

**TOWN OF SALISBURY**  
**Zoning Board of Appeals**  
**5 Beach Road**  
**SALISBURY, MASSACHUSETTS 01952**  
**978-462-7839**

July 22<sup>nd</sup>, 2014  
7:00 P.M.

**MINUTES**

**Members Present:**

Susan Pawlisheck, Derek DePetrillo, Kevin Henderson, Ed Hunt, Beth Gandelman

**New Business**

Case No. 14-14 & 14-15

Town of Salisbury

175 Beach Rd (Map 82 Lot 5)

Request for a Special Permit and a Variance to demolish the existing Water Department office structure and associated covered storage garage and construct a new Police Station, with an associated storage shed and surface parking lot, with a roof that will not exceed the height restriction of the BC District.

3 member board.

Due to Susan and Beth being direct abutters to 175 Beach Rd, they must recuse themselves. The ZBA does not have quorum to hear this case and thus 14-14 and 14-15 will be continued until the ZBA can obtain quorum.

Case No. 14-16

John Tomicek

131 Railroad Ave (Map 32-1B Lot 32-217)

Request for a Variance to construct a 32'x7' second floor deck over the existing first floor deck that does not meet the rear setback.

5 member board.

The applicant is requesting a variance to construct a second floor deck in order to add a second means of egress to the home. When the home was purchased, there was only means of egress from the building. The homeowner was notified by his insurance company that if a second means of egress was not added, the policy would be cancelled. The proposed deck will sit above the existing deck with no increase to the footprint of the building.

Questions from the Board:

Kevin asked about the street in the rear of the home; Mr. Tomicek explained that the street in the rear (Libby Ave) is a paper street. Libby Ave is undeveloped and has several homes and structures that encroach upon it.

Ed noted that there are several other properties with the same situation as 131 Railroad Ave.

Derek pointed out that in order to grant a Variance certain conditions must be met: soil conditions, shape

and size, and topography. If any of these prohibit the structure to be built in an area that conforms to the Zoning Bylaws of the Town, then a Variance may be granted. In Mr. Tomicek's application he wrote that there were no conditions that would grant him a Variance; Derek asked what his particular hardship was. Mr. Tomicek stated that the left and right setbacks prohibit a staircase to be built and that the rear is the only place that could support a staircase. Currently, a staircase exists at the side deck; the proposed deck will wrap around the building and meet up with the existing staircase.

Susan questioned why a deck needed to be built and why not simply a door at the existing staircase. The existing staircase ends where the kitchen sink is currently located at and to add a door there would not be practical. The deck will wrap around and allow for a door to be added in a location more accommodating to the current layout of the home, hence why a deck is needed instead of simply a door.

ABUTTERS.

Sharon Lee, 124 Atlantic Ave: Ms. Lee inquired as to whether or not the certified plot plan reflected ownership of the paper street. Susan explained that as of now, it does appear he does own the land directly behind the home extending into the paper street. The ZBA is not Land Court so any questions as to ownership would be settled by them. The certified plot plan and record of taxes paid on the property are the only proof of ownership required by the ZBA.

Derek asked about the possible encroachment issue into the paper street with the existing first floor deck. Mr. Tomicek stated that he assumes the proper permits were pulled when the deck was built. The existing deck sits 7' away from the chain link fence in the rear of the property.

Susan questioned the second floor deck and how it would be suspended and how that affects the conditions of the Variance.

No further discussion.

**Kevin made a motion to grant the Variance based on the shape and size of the lot. Beth seconded the motion. Kevin, Derek, Ed and Beth voted in favor of granting the Variance. Susan voted against granting the Variance.**

**Vote, 4 in favor, 1 opposed.**

**Motion passes.**

Susan stated that she would like the record to reflect that the shape and size of the lot determined where the deck needed to create a second means of egress, would have to be located.

### Minutes

June 24<sup>th</sup>, 2014: Kevin would like to continue the minutes to the next meeting, he would like to review the video before approving.

Continued to August 12<sup>th</sup>, 2014.

### Correspondence

Kopelman and Paige sent correspondence regarding an old ZBA decision that is currently in the courts. Beth questioned why the ZBA was being sent this correspondence. Susan explained that as an entity, current ZBA members can be sued for the decisions of past boards.

Anonymous correspondence was sent to the ZBA regarding 75 Main St, with disparaging remarks being made about one of the people involved.

Clear Channel has appealed the decision made June 24<sup>th</sup> and has sent notice of such to the ZBA.

**Motion to adjourn from Derek.**

**Second from Kevin.**

**Vote, 5 in favor, 0 opposed.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Susan Pawlisheck - Chair

\_\_\_\_\_  
Derek DePetrillo - Clerk

\_\_\_\_\_  
Kevin Henderson

\_\_\_\_\_  
Beth Gandelman

\_\_\_\_\_  
Ed Hunt

Respectfully submitted by Jessica Mullen:

\_\_\_\_\_  
Jessica Mullen

\_\_\_\_\_  
Date