

**ZBA Meeting Minutes January 9, 2008** – Gale

Members Present: Robert Cadle, Chase Duffy, Cynthia Maxwell, Jay Prager, Mark Mulligan

Chairman Cadle convened the Gale hearing.

Barbara Gale explained the situation and thanked the Board for getting the process done so quickly. She said they were caught unaware of the issue they had until they went to sell their house.

Mr. Mulligan asked for an explanation as to why they were asking for a variance, noting that on the drawings submitted the setback was 20 feet.

Mrs. Gale said that the drawings were inaccurate and the deck/sunroom were actually 11 feet from the back of the lot. She said that the house was built in 1984 and in 1989 they were given a permit to build the sunroom.

Mr. Prager asked about the foundation. The applicant said that it is built on sonet tubes.

Of note: a four foot variance is required and the plot plan was incorrect showing a setback 20.1 feet from the lot line.

Mrs. Duffy asked what was behind their property.

Mrs. Gale said that they back up to the country club, noting that there are posts along the property line but no fence. She said that they are near the third hole of the golf course.

Mr. Cadle asked for clarification.

The Gales said that they thought everything was fine until they wanted to sell their house but the prospective buyer's lawyer found the possible encroachment and in looking into it further discovered that setback requirements were not met.

John Sheedy, prospective buyer, was present. Mr. Prager asked him if the lenders would give him the mortgage without a variance. Mr. Sheedy stated that his attorney found the issue and the lender wanted it resolved before

issuing the mortgage. Mr. Sheedy also wanted it resolved so that in the future if he were to sell the house he would know there were no problems.

Mr. Mulligan felt that since the Gales were given a building permit in 1989, he saw no issue with granting a variance. Mrs. Maxwell and Mrs. Duffy agreed, noting that this issue should have been discovered and dealt with then.

Mrs. Duffy also observed that there is nothing else near them so they are not bothering other neighbors and there was no opposition at the hearing to granting the variance.

Mr. Prager felt that since they were given a legal permit in 1989 and due to the shape of the house and the lot they would be unable to move the sunroom, further noting that requiring them to moving it would cause a substantial hardship.

Mrs. Duffy also mentioned that there were fewer zoning restrictions then.

Mr. Mulligan stated that relief could be granted without substantial detriment to the zoning by-law.

Mrs. Duffy said that it fit the zoning variance criteria and Mr. Cadle agreed that it does meets the criteria and there was no opposition to the application.

The Board moved to grant a variance of rear setback of four feet, allowing the deck to be 11 feet from the boundary.

Mrs. Gale reiterated that they received building permits for the house, deck and sunroom.

The Board seconded the motion and it passed unanimously.

The meeting adjourned at 7:55 pm.