

Stamey Variance 2015-01 – Amended Application

In January 2015, Charles and Lynne Stamey submitted an application for a variance to permit a screened-in porch to be built on an already-existing deck. Attached were a number of drawings indicating that the existing deck was 533 square feet and that the new screened-in porch would be 367 square feet. An initial hearing was held to discuss this proposal. Thereafter, the hearing was continued until March 25, 2015.

The Stameys request that the board consider this amended application with attachments at the March 25, 2015 meeting. The Stameys request to amend their variance application as follows:

- (1) The Stameys withdraw their request to place a screened-in porch on the existing deck.
- (2) The Stameys amend their variance application to request a variance to build a new smaller, screened-in porch in a more remote location off to the side of their house, which is not only smaller but also further away from the river than the existing deck. (See Exhibits A-1 and A-2.)
- (3) As part of this amended request, the Stameys will agree to permanently remove the existing 533 square-foot deck if the amended variance is approved.

Reasoning in support of the amended variance:

- (1) This variance is not contrary to public interest. If the variance were granted, the Stameys would agree to permanently remove the existing deck. The new, proposed screened-in porch would be less obtrusive, far smaller and further away from the river than the existing deck. This would benefit the public interest.
- (2) The spirit of the ordinance would be observed. The spirit of the ordinance is to “protect the health, safety and general welfare of the people of the Town of Jackson by providing reasonable regulations governing development” within the river conservation district. The Stameys’ amended proposal would substantially reduce the square footage of building within the river conservation district. It would also increase the distance between the river and the Stameys’ house by removing the existing deck and building a smaller screened-in porch further away from the river.
- (3) Substantial justice will be done. Approving this variance would allow the Stameys to enjoy their property protected from mosquitos and black flies during the spring and summer months. At the same time, it would benefit the community by permanently removing the existing deck and placing the much smaller screened-in porch at a location further away from the river.
- (4) The value of surrounding properties would not be diminished. There would be no negative impact to surrounding properties because the amended proposal would actually

decrease the visual impact of the Stameys' house, move it further from the river, and in no way impact the value of surrounding properties.

- (5) Literal enforcement of the provisions would result in an unnecessary hardship. In this case, literal enforcement of the provisions would create an unnecessary hardship both for the Town and the Stameys. The Stameys are attempting to become more compliant with the river conservation district regulations. Denying this application through a literal interpretation would permit a far larger structure to remain. This would create an unnecessary hardship by allowing a larger structure to remain in place by denying the building of a smaller structure and would create the unique situation by which denying the application actually impacts the river conservation district more negatively than permitting the variance. This unnecessary hardship defeats the purpose of the regulations and prevents the Stameys from making their property more compliant.

Conclusion: The Stameys are trying to work with the Town to come up with a variance proposal that is mutually beneficial to them and to the Town. This proposal achieves this purpose. It would enable the Stameys to enjoy their property "mosquito and black fly-free" during the spring and summer months, but would also significantly reduce the foot-print of the structure. Moreover, this proposal would move their structure further away from the river thereby further fulfilling the very purpose of the regulations. The Stameys request that this amended variance request be granted.

Respectfully submitted,

Charles and Lynne Stamey

By their Attorneys

ALKALAY & SMILLIE, PLLC

Date: March 13, 2015

By: /s/
Edward D. Alkalay (NH Bar #15985)
53 Technology Lane
Suite 107
Conway, NH 03818
(603) 447-8994