

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

September 7, 2010

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by Taylor Conard at 7:30 p.m. On roll call the following members are present: Taylor Conard, Michelle Granger, Paul Lunde, Stanley Weeks, and Joseph Szpak, Alternate. Kevin Veitch is absent.

August 3, 2010 MINUTES

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of August 3, 2010, as submitted.

VOTE: Ayes: Conard, Granger, Lunde, Weeks

Noes: None

Absent: Veitch

NEW BUSINESS

GERALD & RHONDA MAHAY – Area Variance, Case#858

Lake Desolation Road

Gerald & Rhonda Mahay are present. T. Conard reviews that the applicant is seeking an area variance for frontage. This was previously approved April 1, 2008 for a 250' frontage variance.

RESOLUTION – G. & R. Mahay, Area Variance

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals accepts the application of Gerald and Rhonda Mahay as complete for an area variance for frontage for property located at 300 Lake Desolation Road, TM#149.-1-1and sets a public hearing for October 5, 2010 at 7:30 p.m.

J. Szpak questions the comment of G. McKenna regarding Section 105-143. T. Conard asks how long the driveway is, what the slope is and whether it can support a fire truck. He states that the Board would like that information if possible. G. Mahay states that it is 467'. T. Conard questions that this will not be a shared driveway. G. Mahay states that it is not at this time. S. Weeks questions where the driveway is and T. Conard questions where there might be surrounding homes. P. Lunde amends his motion to include the following contingencies:

- **Map indicating location of driveway and any nearby homes**
- **Information regarding compliance of the driveway to the Town Regs**

VOTE: Ayes: Conard, Granger, Lunde, Weeks

Noes: None

Absent: Veitch

S. Weeks comments to all new applicants that he would like to make sure that the sign they will be provided is posted out by the highway so that it can be seen and that it be there especially on the day of the public hearing.

ANITA HARDING – Area Variance, Case#859

Roberts Drive

Anita Harding is present. T. Conard reviews that the applicant is seeking an area variance to build a garage and needs a front setback variance of 20'. M. Granger would like to see a new map with the distances to the septic tank and leach field, and a distance to the garage because the Board is supposed to grant the minimum variance necessary. A. Harding states that she would like the garage to be as close to the house as possible.

RESOLUTION – A. Harding, Area Variance

MOTION: M. Granger

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals accepts the application of Anita Harding as complete for an area variance for property located at 12 Roberts Drive, TM#164.8-1-20, and sets a public hearing for October 5, 2010 at 7:30 p.m., contingent upon:

- **Map indicating distances to septic, leach field and house from proposed garage**

VOTE: Ayes: Conard, Granger, Lunde, Weeks

Noes: None

Absent: Veitch

SAMUEL CHANDLER – Area Variance, Case#860

Chandler Lane

Samuel and Kevin Chandler are present. T. Conard reviews that the applicant is seeking two variances – a 250' frontage variance and a 1.97-acre area variance. The lot is pre-existing, non-conforming with no road frontage and 4+ acres. This is a private road. The applicant has been granted a special use permit from the Planning Board contingent upon ZBA approval. P. Lunde questions whether this is a private road or shared driveway. T. Conard states that it is a private road. P. Lunde asks if there are houses on all the lots around this subject parcel. K. Chandler states that there are 2 houses on adjacent property. S. Weeks comments that there is adequate space on the lot.

RESOLUTION – S. Chandler, Area Variance

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals accepts the application of Samuel Chandler as complete for property located at 67 Chandler Lane, TM#111.-2-21.15 and sets a public hearing for October 5, 2010 at 7:30 p.m.

VOTE: Ayes: Conard, Granger, Lunde, Weeks

Noes: None

Absent: Veitch

ANTHONY VACCARIELLI – Area Variance, Case#861

Route 9N (Triple J Way)

Anthony Vaccarielli is present. T. Conard reviews that this is a request for area variances for 4 lots. These variances were previously granted and have expired. R. Rowland asks A. Vaccarielli to please submit a map showing the subdivision with the correct setbacks, as those in previous files and in the Planning Board files are not up to date.

RESOLUTION – A. Vaccarielli, Area Variance

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Anthony Vaccarielli as complete for property located at 4440 NYS Route 9N, TM#99.-1-2.11, and sets a public hearing for October 5, 2010 at 7:30 p.m., contingent upon:

- **Map showing proposed subdivision**

VOTE: Ayes: Conard, Granger, Lunde, Weeks

Noes: None

Absent: Veitch

CHARLES DAKE – Area Variance, Case#862

Cohen Road

Tonya Yasenchak is present for the applicant. T. Conard reviews that the applicant is seeking two variances – 45' front setback variance and a 20' right side yard setback variance. M. Granger asks if there are any other buildings around this. T. Yasenchak states that directly behind this parcel is state land, there are no buildings on adjacent land. The next house is not visible from this location. P. Lunde asks R. Rowland if the Board can have a copy of a tax map showing the area.

RESOLVED – C. Dake, Area Variance

MOTION: M. Granger

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals accepts the application of Charles Dake as complete for property located at 37 Cohen Road, TM#100.-2-5 and sets a public hearing for October 5, 2010 at 7:30 p.m.

VOTE: Ayes: Conard, Granger, Lunde, Weeks

Noes: None

Absent: Veitch

OLD BUSINESS

FRANK AKAWI – Area Variance, Case #855

Route 9N

Dr. Frank Akawi is present. T. Conard reviews that this application is for sign variances. These are the same signs as were previously approved for Dr. Peacock. The freestanding sign requires a 2 square foot variance and the sign, which will be flush on the building, requires a 3.5 square foot variance. These

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variances were previously granted to Dr. Peacock. A public hearing is opened at 7:52 p.m. There being no public comment, this public hearing is closed.

T. Conard comments that the applicant will be using the same sign maker that Dr. Peacock used. Dr. Akawi states that the sign maker has located all the attachments for the previous signs and the new signs will be in the same locations. T. Conard states that these were previously approved because it is a busy intersection and the Board felt it was warranted, but not too much of a variance. S. Weeks states the other signs looked good. T. Conard states that it will be nice to see the building used.

RESOLUTION – F. Akawi, Area Variance

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals approves the application of Dr. Frank Akawi for property located at 3100 NYS Route 9N, TM# 138.01-2-25 as follows:

- **Free standing sign area variance of 2 square feet**
- **Flush to the building sign area variance of 3.5 square feet**

This variance is based on the following criteria:

- **No change to the neighborhood as it is what was previously there**
- **Need for safety and visualization of the sign**

VOTE: Ayes: Conard, Granger, Lunde, Szpak, Weeks,
Noes: None
Absent: Veitch

ELIZABETH HUNTLEY – Area Variance, Case #856

Route 9N

Elizabeth Huntley is present. T. Conard reviews that the applicant would like to reestablish the old farm stand/food market located on the corner of Route 9N and Spier Falls Road. This lot and building are pre-existing, non-conforming and the applicant will require a 1.21-acre area variance, a 73' front setback variance on the Route 9N side and a 45' front setback variance on the Spier Falls side. A public hearing is opened at 7:56 p.m. There being no public comment, this public hearing is closed.

T. Conard states that this was a store for many years, the applicant seeks to return it to the original use, which is nice to see in Town. On the latest drawing that was submitted, it shows parking on Route 9N as well as on the Spier Falls Road side. He asks if this is already there. E. Huntley states that Route 9N was what was used by the family as an entrance and also for the store. She does not remember on the Spier Falls Road side. T. Conard asks if there is enough room for a turn around area. E. Huntley states that is what they would like to have. T. Conard states that has been a terribly dangerous intersection, even with the blinking lights. He would be a little concerned if people started parking in the road itself. E. Huntley states that Mrs. Donohue used to have the County Visiting Nurses, they would park on Route 9N and it was really hard to pull out onto 9N. She states that T. Conard is absolutely right and it has to be a non-issue. T. Conard states that a lot of this will be Planning Board issues. He states that perhaps having an entrance only on the Spier Falls Road side or having a pull through and having it one way, would be the answer. Any variance could be contingent on being able to find adequate parking and safe ingress and egress. S. Weeks states that if that can be addressed and addressed satisfactorily, it would be nice to have that building back to an operating business again. He states that he would be pleased to see that happen as long as the traffic and parking issues can be resolved. P. Lunde asks where the farm stand would be located. E. Huntley states that the front room

of the building was used for the store and that is exactly what they would use. It still has a commercial electric meter. P. Lunde asks where the entrance would be. E. Huntley states that it is on the front of the building. The entrance to the residence will be on the Spier Falls side where they would like to build the mudroom. T. Conard states that the entrance is close to the road but not so close that you couldn't walk up to it. You couldn't park in front of it. J. Szpak states that he is very concerned about the safety issue. He would like to see the store opened and he would say that it would have to be contingent on safe ingress and egress for traffic to that facility. T. Conard states that the Planning Board would have to review. P. Lunde asks if they would be open year round. E. Huntley states that they would like to be open year round. She states that the farmer's market has been very successful and perhaps some of those people could be sent her way. J. Szpak states that he could envision parking in the back with a nice sidewalk. He would hate to see it as drawn here. T. Conard states that 9N has changed quite a bit since the store was established. P. Lunde states that any approval could be contingent on no ingress from 9N. T. Conard states that we don't have enough information on traffic and he would not want to tie the hands of the Planning Board. S. Weeks states this also requires County approval. J. Szpak states that he is more than happy to defer it to those people who are paid to make that decision or volunteer to make that decision. E. Huntley states that S. Peacock's house usually gets hit and the Donohue building does not.

RESOLUTION – E. Huntley, Area Variance

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals approves the application of Elizabeth Huntley for an area variance for property located at 4119 NYS Route 9N, TM# 112.-1-26 as follows:

- **1.21 acre area variance**
- **73.5' front setback variance on Route 9N**
- **45' front setback variance on Spier Falls Road**

These variances are based on the following criteria:

- **This is a pre-existing, non-conforming property, it was used for this same use in the past**
- **Safety concerns regarding traffic and ingress/egress will be addressed by the Planning Board**
- **No change to the nature of the neighborhood**

These variances are contingent upon:

- **Being able to get adequate parking and safe ingress and egress**

VOTE: Ayes: Conard, Granger, Lunde, Weeks

Noes: Szpak

Absent: Veitch

LOUISE BUBLAK – Area Variance, Case #857

Locust Grove Road

Louise Bublak and Phil Gargan are present. T. Conard reviews that the applicant is seeking a 250' road frontage variance. This applicant will be before the Planning Board for a site plan review for the agricultural use. This is a pre-existing, non-conforming lot and two lots are being combined to create an 8-plus acre lot. A public hearing is opened at 8:08 p.m. Audrey Champagne, Locust Grove Road, states that she and her husband have owned property here for 50 years. She provides the Board with written comments September 7, 2010

and states that it is clear that the variance is substantial. There are already 3 houses without frontage and the proposal is for a fourth house and shed for goats. The issue is not a matter of the additional residence, it is that the variance is requested for agricultural use, and agricultural use implies not only raising goats but also commerce. Commerce might well produce increased traffic on Locust Grove Road. She states that the frontage requirement helps to control traffic on Locust Grove Road and everyone is well aware of the traffic problems. A. Champagne states that it is very unclear from the application how many goats might be involved but it seems that it will be more than one pet. The dimensions of the shed suggest that there will be more than one and considerable agricultural use will cause traffic issues, environmental issues and bleating goats. She states that she spent quite a bit of time on the regulations and pleads ignorance. She doesn't understand the relationship between the Zoning Board and the Planning Board on this matter. If the variance is approved by the Planning Board does that automatically mean that the land is zoned for agricultural use and residential use. She thanks the Board for the time they spend doing this work and states that everyone appreciates it. T. Conard asks T. Yasenchak, who is present for another application, if this will go through the Planning Board process as well for the agricultural use. T. Yasenchak states that it will because of the use, but it is for personal use and not commerce. Commerce would be addressed in another separate Special Use Permit. T. Conard explains that what the Zoning Board does is that if something does not fit the zoning laws of the community, the Zoning Board can look at the situation and grant a variance. We try to grant the minimum variance possible, if one is granted. In situations of a land locked parcel it becomes even more important to look at it carefully because if we don't grant a variance of some sort then that land is useless. The Planning Board is concerned with the use and in cases of commercial special use permits and making sure that drainage is proper and that sort of thing. The Zoning Board is more concerned with the actual area, unless the use is not permitted. In a situation where the use is not permitted at all by law, then the Zoning Board can decide whether they make a variance to allow the use. That is not the case here. What we are looking at here is strictly an area variance having to do with whether the piece of property will fit in a given lot and whether we feel that it is a good use of that property. Mary Beth Palmateer, comments that there is a 6-acre requirement for the residential and a 6-acre requirement for the agricultural use, then you are looking at 12 acres and the applicant will have 8 acres. T. Conard states that is not the case. They only need the frontage variance because they have no frontage on a town road, that is the only variance on this application. M. Palmateer states to the issue that was brought up before as far as safety, there are already homes back here that do not have frontage. T. Conard states that if they were building now they would need the 250'. M. Palmateer states that from her own personal driving on that road, it is not well maintained. She states that it is difficult to tell what exactly is being asked for. T. Conard states that it is a frontage variance. He states that there are a lot of driveways like this in Greenfield, which are shared, and in a lot of communities. There are laws that regulate shared driveways as was discussed on an earlier case when it was discussed that they would be required to show that the driveway can support a 50,000 pound emergency vehicle. Ken Weliczka, attorney for James Desrocher, states that he has some submissions that he would like to provide the Board. He states that the road is not in existence right now for three lots, two of which are to be combined, and when he went there with his client, J. Desrocher, who is part owner of the road, K. Weliczka noticed that where the existing road ends there are dips, etc., and he could not tell if there are designated wetlands there, but it was obvious to him that there was a lot of fill and there are flags back there. From Locust Grove Road to where there is a proposal to extend it is 3/10 of a mile, over 1500' already. He thinks that it is going to make a bad situation even worse. He states that his client is worried about emergency access for fire, EMT's, etc. He has correspondence from the 1990's where some issues were raised. The other thing he is concerned with is that right now there are 3 buildings on the existing road and between J. Desrocher's residence and P. Gargan's residence there is a lot which would make 4 buildings if there was one on there. He states that he realizes that the lots are conceptually there and he would like to make the point that since there are already 3 homes there, when you go up over 4 you go from a minor to a major subdivision, and as such, he thinks that the short form SEQRA is probably inadequate. He thinks that there should be soil analysis, the long form SEQRA, archaeological, historical, etc. There is a clear problem with a single access road over 1500' in length before further construction. He states that his client is concerned with the increased liability and he has just heard for the first time that there may be wetlands there. There was no sign posted. His client found out about this from a neighbor. K. Weliczka provides the Board with copies of pages from the Town's Comprehensive Plan – Pg. 59, item B.5 and B. 6; Pg. 69, item B.5; Pg. 70, item B.6; Section 90-22,

Easements; Section 105-143, Driveway Standards. He comments that he had to backup the whole length of the driveway. He states that J. Desrocher is part owner of the road and is against any further enhancement of the road. He reads from the Town of Greenfield Standard notes regarding no further subdivision of lands for 5 years and the keyhole note. He provides a copy of a letter from August 23, 1988 to Maureen Rowell, the assessor at the time, and the postmaster requesting that J. Desrocher's name appear on the tax roll. In November of 1997 P. Gargan was before the Town of Greenfield Planning Board for a special use permit and J. Desrocher was unable to attend the meeting but submitted written comments with his objections. P. Gargan wanted to be able to sell used books and military memorabilia. He does not know what the outcome of that was. He also submits some case law on which he has taken the liberty to highlight some things that he thinks are important. This is a case where a Zoning Board of Appeals denied a variance and it was appealed. He states that in this case the petitioner suggested that they had met the standard by reason of the fact that they could not build on their property without violating the zoning ordinance. The critical question is whether denying the variance serves a legitimate public purpose, which outweighs the property owner's injuries. "Granting the request would not only exacerbate the existing emergency servicing and drainage problems but would likely require the respondents to allow subsequent variance requests for similarly situated parcels thereby further aggravating these problems." K. Weliczka states that there are still a couple more lots back there. He states that if the Town were to allow this, they should probably require a performance bond. In the case law, the Town expressed "concern that further construction on the road would fail to promote the safety and general welfare of the town, for emergency vehicles cannot currently safely and properly access the residences located" there. K. Weliczka states that he and his client are saying that to allow this would make a bad situation worse. There being no further public comments, this public hearing is closed at 8:29 p.m.

P. Gargan states that apparently J. Desrocher and his attorney do not know this, but they trespassed on his property. He states that J. Desrocher's ownership of the road ends at the end of his property and P. Gargan owns the remainder. P. Lunde reads from Town Code that "shared driveways shall be allowed at the discretion of the Planning Board" and "an agreement between landowners addressing access and shared maintenance responsibilities shall be provided to the Town". He asks if the applicant ever did that. P. Gargan states that he has an agreement signed by the Gadamski's and himself, which carried on to new owners. P. Lunde asks if the Town has a copy of this. P. Gargan states that there is no reason for the Town to have a copy. T. Conard states that these regulations were not in place at the time that this agreement took place. P. Gargan states that K. Weliczka referred to the fact that over 4 lots become a major subdivision. He states that they are not subdividing anything. This was subdivided before zoning. They are combining 2 lots. As far as the sign not being posted, it has been posted for 2 weeks. It is back on the property, which is a little further back and can't be seen from the road. K. Weliczka asks if that would be on the area where P. Gargan said he would be trespassing if he wanted to see it. L. Bublak states that as per the instructions of the Town it is posted on the property. S. Weeks states that the sign posting has been an ongoing issue and we are trying to address that. P. Gargan states that several years ago he had a chimney fire and the Fire Department had no problems whatsoever. He states that the extension of the driveway going to his daughter's house would be certified by an engineer that it would be able to take the 50,000-pound fire truck. Regarding the comments about leading to numerous conflicts between neighbors. Years ago, J. Desrocher did not want P. Gargan to have a home business there which the Planning Board approved even with J. Desrocher's letter in opposition. P. Gargan has a deed from Mr. Gadamski to P. Gargan's three daughters, to the middle lot which is right next to J. Desrocher's lot, giving parties of the second part (his daughters) free use of the property and appurtenances as party number one (Desrocher). He states that L. Bublak has as much right to be on that road as anyone else. As far as who owns the road, P. Gargan states that he will be taking that up with his attorney as he assumed that he and J. Desrocher were each receiving separate tax bills and each paying a portion. He has recently found out that he has been paying the entire tax bill for the road for the past 20 years or so. He states that he will be checking with his attorney to see if J. Desrocher actually owns any part of that road due to the fact that he hasn't paid taxes on it. T. Conard states that there was a mention of wetlands. P. Gargan states that there are no wetlands listed on his property on the DEC maps. The only wetlands are on the Champagne property. L. Bublak asks if the Board would like her to address any of the goat issues. T. Conard states that any motion made here can be contingent on other things. He

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asks if there is commercial use of this planned. L. Bublak states there is not, that she has a special use permit where she currently lives, has 3 goats, and they have a subdivision right behind them and neighbors on both sides. The goats are for personal use, she does not see herself having more than 5 or 6 goats, she does not think she could drink that much milk. Goat's milk is healthier for you than cow's milk and as she is Lactose intolerant, she can drink goat's milk and tolerate it better than cow's. That was her reason for getting the goats. P. Lunde asks what size the shed will be. L. Bublak states that right now they have a 10 x 12 and if they have another goat or two it might have to be bigger. Right now they don't have a separate milking area and it is advisable to have a small separate area. T. Conard states the ZBA has the authority to put contingencies on approvals and they could limit the number of animals on the property. He would like to know more about the driveway and who owns it. He has heard some challenges going back and forth so he is a little uncomfortable with the situation on the driveway – who owns the driveway, who is responsible for what, etc. P. Gargan asks what that has to do with the variance. T. Conard states that it can have a lot to do with the variance if it is affecting access to the homes and things like that. P. Gargan states that in talking to G. McKenna, he has a right to a variance of 250' on property he has been paying taxes on. T. Conard states that it is a pre-existing lot. J. Szpak states that there is a lot of concern about the driveway, and obviously we would want the driveway to be conforming just like the owner would. P. Gargan asks which driveway. J. Szpak states the actual access way to the property. P. Gargan asks if that is the new driveway. T. Conard states no, that would have to conform anyway. P. Gargan states that the existing driveway has been there for 30 years – it exists. P. Lunde agrees and states that he would not worry about that. P. Gargan states that it has no bearing on this whatsoever. S. Weeks states that when we look at the length of that driveway, it is the same as you have to have for a keyhole lot, which we have specified in some cases because we wanted an upgraded driveway. The way this is written now where a driveway of that length has to meet the same specification anyhow, it has to have the same turnarounds, it has to hold a 50,000 pound vehicle, a turnaround within 100' of each structure and as he reads this, it says that shared driveways shall be allowed at the discretion of the Planning Board. He questions that the Planning Board still has to approve an extension of this driveway. P. Lunde states that it is his understanding that they would have to approve only the extension of the driveway, not what is already there. It would be pre-existing even if it were non-conforming. P. Lunde states that this is not an issue for the ZBA. J. Szpak states that is where he was going, that the driveway needs to be compliant, but that is not the issue here. J. Szpak states that if someone wants to build another house on another lot back there then that is a whole new case and they would have to get a driveway for that. T. Conard states that the real problem is that there are a number of landlocked, subdivided lots. That unfortunately is a problem across a lot of Greenfield. These are pre-existing lots, the applicant is not now subdividing the land, the lots are there. He states that we are looking at pre-existing lots, we have a road in that is used by multiple lots, but there are other lots out there that are already in existence and the applicant is combining two lots. S. Weeks states that there is always concern about shared driveways and one way the Town is addressing that is by raising the standards for those driveways. That helps him a lot. T. Conard states that it is interesting that while the town, because of situations in the past, has sort of been against shared driveways, the County is encouraging them because it makes less curb cuts. J. Szpak states that he agrees with all of that. We have heard safety concerns about traffic on the road, the access, the turnaround, etc. He states that they are great concerns, but he does not think that any of those are in front of this Board because there are rules for those things, they are not enforced by the ZBA and the ZBA is not making those decisions, we are simply deciding whether this is an appropriate use of the land without the frontage. What he wanted to say is that it is not that the ZBA is ignoring any of the safety concerns that were brought about in the public hearing. We are not, we expect those to be compliant, it is just not the Zoning Board that is acting on those issues tonight. He states that he heard concerns over environmental issues, which were based on potential or alleged wetlands that we have no record of being wetlands. T. Conard states that is correct. He asks R. Rowland if there are any maps showing wetlands on this property. R. Rowland states that there is a DEC wetland map in the office, but she does not know. J. Szpak states that is not in front of us and this Board is not ignoring any concerns over wetlands, but we are not acting on that. They couldn't build on a wetland if it were a wetland, but that is not what we are here to decide tonight. T. Conard states that each lot here that is landlocked is going to need the same variance. J. Szpak states that

another thing was a control over the number of goats. He asks if that wouldn't be controlled even without any contingencies or stipulations by the ZBA. He asks if there aren't other laws for how many animals you can put on the property. R. Rowland states that the Planning Board would look at that. T. Conard states that the ZBA has put contingencies on the number of animals in the past. A. Champagne states that this request for an area variance specifically states that it is for Ag Use and she looked up the definition, which to her implies commercial use. M. Granger states that she thinks there is some confusion about some of the regulations and which Board oversees particular aspects of it. She states that what is before the ZBA is the 250' road frontage variance. The actual personal agricultural use is going to be addressed by the Planning Board. Although the application is filled out as an agricultural use, that is not something that the ZBA has control over. The ZBA does not oversee special use permits; they do not decide whether or not a shared driveway is permissible. That is under the purview of the Planning Board. The ZBA is here tonight in terms of whether that 250' of road frontage variance is going to be granted or not and the criteria we are going to look at for that. S. Weeks states that is as he sees it. K. Weliczka states that in a letter of 8/23/88 to Maureen Rowell it states that on behalf of J. Desrocher it was requested that his name appear on the tax rolls as an owner of the above-mentioned private road. J. Desrocher requested to pay his share of taxes assessed on the road. M. Granger acknowledges that, but again shared driveways are not overseen by this Board. Even if the variance is granted here and it goes to the Planning Board in terms of the agricultural use, it is going to be before Planning Board who has the ultimate discretion of whether or not the shared driveway is going to be put into effect and at that point an agreement is going to have to be produced in terms of driveway. The ZBA is looking strictly at 250' of road frontage and if that is granted it will continue from there to the Planning Board. Some of this discussion, when the application is before the Planning Board that will be the time to go there to raise some of these issues and concerns. The ZBA does not have control over that; it is not that we are not listening. P. Lunde states that there are enough regulations in place that he is not worried that everything will be dealt with. S. Weeks states that he agrees. P. Lunde states that the issue is a 250' road frontage variance and that two lots are being combined. T. Conard states that by combining lots, it is being made less dense than it could potentially be. P. Gargan states that it will be less dense, there is the possibility that there could be three more residences back there, but it will only be two now. M. Granger states that as this is LDR and the applicant is combining two 4-acre lots and making an 8-acre parcel, it may not be possible to re-subdivide this in the future. P. Gargan states that he understands that. P. Lunde asks how long this variance would be good for. R. Rowland states that it will be only good for 1 year as all variances. J. Szpak reads from Planning Board minutes and it seems that they are aware that there may be issues, but it is not clear what their intentions are. T. Conard reiterates that we are making a less dense situation; he understands there are going to be issues every time one of these lots asks for a right of way, but the only way through is using the road that is there. It has already been subdivided.

RESOLUTION – L. Bublak, Area Variance

MOTION: M. Granger

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals approves the application of Louise Bublak for an area variance for property located at 307 Locust Grove Road, TM#152.-1-1, as follows:

- **250' Frontage variance**

This variance is based on the following criteria:

- **Benefit cannot be achieved by other means feasible to the applicant**
- **This is a pre-existing land locked parcel**
- **The applicant is making this area less dense by combining two lots**
- **The alleged difficulty is not self-created**

This variance is contingent upon:

- **Compliance with Section 104-143, Driveway standards**

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks
Noes: None

Meeting adjourned 8:56 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary