Alana Swiec, Chair	Sitting	Attending	Absent	Abstain
Dr. Roger Atherton, Clerk	Sitting	Attending	Absent	Abstain
Atty. Mark Einhorn, Member	Sitting	Attending	Absent	Abstain
Phillip Furman, Associate	Sitting	Attending	Absent	Abstain
Jason McCann, Associate	Sitting	Attending	Absent	Abstain
Patrick Finn, Associate	Sitting	Attending	Absent	Abstain

Others in Attendance:

Peter & Bernadette Raftery, Applicants

Karen Morgan, Recording Secretary

General Relief Sought: Opening – To apply for a Special Permit to rebuild and repair an existing deck on rear of house and extend deck four feet pursuant to Hull Zoning Bylaws, Section 61-2f.

General Discussion: Ms. Raftery stated that from what she understood from Mr. Lombardo and Mr. Kelly that there is only 17 inches that over-extend beyond the rear setback and that is what we are asking for.

Mr. Atherton – It is really is 1.7 feet which is 20.4 inches.

Ms. Raftery - She is going by what she is being told.

Mr. Raftery – It was an existing structure. The deck has been there since they lived in the house. It started out with just replacing the rotten boards and he said that the deck was very limited so if we put a couple of chairs or people on there, it was very crowded.

Mr. Finn – Are you saying that you already have a deck and you are trying to rebuild it bigger?

Mr. Raftery – It is just a little bit bigger.

Mr. Finn – And you need a variance?

Ms. Raftery – Not a variance.

Mr. Atherton – The application says Special Permit.

Mr. Finn – Do you have a plan to show how close it is?

Ms. Raftery – Yes.

Mr. Atherton – I think it needs a variance.

Mr. Finn – Would you tell us why you really need that extra foot 1.7.

Ms. Raftery – We started to and then we received a complaint from the neighbor.

Mr. Finn – Did you have a building permit?

Ms. Raftery – No and that's where we made a mistake and we admit that, but we meant nothing ill by it.

Mr. Raftery – He has known Mr. Lombardo for years and he spoke to him and Mr. Kelly and they said that because there is an extension, you do need a permit and we said okay and we did everything, we even got a new surveyor. Mr. Kelly told him that it was just a matter of 17 inches.

Mr. Raftery – We had to replace some boards. We asked if we can extend it so it's not so limited.

Mr. Finn – The stairs are allowed in the set-back area. The deck is not allowed as a matter of right. What if you made stairs to the upper deck?

Ms. Raftery – There is, they are in the back.

Mr. Finn – This is overhanging this which is allowed but if you make the stairs in the same overhang, it's a means of egress.

Ms. Raftery – Does not think there is enough side room for that.

Mr. Raftery – We just wanted a little bit more because it is limited.

Mr. Finn – You need this now because you already started and need relief. Can't you just cut the boards back?

Ms. Raftery – We just asking, we are not saying we will or won't.

Mr. Finn – It is your right.

Ms. Raftery – We did not mean anything bad by it. It would probably go back to 8ft it would be around 9 ½ feet.

Mr. Atherton – It would be 27.6 inches instead of 40.

Ms. Raftery – Would a few inches make a difference?

Mr. Atherton – It is 2.3 feet.

Ms. Raftery – We want to go 12 by 12 because the 3 other feet lead to the stairs and that is not extended. We have to part of it cut off so people can walk down the stairs.

Mr. Atherton – It is a new non-conformity and requires a variance.

Mr. Raftery – We are just saying that deck is already there and we are just asking for a little more room to have on the deck.

Mr. Atherton – Is objecting to the increasing the lot coverage and putting in a deck into the rear set back. He thinks it needs a variance and we cannot talk about it because it was not advertised.

Ms. Raftery – Do we just cut off the 17 inches?

Mr. Atherton – It is not 17 inches, it is 1.7 feet which is 20.4 inches.

Ms. Raftery – We never had a complaint against us from the neighbors in the 14 years living there.

Ms. Swiec – Let's try to make this matter make sense. Roger believes that this is a variance, not a special permit; but these applicants went to the Building Commissioner's office in good faith that they were going to get accurate information, paid their money and they are here.

Mr. Atherton – Yes and it happens all the time and needs to be fixed.

Ms. Swiec – She agrees as well and thinks that we should allow the applicants to withdraw the application without prejudice send it back to the Building Commissioner's Office, re-advertise it as a variance on the Town's dime and come back before us.

Mr. Einhorn – To the applicants, do you know the requirements for a variance?

Ms. Raftery – We have no idea what we are doing.

Ms. Swiec – If they want to reapply...

Mr. Einhorn – What are chances they are going to obtain a variance?

Mr. Atherton – Zero. The best thing for them to do is what Pat suggested.

Ms. Swiec – You did not again our opinion as to which application to apply to. The problem is to come back with an application for a variance, the criteria are so hard to meet that outside of a public hearing we cannot say if you will or will not get it. You probably will not get it.

Mr. Einhorn – You have to prove a hardship (i.e., due to the soil or the land contour).

Ms. Swiec – If we could offer advice, Pat and Roger in her opinion made good suggestions and thinks faced with the alternative of a difficult hearing process, you may just simply want to consider it; we can continue this for you and think about it and come back and that will not cost anything. Roger and Pat can explain briefly what needs to be done to make your existing deck compliant so you wouldn't need to have any of this process.

Mr. Finn – Did the Building Commissioner give you this advice?

Mr. Raftery – That's what Bartley said.

Ms. Raftery – He said to apply for a Special Permit or cut off the 17 inches.

Mr. Finn – You'd figured you would give it a shot.

Mr. Einhorn – In reality 1.7 feet doesn't sound like a lot, but it creates a new non-conformity so it's not a special permit.

Mr. Atherton – If you build it to the suggestion of he and Pat made, they can do it as a matter of right.

Mr. Finn – And there would be no restrictions of your property. Normally when you get a variance, there is a condition with no further expansion of the property and you have to come back to the Board again. It's a restriction put on your property.

Mr. Raftery – We went into this to replace some boards and a stair was broke. We were hoping to spend about 2K and it tripled the price. For us, it is a lot. We respectfully take your advice. We had a friend that was just banging some nails for us.

Mr. Atherton – You never bothered to get a building permit. If you got a permit back then, this wouldn't have happened.

Ms. Swiec – If people think they are replacing in kind, it's complicated and the average person doesn't know when someone complains.

Mr. Finn – You need to talk to the building dept. and let them know you saw the ZBA.

Mr. Atherton – We are talking 10ths of feet as opposed to feet. It has to be 20 feet back from the rear lot line and that's the 1.7 feet that Peter is talking about that you thought was 17 inches, which is 1.7 feet which is 20.4 feet. I would cut it back from now and then should do it and that would be within the setback and do that as a matter of right.

Ms. Raftery – We are sad the neighbors were upset.

Mr. Finn – In Hull, you are so close together, you are doing something and someone is looking to see what you are doing.

Mr. Einhorn – When you are creating a new non-conformity; the Board considers this a variance not a special permit.

Ms. Swiec – Is going to give the applicants a letter of an analysis sheet that Roger does. You go back to the Building Commissioner's office, if you choose to do this, to cut the deck back what the code would be so you won't need anything from the ZBA and you want him to issue a regular building permit to reconstruct the deck. If they ask why, it needs to be cut back by 20.4 inches; that is what you tell the builder. We are going to continue this hearing to October 17th as a safety net.

Mr. Finn – Asked the applicants if they want to withdraw?

Mr. Raftery - They do not know what to do.

Mr. Atherton – Said that they will never get a variance.

Ms. Raftery – All she wants is peace with the neighbors.

Mr. Atherton – Just continue the Hearing.

Mr. Einhorn - You can tell us later that it was on the 17th and you want to withdraw.

Mr. Raftery - We can let someone know at a later time if we wish to withdraw.

Mr. Einhorn – Feels that they are 99.9 sure of a withdrawal, but it the applicants' decision.

Ms. Raftery – If we change our minds, we can just call?

Mr. Finn – You need to send in a letter to speak of the withdrawal.

Mr. Raftery – We appreciate your help. Thank you very much.

Ms. Raftery – Thank you for your time and good work.

Motion: Ms. Swiec to continue the Hearing until October 17, 2013 at 8:00 p.m.

Member	Motion	Second	For	Against
Alana Swiec, Chair	X		X	
Dr. Roger Atherton, Clerk		X	X	
Atty. Mark Einhorn, Member			X	
Phillip Furman, Associate				
Jason McCann, Associate			X	
Patrick Finn, Associate			X	

Recorded by Karen Morgan

Approved by Roger Atherton
