

**BROOKFIELD BOARD OF ADJUSTMENT
RULING ON APPLICATION OF JULIE BENEDICT AND SCOTT BROCK
FOR A SIDE SET-BACK VARIANCE**

**Parcel 11-062.000
Permit Application # 2020.12a**

Background:

Julie Benedict and Scott Brock request a Variance under Section 3.10 of the Development Bylaw. Ms. Benedict and Mr. Brock propose building a 12' x 20' skid-mounted shed on their property located at 2835 VT RT 14N. The proposed location of the shed places it 10 feet from the border with the adjoining property belonging to Randall Hunt, and in violation of Section 2.1.E.4.d of the Bylaw which requires a 50-foot setback.

Ms. Benedict and Mr. Brock submitted an application dated July 28, 2020, which was reviewed by Administrative Officer Mike Fiorello on July 31, 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 2:30 PM. Dennis LaRocque and Theresa White were present on behalf of the Board of Adjustment. Scott Brock represented the Appellants.

A Hearing by the Brookfield Board of Adjustment was warned and conducted on Saturday, February 13, 2021, at 7:30 p.m. via Zoom. The Hearing was attended by Mr. Brock, Theresa White, Dennis LaRocque, and Tom Allen.

Discussion and Findings of Fact:

Mr. Brock introduced a letter in support of his proposed project from Randall Hunt, the abutting landowner whose property boundary the proposed Variance would directly affect. Mr. Hunt was determined to be the only "Interested Party" in this case as there were no other statements in support of, or opposition to the Permit.

Mr. Brock produced evidence of notification of abutting land owners.

The dimensions of the Parcel make it impossible to meet the setback requirements of Section 2.1.E.4.d of the Bylaw, but the Parcel and existing structure predate the adoption of the Bylaw by the Town of Brookfield.

Mr. Brock described the land in the vicinity of the proposed shed to be flat and dry. At the request of the Board, Mr. Brock agreed to relocate the proposed site of the shed to a distance of 25 feet from the Hunt boundary in order to retain the existing side setback non-conformity. Mr. Brock also agreed to amend the permit sketch to show this new location.

Section 3.10 of the Bylaw allows the Board of Adjustment to grant relief if the criteria listed are each addressed and found to be factually correct. Those criteria are addressed in order as follows:

- 1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and

not the circumstances or conditions generally created by the provisions of the Development Bylaw in the neighborhood or district in which the property is located; **so determined by unanimous vote.**

- 2) That as a result of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Development Bylaw and that the authorization of a variance is therefore necessary to enable the reasonable use of the property; **so determined by unanimous vote.**
- 3) That such unnecessary hardship has not been created by the appellant; **so determined by unanimous vote.**
- 4) That the variance, if authorized, will not alter the essential character of the district in which the property is located, nor substantially or permanently impair the appropriate use or development of an adjacent property nor be detrimental to the public welfare; **so determined by unanimous vote.**
- 5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible from the Development Bylaw and from the Plan. **By agreeing to move the proposed shed location to a distance of 25 feet from the Hunt boundary, the existing non-conformity is maintained. The Board determined that this represents the least modification possible from the Development Bylaw and from the Plan.**

Ruling:

All other conditions having been met, and on motion of Mr. Allen, seconded by Ms. White, the Board of Adjustment voted unanimously to grant Mr. Brock a Variance consisting of a lateral extension of the existing non-conforming 25-foot setback for the purpose of building a 12' x 20' storage shed.

For the Board of Adjustment:

Thomas Allen (Acting Chair)
Theresa White
Dennis Larocque

Dated: February 24, 2021