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Washington NH - ZBA

Public Hearing Transcript

February 28, 2024

Members Present

Andrew Hatch - Board Member
Gary Carney - Board Member
Joe Tapp - Board Member
Linda Marshall - Board Member
Mark Florence - Board Chair

Members Absent

None

Visitors

John Rankin - Applicant



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Summary

Rankin Public Hearing

- The Zoning Board of Adjustment meeting for February was convened by Chair Mark Florence with members Gary Carney, Joe Tapp, Andrew Hatch, Linda Marshall, and applicant Jack Rankin present.
- The minutes from the January meeting were approved unanimously after a motion by Mark Florence and a second by Gary Carney.
- Gary Carney recused himself from the case involving Jack Rankin but was told he could remain at the table.
- Mark Florence informed Rankin that a majority of three votes was needed to pass any motion and that a tie would result in a failure to pass.
- The hearing process was explained to Rankin, highlighting that he could present his case during the public hearing but not during the closed deliberative session.
- Mark Florence noted that Rankin's proposed walkway, made of crushed stone like the existing driveway, does not increase impervious coverage, suggesting a variance might not be necessary.
- Joe Tapp sought clarification on the matter, and Mark Florence compared the situation to a previous case involving Mr. Max, where no variance was required despite high impervious coverage.
- Andrew Hatch mentioned a visit to Rankin's property, identifying errors in the original application's calculations of impervious area and the confusion it caused.
- Rankin clarified the extent of the new awning's reach and its impact on pervious surfaces.
- Mark Florence and Gary Carney confirmed the measurements they took at Rankin's property.
- Mark Florence prepared a draft motion to dismiss the need for a variance, which was unanimously passed after Rankin had no further questions.
- A second motion was made to request the Select Board to grant Rankin's LUC permit application, which was also seconded and passed unanimously.
- The public hearing for Rankin's application concluded, with the expectation that the Select Board would approve the application following the Zoning Board's determination.

Transcript

Rankin Public Hearing

- 7:00 pm **Florence** Welcome, everybody, to the February meeting of the Zoning Board of Adjustment. Our group this evening includes members Gary Carney, Joe Tapp, Andrew Hatch, and Linda Marshall, with Jack Rankin as an applicant, and I, Mark Florence, serve as the chair.
- The first item on the agenda is to approve the minutes of our January meeting. Does anybody have anything that they want to say about those minutes?
- 7:00 pm **Carney** I thought they were very accurate.
- 7:00 pm **Hatch** I read them. I was not present. I don't have any position on them other than they were comprehensive.
- 7:00 pm **Florence** Okay, fair enough. So I move that we accept the January 31 minutes as

published on the website.

7:00 pm **Carney** I'll second that.

7:00 pm **Florence** All those in favor say aye.

7:01 pm **All** Aye.

7:01 pm **Florence** The measure passes unanimously.

Next up on the agenda is your case, Mr. Rankin. Before we start that Mr Carney has something to say.

7:01 pm **Carney** I'd like to recuse myself.

7:01 pm **Florence** Understood, but you don't have to leave the table if you don't want to.

7:01 pm **Florence** Mr. Rankin, there are currently four members on the board, and it requires a majority of three votes to pass any motion. A tie of two votes means the motion will not pass. Would you like to continue with the meeting or wait until we have a full board?

7:02 pm **Rankin** No, we can proceed.

7:02 pm **Florence** The hearing normally consists of two stages: a public hearing, where you will present your case and answer questions, followed by a closed deliberative session where the Board, in this case excluding Mr Carney, discusses and decides on the matter. You should present all your information during the public hearing, as you cannot speak during the deliberation.

I would like to present a point for the Board's consideration based on my recent visit to your site with Mr. Carney. It is evident from our observations that you are seeking a variance for impervious coverage. However, I would like to highlight that your proposal does not seem to increase the existing impervious coverage. This is due to the fact that the walkway you have proposed is made of crushed stone, which is the same material used in the driveway. Essentially, the walkway is an extension of the driveway, maintaining the same characteristics.

Given these observations, I believe that a variance may not be necessary in this case. While it is true that the current impervious coverage exceeds the allowed limit, this was already the case prior to your application for the variance. There has been no change or addition to the impervious coverage as a result of your proposal. Therefore, I would like the Board to consider that no variance is required since there is no net increase in impervious surfaces on your property.

7:04 pm **Tapp** I just want to think about what exactly you're saying.

7:04 pm **(Crosstalk)** *Board debates what it means for the coverage to be more than allowed, even though the proposal does not increase it*

7:05 pm **Florence** Mr. Rankin is increasing his building coverage by 80 square feet, which is a small amount and only constitutes 3.8% of the lot size. Therefore, no variance is required for this additional building coverage, and there is no increase in impervious coverage.

Mr Tapp, were you present for the Max case?

7:05 pm **Tapp** Yes.

7:05 pm **Florence** What we're talking about now is pretty much identical to the Max case. That's what we decided with Mr. Max. His impervious was way over. I

mean, insanely over. But what he was doing did not add to the impervious.

7:06 pm **Hatch** I met with Mr. Rankin today and discovered that the walkway we discussed was not a new addition but a preexisting feature. This was relevant to an application that may have been updated by or at the request of a selectman. There was an issue with the original application's calculations, specifically regarding the total impervious area, which was stated as 18.9 without including the structure in question.

That was perhaps the sort of discovery that then resulted in the Select Board seeing that as an overage and consequently needing a variance without thinking through the implications of it being preexisting.

7:07 pm **Hatch** I agree with you and understand the confusion. There was a mistake in the calculations, as it was incorrectly assumed that 6 times 16 equals 256, when actually 16 times 16 does. There are several errors here.

7:08 pm **Florence** There's a lot of arithmetical issues with that sheet. And another issue is the twelve inch overhang that already exists. So your awning will only go out another 5ft as there is already a 1ft coverage.

7:08 pm **Rankin** Probably isn't even going to go out that, because the 6ft is where you actually measured, so it's only going to go out another 4ft.

7:09 pm **Florence** So maximum 80 sq ft.

7:09 pm **Hatch** Because I took this diagram and saw a six foot on a sloping roof, and I'm like, well, simple math tells me that that isn't how far it's going to bust out.

7:09 pm **Rankin** And whatever drips off of that is actually going to go onto what you would consider a pervious surface, in fact the lawn.

7:09 pm **Florence** Did anyone else measure from the house to the ribbon, the pink ribbon? Mr Carney and I did. We did measure from the house to the pink ribbon, and that was 6ft.

7:09 pm **(Crosstalk)** *Board again debates the merits of dismissing the variance given no change in impervious coverage; all agree they have no reservations*

7:10 pm **Florence** I took the liberty of preparing a draft motion that I will make right now, if it's okay with everybody. Mr. Rankin, do you have anything to say first?

7:10 pm **Rankin** Not unless you have questions for me.

7:10 pm **Florence** If we're going to dismiss the need for the variance, then we already know all that we need to know.

7:10 pm **Rankin** How does that work? Who would okay the building permit?

7:11 pm **Tapp** The Select Board.

7:11 pm **Florence** The Select Board must approve the action, and I have prepared two motions for this purpose. Although the Board has the authority to make the final decision, it is expected that they will follow our determination.

So let me make this first motion. I move that the board dismiss the request for a variance for impervious coverage as the proposal builds over an area which is already impervious and the variance is therefore not required. Do I have a second on that motion?

7:11 pm **Hatch** Seconded.

7:11 pm **Florence** All those in favor?

7:11 pm **All** Aye.

7:11 pm **Florence** The motion passes unanimously. Now I'll make my second motion.

I move that the board respectfully request the Select Board to vacate its denial of the LUCC permit application and instead grant it as submitted. Do I have a second?

7:11 pm **Tapp** Seconded.

7:11 pm **Florence** All those in favor?

7:12 pm **All** Aye.

7:12 pm **Florence** The public hearing for Mr. Rankin's application is concluded. The Select Board will be informed tomorrow, and I will meet with them tomorrow evening to address any questions they might have. It is expected that they will approve the application.