

**TOWN OF DAY ZONING BOARD APPEALS  
HEARING MEETING MINUTES- APPROVED  
FEBRUARY 23, 2023  
PAGE 1 OF 2**

**Members Present:**

Dave Davidson  
Harry Brennan  
Steve Edwards  
April Schmick

**Members Absent:** None

Chairman Dave Davidson opened the meeting at 7:00pm

**Pledge**

**Roll Call**

**Old Business:** Review and approve minutes January 19, 2023 and October 17, 2022.

**Motion** to accept the minutes was made by Steve Edwards, 2<sup>nd</sup> by April Schmick.

**Ayes:** 4-0

**New Business:** Kenneth J And Christine A Keating to review complete application and receive deed (**Tax map #31.11-1-28**) 1649 North Shore Rd.

The board reviewed the Keating application for completeness. While reviewing the plot plan and the associated house blueprints, it was discovered that the deck was not include on the original plot plan. This would require an additional 10' variance on the side yard setback (North Shore Road.) The board discussed whether or not to make this estimate change to the drawings and application or to reject the application as incomplete. Board member Steve Edwards asked if the Keatings would consider removing the deck. They would not. The board agreed to proceed with the estimated change. This changes the 10' requested variance to a 220' requested variance. Chairman Davidson noted that the rejection letter given by Garry Robinson, that the proposed project was close to requiring a variance for "lot coverage", but that the 270sq ft deck would not change the outcome.

**Motion:** Harry Brennan moved to accept the Keating application as complete with the modification that the side yard setback variance be increased from 10' to 20', 2<sup>nd</sup> by April Schmick.

**Ayes: 4-0**

### **Open the Public Hearing**

Christine A Keating stated they would like to move here in the Town of Day full time, retire here and make this there forever home year-round.

Neighbor Mr. Duncan stated the height was unknown and not on the application, so no starting point on a unlevel property is known. Duncan was concerned with privacy and on the size of the home per the lot size. Duncan stated that everyone else needed to obey by the zoning laws therefore the Keatings should have to do so as well.

Neighbor Mrs. Fielding was concerned how the house would be within 25' from the neighboring property line, at the most.

Neighbor Mr. Ulasewicz was concerned of the size of the new structure being 2200sq ft and replacing a 660sq ft home. Ulasewicz was concerned that there is no storm water management plan in order. Ulasewicz stated the Keatings purchased this property knowing the size of the lot from the beginning and know a very large variance was being requested. If the Keatings downsized the proposed structure and reduced the variance requested, he wouldn't see an issue.

Chairman Dave Davidson stated the height requirement, per the code enforcer, was fine. He also noted that the ZBA existed so that property owners had an avenue to seek relief from zoning regulations, and that was what this hearing was about.

After all public comments were made, Harry Brennan moved to close the public hearing. 2<sup>nd</sup> by April Schmick.

After the hearing was closed, the board began discussion of the application. The Chair asked each member what their general feeling was about the project and the requested variances.

All the setback variances were considered together.

In the general discussion, Board members expressed a sense that the house was very large for the lot size, and that alternative siting and/or dimensioning might be more acceptable.

The Chair described the "balancing test" to the audience before the Board considered the 5 criteria.

1. Whether benefit can be achieved by other means feasible to applicant.
  - a. Brennan- yes
  - b. Schmick- yes
  - c. Edwards- yes
  - d. Davidson- yes
2. Undesirable change to the neighborhood.
  - a. Brennan- yes
  - b. Schmick- no
  - c. Edwards- yes
  - d. Davidson- no
3. Whether request is substantial.
  - a. All- yes
4. Adverse physical and environmental effects.
  - a. Brennan- yes
  - b. Schmick- yes
  - c. Edwards- yes
  - d. Davidson- no
5. Is difficulty self-created.
  - a. All- yes

At the close of discussion on the "balancing test," the Chair asked for a motion to grant the variances.

There was no motion.

**Motion:** made by Chairman Dave Davidson to grant the variances.

There was no 2<sup>nd</sup>.

The Chair asked for a motion to reject the application for variances.

2<sup>nd</sup> by Steve Edwards.

**Ayes: 4**

The Keating application was rejected.

April Schmick moved to adjourn 2<sup>nd</sup> by Harry Brennan.

**Ayes: 4**

Meeting adjourned at 7:43pm

Tracy Ladd, Clerk