

THE HARTVILLE VILLAGE
ZONING BOARD OF APPEALS

August 2, 2010

The Zoning Board of Appeals, with prior and proper notice having been given to those concerned, was called to order on August 2, 2010, at 6:00 P.M.

Board members present were David Hubbell, Dan Eby and Tom Watkins

The meeting is to discuss the zoning application for 406 W. Maple Street. Owner of the property, Mr. Carlo Giolla, is asking for a variance to enclose his existing deck.

Mr. Giolla addressed the Board that he would like to enclose the deck because it is not usable. By enclosing it, they would get more use out of it. He explained that he tried to enclose it 15 years ago, and was denied. It was explained to him that he could apply for a variance.

Beverly Green, 400 W. Maple Street, addressed the Board that she is a next door neighbor of Mr. Giolla. The deck is on her property, and the reason for this, is because there was no permit pulled when the deck was erected. Ms. Green explained that there have been three surveys performed at this location and that she pointed this out to the neighbors. Ms. Green asks that the letter that she distributed to each member be put into the minutes as record. It reads as follows:

Dear Mr. Giolla and Mrs. Fouse:

Please be advised that I represent Mr. & Mrs. Ronald Green your neighbors at 400 West Maple Street, Hartville, Ohio.

Some years ago my clients had a survey prepared which indicates that your deck encroaches on the Green property. Mr. & Mrs. Green do not wish to put you to the expense and hardship of removing the deck. Therefore my clients, will permit the deck encroachment to remain at their discretion.

The reason for this letter is that the Greens have been informed that you may have intentions to enclose the deck. This cannot be tolerated and if any additional improvements are made to the deck without my clients' written consent, an action will be brought to have the encroaching portion of the deck removed.

Very truly yours,
Roy Batista
Attorney at Law

She explained that in 1992 Mr. Giolla asked to put a roof on the deck. Mayor DiGiacomo told Mr. Giolla that it is not to be enclosed. In 2003, Mr. Giolla came before Council and the ZBA requesting to enclose it. The ZBA turned him down, as did Council. This action has already been decided.

Ms. Green has two surveys that she paid for, which shows that the deck sits on her property. Let it be record that the Board did not have a copy of the survey.

Ms. Green wants noted that she pulled a permit for a fence, and by the Zoning Ordinance you can place a fence up to the property line. The fence was placed 3' from the property line, because of Mr. Giolla's deck. She explained that the Village Zoning requires a setback and this deck does not have a setback. She asks that the Village deny the request for the variance.

Mr. Giolla commented that the deck was built by the previous owner, and that there wasn't anything said at that time about the deck being on the Green property.

The Zoning Inspector Al Tracy addressed the Board by saying that he has had surveying courses at Akron University and understands it. He went out to Mr. Giolla's property and did some measuring. I observed that the deck was not encroaching beyond 56', and that it is on his own property.

Mr. Eby asked what the difference is between a permanent structure and something that is built on a deck. If you're enclosing a deck, is that considered a structure.

The VOH Solicitor read the definition of a structure, and by the zoning code it is anything constructive that its use of which requires permanent location on the ground or attached to something having permanent location on the ground.

The VOH Solicitor read the definition of a building. Any structure having a roof supported by columns or walls and intended for the shelter housing upon enclosure of persons and/or animals.

Councilman Jim Sullivan, 524 Cora Place, asked the Zoning Inspector if he has checked into the Ohio Building Standards and requirements. Basically buildings that encroach upon a property, or encroached towards a property line must meet fire regulations.

Mr. Tracy answered that this is not a commercial building. He has to meet the Village Building Department and their code requirements or what their fire regulations are.

The Board members reviewed the paperwork. Mr. Eby moved to recommend that with the existing deck structure already there, Council approve the variance request for the deck to be enclosed, with the stipulations that there is no encroaching upon the property line. Mr. Watkins seconded, and passed by all in attendance.

Mr. Eby moved to adjourn the meeting. Mr. Watkins seconded, and passed by all in attendance.

David Hubbell