

Town of Jackson Board of Adjustment Notice of Decision

Case 2013-07

Decided December 18, 2013, Published December 26, 2013

Background

This is a request for an equitable waiver of dimensional requirements for the property located at 14 Deer Run (Map V05 Lot 32) submitted by the owner, Brian Post.

An 'as built' septic plan determined that the building under construction extends approximately 2 ½ feet into proscribed setback on the Northern side of the parcel. It is noted that two of the three abutters indicated support for this waiver, as described in the minutes.

Decision

The Board of Adjustment reviewed the four tests for granting a waiver:

(a) lack of discovery The Board unanimously agrees the encroachment was not noticed until the home was substantially built.

(b) good faith error in measurement or calculation The Board unanimously agreed the encroachment was the result of a good faith error in measurement.

(c) no diminution in value of surrounding property The Board unanimously agreed the encroachment doesn't cause a nuisance or lower the value of surrounding properties based on the input from abutters.

(d) the cost of correcting the mistake outweighs any public benefit The Board unanimously agreed that due to the investment and the cost of correction it would be inequitable to require the violation to be corrected.

The Board of Adjustment voted unanimously to grant the equitable waiver for Map V05, Lot 32.

Frank Benesh,
Chairman, Board of Adjustment