

**BROOKFIELD BOARD OF ADJUSTMENT  
RULING ON APPLICATION OF RORI BARDEN AND NATHANIEL SCHMECHEL  
FOR A FRONT SET-BACK VARIANCE**

**Parcel 11-017.000  
Permit Application # 2020.14a**

**Background:**

Rori Barden and Nathaniel Schmechel request a Variance under Section 3.10 of the Development Bylaw. Ms. Barden and Mr. Schmechel propose building a 10' x 23' porch attached to the front of their house located at 37 Cram Hill Road. The proposed location of the porch places it 17 feet from the centerline of the road in violation of Section 2.1.E.4.c of the Bylaw which requires a 65-foot setback.

Ms. Barden and Mr. Schmechel submitted an application dated August 1, 2020, which was reviewed by Administrative Officer Mike Fiorello on August 1, 2020. On that day Mr. Fiorello denied approval, citing the need for a Variance, and forwarded the request to the Board of Adjustment for review.

A Site Visit was warned and conducted on February 6, 2021 at 4:00 PM. Scott Brock, Dennis LaRocque and Theresa White were present on behalf of the Board of Adjustment. Rori Barden and Nathaniel Schmechel represented themselves.

A Hearing by the Brookfield Board of Adjustment was warned and conducted on Wednesday, February 17, 2021, at 7:12 p.m. via Zoom. The Hearing was attended by Ms. Barden, Scott Brock, Theresa White, Dennis LaRocque, and Tom Allen.

**Discussion and Findings of Fact:**

Abutting land owner Scott Wakefield stated to the Board Members at the Site Visit that he had no objection to, or concerns about the proposal. Mr. Wakefield was the only Abutter or member of the public to appear in support of the application. There were no objections from abutters or the public.

During the Site Visit, Board Members confirmed that the proposed project edge would be 17 feet from the centerline of Cram Hill Road.

Board Member Dennis LaRocque confirmed that the Road Foreman for the Town of Brookfield stated that this proposed project would not affect the Town's ability to perform maintenance and upkeep on Cram Hill Road as necessary. A copy of his email statement to this effect is on file with the Town Clerk.

Ms. Barden described the project as a porch addition to the front of the house to provide safe outdoor access for a special-needs child. She further stated that this was the only possible location for such an addition to the house.

Ms. Barden confirmed that all abutters had been notified of the application and produced Certified Mail receipts in evidence of this.

After questions regarding ground access to the porch, the Board unanimously agreed that any stairs that might be needed would have to be installed off either side of the porch, or be embedded in the design so as not to increase the size of the Variance requested (to within 17 feet of the centerline of the road).

The Applicant and Board Members determined that there do not appear to be any local or State statutes or rules governing this type of zoning that might apply to access for disabled persons. There is a Federal Law, however, that requires public entities, including local zoning boards, to make “reasonable modifications” to provide for such access. This law is 28 CFR 35.130.b.7.i and is part of the Americans with Disabilities Act (ADA).

A specific example is provided in the guidance for this law that mirrors this application almost exactly in its details.

**Ruling:**

All other conditions having been met, and on a motion proposed and seconded, the Board of Adjustment voted unanimously to grant Ms. Barden and Mr. Schmechel a Variance to within 17 feet of the centerline of Cram Hill Road for the purpose of providing safe, outdoor access to a special-needs person based on the wording and guidance cited in the Federal Statute 28 CFR 35.130.b.7.i.

For the Board of Adjustment:

Thomas Allen (Acting Chair)  
Theresa White  
Dennis Larocque  
Scott Brock

Dated: February 25, 2021