

TOWN OF TIVERTON
ZONING BOARD OF REVIEW

DECISION FOR DIMENSIONAL VARIANCE

RE: A petition has been filed by Tracie & George Fountas of Andover, MA requesting a special use permit to Article VII Section 4.b. of the Tiverton Zoning Ordinance in order to allow a recently constructed deck/stairs which provide access to the single family residence to remain at 10 Shore Road, Tiverton, RI being Plat 806 Lot 151 on Tiverton Tax Assessor's maps closer then the allowed front yard setback and exceeding lot coverage in a R80 zoning district.

Property Owner: Tracie & George Fountas

Property Address: 10 Shore Road

For property located at Assessor's Plat 806 Lot 151 in Tiverton, Rhode Island in the following zoning district: R80

This matter was heard before the Board at a public hearing on December 2, 2015 upon Applicant's request for a special use permit to Article VII Section 4.b. of the Tiverton Zoning Ordinance in order to allow a recently constructed deck/stairs which provide access to the single family residence to remain at 10 Shore Road, Tiverton, RI being Plat 806 Lot 151 on Tiverton Tax Assessor's maps closer then the allowed front yard setback and exceeding lot coverage in a R80 zoning district.

William Smith, president of Civil Engineering Concepts of Little Compton, Rhode Island was present along with Dr. Tracie Fountas. Mr. Smith was sworn in and Mr. Taylor made a motion to accept Mr. Smith as an expert witness and Mr. Jackson seconded. The vote was unanimous. Voting were: Chairwoman Ms. Lise Gescheidt, Mr. Richard Taylor, Mr. Jay Jackson, Ms. Wendy Taylor-Humphrey and Mr. Collins.

Mr. Smith explained the petitioners are asking permission to exceed the lot coverage to allow the existing deck and set of stairs to remain. Dr. Fountas was sworn in and presented a

brief history of the property. She explained the cottage was completely renovated and they built a temporary structure to allow an exit out of the cottage. Dr. Fountas stated while the renovations were going on, she was in contact with the interim building official and the newly hired building official Neil Hall trying to figure out what to do with the stairs. Dr. Fountas went on to say the building inspector's office was waiting to hear from the town attorney as to what they were allowed to do.

The photographs submitted with the petition were discussed and were marked as an exhibit. Mr. Hall was sworn in and stated his office had been going back and forth with the petitioners and more information was needed based on what was built and what they were trying to build.

Dr. Fountas also stated she was under the direct impression that consultation with the town's attorney was needed to make a decision of what was allowed and not allowed and waited approximately seven months until she inquired and then received the notice of violation. Augusto DeSa of 32 Shore Road stated he has no objection to the structure remaining and he thinks it improves the area. There were no further comments from the public.

At this time, the Board closed the Public Hearing and began a discussion for the purpose of reaching a decision. Mr. Alzaibak stated the town's attorney at the time did not follow up with the building inspector's office which put them in a bad spot and they didn't have an answer and couldn't give the petitioners an answer so he would not hold that against the petitioners. Mr. Collins and Mr. Taylor agreed that this deck is not detrimental to the public health, safety, morals or welfare of the community. Mr. Collins went on to say it will be compatible with neighboring uses and will not adversely affect the general character of the area. Mr. Jackson was

not opposed to the structure. Ms. Taylor-Humphrey stated based on everything she heard tonight she would probably vote to grant this special use permit.

Mr. Collins made a motion to grant the request for a special use permit with the condition that the design and structure be fully approved by the Building Official.

The Board makes the following findings of fact:

- I. The public convenience and welfare will be served because the Applicants will have a safe and convenient way to enter and exit the structure, and without relief, ingress and egress will be greatly impeded;
- II. It is not detrimental to the public health, safety, morals or welfare, that it will be compatible with neighboring uses and will not adversely affect the general character of the area because, as demonstrated by the expert testimony and pictures submitted, the structure is aesthetically pleasing and appropriate for the neighborhood;
- III. It will not create a nuisance in the neighborhood nor hinder or damage vehicular or pedestrian movement because, as stated above, the relief will allow convenient ingress and egress, is aesthetically pleasing, and appropriate for the area;
- IV. The requirement to provide water service and sanitary service, fire protection for the deck, is not applicable to this petition;
- V. There's no evidence that this is not compatible to the Comprehensive Community Plan of the Town of Tiverton;
- VI. This motion is based on evidence presented by the witnesses, the testimony presented and there is no contrary evidence to any of the testimony that was presented by the applicant;

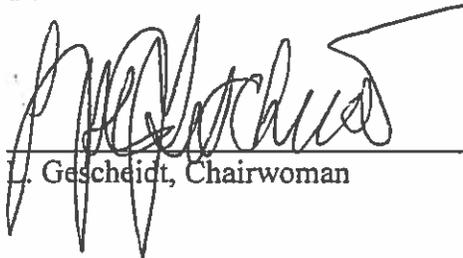
VII. This motion is made explicitly upon the condition that the design and structure be fully approved by the Building Official.

This was seconded by Mr. Jackson. All in favor to approve this application.

Voting to Approve: Ms. Gescheidt Mr. Collins Mr. Jackson Mr. Taylor Ms. Taylor-Humphrey
Voting to Deny: None

December 28, 2015

Date



L. Gescheidt, Chairwoman

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NANCY L. MELLO TOWN CLERK
Dec 30, 2015 09:01A