

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

March 6, 2018

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by Denise Eskoff, Chair, at 7:30 p.m. On roll call the following members are present: Denise Eskoff, Laura Sanda, Joe Szpak, Andrew Wine, and Neil Toussaint, Alternate. Curt Kolakowski is absent. N. Toussaint will be a full voting member for the entirety of the meeting because Curt Kolakowski is absent.

DISCUSSION

D. Eskoff states that at the last meeting the Board discussed changing the meeting time from 7:30 p.m. to 7:00 p.m. This will affect future Public Hearings. Last month all of the Board members were in an agreement. Are all the Board members still in an agreement? The Board members all agree. D. Eskoff states that she has received confirmation from C. Kolakowski that he is also in agreement. J. Szpak asks when will the Board start meeting at 7:00 p.m. D. Eskoff states April 3, 2018.

RESOLUTION – Change Start Time of future ZBA Meetings

MOTION: J. Szpak
SECOND: A. Wine

RESOLVED, that the Zoning Board of Appeals, hereby changes the start time of future Zoning Board of Appeals meetings from 7:30 p.m. to 7:00 p.m. beginning on April 3, 2018.

VOTES: Ayes: D. Eskoff, A. Wine, L. Sanda, J. Szpak, and N. Toussaint
Noes: None
Abstain: None
Absent: C. Kolakowski

RESOLUTION – Case #994, 355 Grange RD, Change Start Time of Public Hearing

MOTION: D. Eskoff
SECOND: A. Wine

RESOLVED, that the Zoning Board of Appeals, with the Applicant's knowledge and approval, changes the Public Hearing time from 7:30 p.m. as previously set by the ZBA at the ZBA February 6, 2018 meeting regarding Case# 994, 355 Grange Road, LLC., to 7:00 p.m. for April 3, 2018.

VOTES: Ayes: D. Eskoff, A. Wine, L. Sanda, J. Szpak, and N. Toussaint
Noes: None
Abstain: None

Absent: C. Kolakowski

OLD BUSINESS AND PUBLIC HEARING

**Van Arnum, P. Case# 993
TM# 139.-1-61.1**

**Area Variance
158 Wilton Road**

Paul Van Arnum is present. D. Eskoff states P. Van Arnum did provide the Board with photos that were requested by the Board. The Applicant would like to build on an existing keyhole lot. They need an Area Variance for right side setback and rear yard setback. The Applicant has a 45' right side setback and needs a 50' setback and has a 62' rear yard setback and needs 13'. The Secretary sent this information to the County, because it is on a County road. The County Planning Board does not meet until March 13, 2018. The ZBA does not expect an issue with the County Planning Board given the request, however, we do not know what the outcome of their review will be. Therefore, if the ZBA makes a decision tonight it would have to be contingent upon correspondence from the County Planning Board. P. Van Arnum states that he has owned the land since 1961 and is looking to put a modular home on the property. Vince wants to purchase the home he is currently residing in. The property is next to his daughter Sue Anne Chase. D. Eskoff opens the Public Hearing at 7:34 p.m. There being no one is present and no correspondence for this case the Public Hearing is closed at 7:34 p.m. Does the Board have any questions or concerns? The Applicant did give the Board a completed application. J. Szpak states that he does not have any concerns, but the Applicant would still have to wait for permission from the County Planning Board. D. Eskoff states that we are waiting on their opinion, because it is on a County road and the application states that if the property is within 500' of a County road. The ZBA has to inform the County Planning Board so they will review it. The decision is the ZBA's, but the County Planning Board may have an opinion for or against the project. The ZBA won't have that correspondence tonight. The ZBA does have the option if the Board does so chooses to want to move ahead through the criteria toward an approval. The ZBA could do that contingent upon receipt of positive (favorable) correspondence from the County Planning Board. A. Wine asks if the ZBA approves this case and the County Planning Board has a problem with it will the ZBA need to act upon it. D. Eskoff states we rarely have these issues come up. J. Szpak asks D. Eskoff these are not big Variances do you feel that it is OK to make an approval with the contingent of positive correspondence. D. Eskoff states that the County Planning Board would probably look at safety factors. J. Szpak asks if the Board makes the approval it should be contingent. D. Eskoff states yes, in difference to the County Planning Board, because the ZBA sent it to the County they are part of the process.

RESOLUTION: P. Van Arnum, Area Variance -- Case #993

MOTION: J. Szpak

SECOND: N. Toussaint

RESOLVED, that the Zoning Board of Appeals hereby grants an Area Variance for 5' of right side setback and 13' of rear yard setback for a new home for property located at 158 Wilton Road, TM# 139.-1-61.1, for the following reasons:

- The benefit cannot be achieved by other means feasible to the Applicant.

- There is no undesirable change to the neighborhood character or determinate to the nearby properties.
- The request is not substantial.
- There are no adverse physical or environmental effects.
- The alleged difficulty is not self-created.

This is contingent upon receipt of positive (favorable) correspondence from Saratoga County Planning Board.

VOTES:

Ayes: D. Eskoff, J. Szpak, L. Sanda, N. Toussaint, A. Wine

Noes: None

Abstain: None

Absent: C. Kolakowski

Evans, D. Case# 983
TM# 123.-2-21

Area Variance
388 Plank Road

Dave Evans is present. D. Eskoff states that this is an Area Variance Application following an Open Development referral to the Town Board by the ZBA. The Town Board then referred it to the Planning Board for a formal opinion which was then provided to the Town Board where Open Development was approved in January of 2018 with contingencies. This case is now back to the ZBA for an Area Variance determination. D. Eskoff asks the ZBA members to refer Greenfield Planning Board report on this application. Basically, the Town Board relied on the recommendation of the Planning Board based on safety issues. The ZBA is looking at the Area Variance for 250' frontage. There is absolutely no frontage. This property is off Plank Road and accessible only through the private property of another land owner. The ZBA is also looking at the ability for a fire truck to get through and other safety issues. The Planning Board did review this. The Town Board had to look at the same criteria and they did grant the Open Development. The Planning Board stated in their Resolution that the Town's Fire Department has advised that the steel deck bridge on the private road which provides access to the property is inadequate to carry fire trucks due to deficiencies and guard rails, angle of approach, weight certification, and other respects. The condition of the private drive providing access to the property isn't self-sufficient and is inadequate to access by fire truck and emergency response vehicles but, which may be capable of being fixed to satisfactory for the Fire Department. The Applicant provided the Planning Board a letter from a licensed engineer stating that the driveway can be made accessible to meet NYS and Town requirements for emergency vehicle access. The Town Fire Department inspected the steel deck bridge on the private access. The Planning Board recommended that the Town Board approve the Applicant's request for Open Development contingent upon the driveway and the steel deck bridge being designed and certified by a licensed engineer to hold a 50,000 pound 30' long vehicle. The driveway shall have facilities for turning around available within 100' of any structure and shall comply with the Town of Greenfield driveway specifications. Driveways in excess of 500' in length shall be marked at 500' intervals as provided by the Town of Greenfield Fire Department. The Applicant must provide certification for the driveway and steel deck bridge as previously stated and in accordance with note number 3 of the Town of Greenfield driveway standards and to any existing house or houses or for proposed locations for houses on

the property to the satisfaction of the Town Fire Department and the Town Engineer. The said improvements must be completed prior to the issue of a Building Permit. At one hand, the ZBA has access with a bridge that is inadequate but, it could potentially be adequate. This is on private land that D. Evans does not own. It's a land owner situation and it something that the Applicant has to work out with the land he has to access through in order to get to his parcel. J. Szpak states that he would need a Building Permit to build then that would be contingent upon providing that satisfactory access. D. Eskoff states exactly. J. Szpak states that the ZBA can consider that is not for the variance itself. D. Eskoff states correct, the variance is 250' of frontage to allow the Applicant to move forward to do anything - if and when he can do anything. Then to go for the Building Permit and meet the requirements of the Building Permit including all the safety requirements. J. Szpak states this is a 250' frontage. D. Eskoff states correct, D. Evans has a development in that area, other lots in that area. The ZBA looked at some last year when the Applicant rearranged those lots. In the past, the ZBA has had others as far as going forward to build on them without frontage. The process is to go the ZBA, refer to Town Board who grants (or denies) Open Development based on the recommendations of the Planning Board. In this case, the Town Board did grant it. The Town Board/Planning Board was very thorough in their recommendations and very specific on what the Applicant can and cannot do. It is now back to the ZBA and the ZBA is looking at the same criteria in terms of an Area Variance. J. Szpak states that the ZBA can proceed with the Public Hearing tonight. D. Eskoff states yes. D. Eskoff opens and closes the Public Hearing at 7:45 there is no one present to speak for or against regarding this case and there not being any further correspondence regarding this case. D. Evans asks for clarification of the Open Development. There are contingencies. D. Eskoff states exactly. D. Evans states there are also contingencies on getting a Building Permit. D. Eskoff states yes. D. Evans asks are the ZBA's contingencies separate from those or are they identical? D. Eskoff states that the ZBA has not discussed that yet. The ZBA does not supersede the Town Board's decision on Open Development and the Town Board's decision includes the Planning Board's determination also. The ZBA does not supersede Building Department requirements. The ZBA is strictly looking at whether a variance should be granted. If the Board does so grant all those contingencies that are there for Open Development will still be in place and they maybe reiterated as well for a variance. A. Wine asks if the ZBA would modify or add to the contingencies. D. Eskoff states that the ZBA will not be modifying them. D. Evans states that the ZBA talks in terms of the steel deck bridge and when his engineer looked at it he said that the bridge could possibly be replaced. D. Eskoff states that she is reading directly from the minutes from the January 11, 2018 Town Board minutes. Which is when the Town Board granted Open Development approval and that is the wording of the Planning Board which they (Town Board) accepted and their motion is based on. Those are their words she is reading and that is the history of this case and that is the way it comes to the ZBA and those are the contingencies that are in place and the ZBA cannot change that. That is not why we are here. J Szpak states that the ZBA is not the governing body to determine if the steel deck or a wood deck or whatever kind of deck bridge. All the ZBA is stating is those contingencies are already in place on the property and what the ZBA will discuss is if they will add anymore contingencies or is there already enough that have been established as far as the ZBA is concerned. D. Eskoff states that the ZBA also looks at if there is any concern from the public, there is no one here from the public or any other correspondence. The ZBA is doing exactly as they have done before and D. Evans has been through the process several times. The Planning Board was looking at the building aspect, the Town Board is looking at the overall scheme along with the recommendations from the Planning Board and the ZBA is looking at it from a variance aspect. J. Szpak asks if any other board members have any questions or concerns. A. Wine asks what is the status of the road on either side of the bridge. Is it dirt? D. Evans states gravel. D. Eskoff states to D. Evans that any approval by the Zoning Board of Appeals will not grant any right of access to this property

or expand any access rights to this property that might exist. A. Wine asks D. Evans how he acquired this property. D. Evans states that he inherited it from his father in 1983. A. Wine asks regarding location as we are discussing it now? Regarding neighboring properties, D. Evans states Pompa is on one side and Whalen is on the other side. D. Eskoff asks it is a logging road? D. Evans states until 2004 it was a Town Bridge. D. Eskoff states that the Town minutes discuss the situation of that road.

RESOLUTION: G. David Evans, Area Variance -- Case #983

MOTION: D. Eskoff

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals hereby grants an Area Variance for 250' of frontage for property located at TM# 123.-2-21 off of Plank Road that lacks frontage on any Town, County or State road or highway and which is accessed solely through private property owned by others. This approval by the Zoning Board of Appeals does not grant any right of access to this property or expand any access rights to this property that might exist.

This approval by the Zoning Board of Appeals for an Area Variance is based on the following criteria:

- The benefit cannot be achieved by other means, this property has no frontage
- The request is substantial but minimum necessary this property has no frontage
- There is no undesirable change to the neighborhood character or detriment to the nearby properties.
- There are no adverse physical or environmental impacts
- This is not a self-created hardship given the location of the property is landlocked

The Zoning Board of Appeals, by its approval, requires the Applicant, G. David Evans, or future owner/purchased to obtain a Building Permit from the Town of Greenfield and meet all the requirements thereof in order to construct a house or other appropriate building on this property and that any driveway to this property will also need to meet all applicable requirements set forth by the Town as well as in the New York State Fire & Building Codes for access by heavy vehicles, including fire trucks and other emergency vehicles.

Further, this approval by the Zoning Board of Appeals for an Area Variance is subject to the requirements of the Greenfield Town Board's approval for Open Development made on January 11, 2018, for this property which included the Recommendation Report and Resolution by the Town of Greenfield Planning Board made on September 26, 2017 where the Town Board's approval of "the Open Development Application of G. David Evans is contingent upon him following all recommendations and sections stated from the Planning board." (Town Board Minutes, January 11, 2018.)

VOTES:

Ayes: D. Eskoff, J. Szpak, L. Sanda, N. Toussaint, A. Wine

Noes: None

Abstain: None

Absent: C. Kolakowski

OLD BUSINESS

Lally, Andrew Case# 990
TM# 126.-1-111

Area Variance
50 Ure Way

Andrew and Leigh Lally are present. D. Eskoff states this is an Area Variance application and also Open Development it went to the Town Board and received input from the Planning Board regarding the bridge. It has been referred back to the ZBA for frontage variance. This case is in the LDR District. This is for a subdivision to build a second house. It has 51.66' of road frontage. The Applicants need 250' Variance due to lack of road frontage. Open Development was granted by the Town Board on February 8, 2018. A. Lally states that their intentions for the property are to subdivide the property and build another house. D. Eskoff states that the Lally's previously have stated that they like the area and want to stay on the land. A. Lally states yes and they also like their neighbors. D. Eskoff asks if the Lally's are planning on sell the existing house. A. Lally states that they may keep existing lot. D. Eskoff asks on a separate lot. A. Lally states yes. D. Eskoff states that the Board has photos and maps. A. Wine asks if there is any correspondence from the neighbors. K. McMahon states no. D. Eskoff states that the Board would be accepting the application and if the Board wants any more information and setting a Public Hearing for next month. The total site is 62.20 acres. J. Szpak asks if the Board needs more in accepting the application. D. Eskoff and J. Szpak state an aerial map. D. Eskoff asks the Applicant's to show (on the map) where your current house is and where you would like the new house to go. N. Toussaint asks if the road already exists. A. Lally states that Ure Way already exists. L. Sanda asks if Ure Way is actually part of the lot that you own. L. Sanda asks if the driveway would be shared. A. Lally states yes. A. Wine asks the Applicant's if they would be sharing their own driveway. A. Lally states yes and it already is a shared driveway. The property to the east of Ure Way also has a three-season cabin that accesses just past the bridge. L. Sanda asks right now the Applicant is sharing the property with two (2) other property owners. A. Lally states it's really only one (1) other because the other one has not been used in a number of years. J. Szpak asks that other than an aerial view photo does the Board want anything else. A. Wine asks if there is a map that shows where the new property line will look. A. Lally states that they did submit one map and they do not have anything official yet.

RESOLUTION—Lally, A. & L. – Area Variance Application

MOTION: J. Szpak
 SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals hereby accepts the application of A. & L. Lally, Case #990, for an Area Variance for 250' of frontage for property located at 50 Ure Way, TM# 126.-1-20.11 and sets a Public Hearing for April 3, 2018 at 7:00 p.m.

- Contingent upon receipt of an aerial view of the property by the Building Department by March 20, 2018

VOTE: Ayes: D. Eskoff, L. Sanda, J. Szpak, A. Wine, and N. Toussaint, Alternate
 Noes: None
 Absent: C. Kolakowski

NEW BUSINESS**Lochner, T. & J. Case# 995
TM# 151.20-1-19.2****Area Variance Application
8 Liberty Drive**

Thomas Lochner is present. D. Eskoff asks if there was an Area Variance granted to the Applicant or the predecessor. T. Lochner states that it was actually to Darren Tracy that was 119'. D. Eskoff states that it looks like there were four (4) lots and they all got frontage variances and that was back in 2006. T. Lochner states yes. D. Eskoff asks when the Applicant purchased the property. T. Lochner states 2013. D. Eskoff states that the Applicant built a legal garage with a garage apartment. The Applicant received a Special Use Permit for the garage apartment. T. Lochner states that when G. McKenna did the Building Permit he considered it essentially a house. It is a garage that has an apartment above it that is essentially a free standing house at this point, which looks a little funny from the outside. D. Eskoff states that the Building Permit states garage with apartment. D. Eskoff states that G. McKenna has not been in the office this week the Building Inspectors are in training but will be speaking to him for clarification to the ZBA on this. This is a little out of the ordinary and wants to make sure the Board is going about this project correctly. The Board needs to know what the Applicant is requesting because an In-law apartment in the Town Code is a different thing. T. Lochner states right now he believes G. McKenna did put garage apartment but, the Applicant did not go for a Special Use Permit, because it is free standing house. The Applicant is asking to add on the rest of the house - to what is now a garage and the apartment that exist - that would be incorporated into the home that the Applicant would build out. D. Eskoff asks the Applicant if he intends to have an apartment over the garage with a full functioning kitchen in it. T. Lochner states yes. D. Eskoff states that matters and it matters whether it is an in-law apartment too. T. Lochner states that speaking with G. McKenna about he said he is actually the person who wrote the Code in this area about what distinguishes a garage apartment and an in-law apartment. The Applicant asks why this is the main reason for this is separation is that often a garage apartment is a free standing structure? D. Eskoff states that it is in our town. T. Lochner states in this case it will not be. D. Eskoff states that it won't be a garage apartment then and you will have to meet the requirements of an in-law apartment. D. Eskoff states it may also not end up with what you have in it now. That may be an issue. The Board is not going to discuss that tonight, you may need to look at some options. The Board will need more information from the Code Enforcement Officer. An in-law apartment usually when it is built with the house is incorporated into the house we don't know if there is a distinguishment above it and it is definitely not above a garage. T. Lochner states OK. D. Eskoff states there is a fire wall between the house and the garage. It could be a suite you can have bedrooms over a garage that are free flowing. Do you plan on moving the septic? T. Lochner states that when they built the septic they did so that the entire house would use it is a massive septic. D. Eskoff asks if the Applicant is planning on moving the septic. T. Lochner states no. A. Wine asks if the Applicant is planning on moving the well. T. Lochner states no, everything was built for the entire house. L. Sanda asks if the access to the apartment would be through the house or would it have an independent access? T. Lochner states that they would go through the house. D. Eskoff states that you have to for an In-law apartment. D. Eskoff states that there was at least one (1) case somewhat similar but a situation where some of the things that were put in were removed and made into living space. The Board wants to go about this the right way. T. Lochner states they went about it backwards. D. Eskoff states that the Applicant lived in it and now the Applicant wants to build the house. The reason the Applicant is in front of the Board is for the house and the In-law apartment. We are wondering if the Applicant needs two (2) variances due to the different requirements. The Board needs to clarify that with the Codes

Enforcement Officer also. The Applicant stated building in 2013. T. Lochner states that they purchased the property in 2013 and started building in 2014 and completed it in 2015. D. Eskoff states that the variances lapsed? T. Lochner states that as he understands the variance that they had at the time gave them 150' which the building the way it is considered the single family home requires 150' so that worked out. To be able to build a house and an In-law apartment requires 200'. D. Eskoff states that is what she is saying yes. T. Lochner states that other than that all the other requirements are met. D. Eskoff states that the Applicant is looking for frontage. D. Eskoff asks the Board what else they would like from T. Lochner. A. Wine states that the map that was provided is good, it shows what the Applicant to look like and what is already there with the dimensions. D. Eskoff states that we can get a set of the plans. A. Wine states that the Board has pictures. A. Wine asks if the Applicant is going to have a covered walkway to connect to the new structure. T. Lochner states that yes there will be a mud room. D. Eskoff asks if the Applicant wants to access through stairs through a mud room. A. Wine states in the picture there is a side door on the garage. Are you planning on closing that door in? T. Lochner states that they are going to cut into the building and connect the foundations. It will be attached the roof all the way down to the basement wall. A. Wine asks if the Environmental Assessment filled out correctly. D. Eskoff states yes for the ZBA purposes. This case is in the MRD-1 District. The Board needs more information from Code Enforcement Officer.

RESOLUTION: T. & J. Lochner, Area Variance Application

MOTION: J. Szpak

SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals accepts the application of Thomas and Jill Lochner, for an Area Variance for property located at 8 Liberty Drive, TM# 151.20-1-19.2. A Public Hearing is set for April 3, 2018 at 7:00 p.m. This is contingent upon the receipt of the requested of documented property lines and photos by the ZBA/Building Department by March 20, 2018.

VOTES: Ayes: D. Eskoff, L. Sanda, J. Szpak, A. Wine, and N. Toussaint

Noes: None

Abstain: None

Absent: C. Kolakowski

**Goertzen, A. & S. Mac Donald Case# 996
TM# 151.-2-18.13**

**Area Variance Application
107 Allen Road**

Aaron Goertzen and Stacey MacDonald are present. D. Eskoff states the Applicants are looking to put a small stable so they can have horses. This is LDR District. The Applicant's need a frontage variance of 81'. 300" is required the Board does not discuss horses under the Town's Code in the respect of written code it is under stable. This can be found on the Town of Greenfield Area Regulations. The Applicant has quite a bit of acres. The only thing the Applicant's do not meet is the frontage. The Applicants have provided pictures. D. Eskoff asks how big of a barn is the Applicants looking to build. S. MacDonald states 30'x24'. D. Eskoff asks how many horses would they have. S. MacDonald states two (2). D. Eskoff asks if the Board would like any more information. A google earth aerial map would be good. S. MacDonald states that she has them and provides them to the Board. A. Wine states the

Applicants mentioned in the application that there are neighbors that have horses is that 111 and 105 Allen Road? S. MacDonald states no it would be the next property over from 111 Allen Road. N. Toussaint asks if there is a house at 111 Allen Road. S. MacDonald states there is not a house at 111 Allen Road.

RESOLUTION: Goertzen, A. & MacDonald S., Area Variance Application

MOTION: J. Szpak

SECOND: N. Toussaint

RESOLVED, that the Zoning Board of Appeals accepts the application of A. Goertzen & S. MacDonald for an Area Variance for property located at 107 Allen Road, TM# 151.-2-18.13. A Public Hearing is set for April 3, 2018.

This is contingent upon the receipt of the requested of documented property lines and photos to the ZBA/Building Department, to be submitted by March 20, 2018.

VOTES: Ayes: D. Eskoff, L. Sanda, J. Szpak, A. Wine, and N. Toussaint

Noes: None

Abstain: None

Absent: C. Kolakowski

Minutes

February 6, 2018

MOTION: A. Wine

SECOND: J. Szpak

RESOLVED, The Zoning Board of Appeals waives the reading of and accepts the February 6, 2018 Minutes with minor corrections.

VOTES: Ayes: D. Eskoff, A. Wine, L. Sanda, J. Szpak, and N. Toussaint

Noes: None

Abstain: None

Absent: C. Kolakowski

Meeting adjourned at 8:15 p.m. All members in favor

Respectfully submitted

Kimberley McMahon
ZBA Secretary