

**TOWN OF MASON BOARD OF ADJUSTMENT**  
**2 June 2014**  
**APPROVED Meeting Minutes**

Meeting called to order by Tim Kelly at 7.30 pm.

Clerk presented minutes of 17 Feb 2014 but copies were unavailable.

**Old Business:**

Tim Kelly had email correspondence with New Hampshire Municipal Association Attorney Stephen Buckley regarding evidence gathering. Mr Kelly was informed that the hearing was unable to be closed prior to the continuation decision because the site walk is considered evidence gathering. Board can still gather evidence but closing of hearing was premature. Mr Kelly explained this to members and audience and informed applicants and other interested parties that they could provide additional testimony at this time. No objections made. Board of Selectmen Approved Meeting Minutes of November 26, 2013 distributed among Board of Adjustment members and to all attendees.

**Continuation of Hearing 14-002 E-57 McDonald**  
**Site Walk to begin at 7.50 pm**

**Voting members:** Christine Brigham, Tim Kicza, Tim Kelly, Bob Bergeron, Win Bennet

**Alternate Members:** Mike Davieau and Pat Letourneau, Clerk

**Applicants:** Mark and Mary McDonald

**Abutters:** Marla Berry (who wrote: Abutter/Neighbor)

**Attendees:** Mason McDonald and Max McDonald (who wrote: Applicant), Wolfgang Millbrandt, Peter Goldsmith (who dittoed Abutter/Neighbor)

**Site Walk:** Shed was measured to be 3ft 8in from road and 5ft 6in from lot line. Applicants showed Board how the stairways presented a logistical and safety issue for wood access in back yard. Property drops down slope 25'-30' from road. Applicants state that the nature of the property, with gates, stairways and ornamental trees, prevent ready access with any other proposed shed site. Applicants felt that there was no infringement upon property lines since the border already had a stonewall in place which is only 35ft from applicant's house. The back stairs are 35ft from the roadway. The Board noted that the open faced shed is easily viewed from the Berrys back porch. The Board noted that the shed contained items other than wood.

Applicants rebuts view issue and stated that they have tried their best to make the shed esthetically pleasing while using it in a reasonable manner. They reiterated that they are not introducing a safety issue. They reiterated that stonewall, granite curbing and posts were already in place. The shed had already been through a winter's plowing without seeming to be an issue

to the Road Agent. Applicants thought that stacking wood was an issue and that tarps blow off and become messy. Their outbuildings were not accessible.

Board noted that applicants had already gone through this process and asked why procedure was not followed in this matter.

Applicants felt that the procedure would not be applicable to a shed this size but once they had received notice of a complaint, they stopped construction. They reminded the Board that having to repeat the process is costly and time consuming since the land is located in the Historical Preservation District.

Abutters thought that the shed being constructed was to be moved onto the Rte 123 site granted by the previous Variance. The abutters did not realize it was a permanent structure until the hearing of two weeks ago. They questioned whether the wood supply was for heat or ambience. They also felt that a wood pile would be less offensive than the shed.

Applicants reiterated that this site was the only practical place on the property with regards to safety. They use the wood when heating oil becomes too costly. When this happens, the volume of wood needed increases. The stairs become unsafe in winter and walking on the snowy road with an armload of wood compounds the danger.

Abutters felt that the shed could have been built perpendicular to the road instead of paralleling it thereby making the view less offensive.

Board did not see hardship with land, only with property. Reminded applicants that Variance 'goes with the land'.

**Motion:** To move to deliberation made by Tim Kelly. Seconded by Mike Davieau.

**Motion passed unanimously.**

**Hearing closed to public at 8.23pm.**

Deliberation of Variance criteria brought forth the following:

1. Unanimous vote that granting the Variance would be contrary to public interest.
2. Unanimous vote that the spirit of the Ordinance was not observed.
3. Unanimous vote that Substantial Justice would not be served as this matter is deemed an inconvenience and not a hardship. The Board does not see a safety issue and sees that alternative sites are available.

4. One abstain vote on Property Valuation due to lack of hard evidence that property values would be affected. Other four voted that shed would not affect property values in neighborhood.

5. Unanimous vote that Denial of Variance would not result in unnecessary hardship by not having a wood shed in this location as wood could be stacked and covered in the same location. The land slopes back but is not distinguishable from neighboring land. Reasonable use is still available as property can be used as a residence even without a wood shed.

Four of the five criteria were not met.

**Motion:** To vote on granting Variance made by Tim Kelly. Seconded by Christine Brigham.

**Motion denied unanimously.**

**The Variance is Denied.**

**Motion:** To adjourn meeting made by Tim Kelly. Seconded by Christine Brigham.

**Motion passed unanimously.**

**Meeting adjourned at 8.35pm**

