

**TOWN OF GREENFIELD**  
**ZONING BOARD OF APPEALS**

**June 5, 2012**

**REGULAR MEETING**

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

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**May 1, 2012 MINUTES**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of May 1, 2012, with the following correction:

**Uppling:** K. Veitch abstained from resolution

VOTE: Ayes: Eskoff, Granger, Lunde, Szpak, Veitch

Noes: None

Absent: Conard

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**NEW BUSINESS**

**WAYNE & POLLY SCHADE – Interpretation/Use Variance, Case #892**

Grange Road

Wayne & Polly Schade are present. P. Lunde reviews that this is an interpretation request and reads from G. McKenna's notes that depending on the Board's interpretation, this could be a use variance. Town Center does not allow agricultural uses. If the Board disagrees with G. McKenna's interpretation, then agricultural use is allowed as a "hobby farm". If the Board agrees with G. McKenna's interpretation, the use is not allowed and a use variance would be required.

**RESOLUTION – W. & P. Schade, Interpretation/Use Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Wayne and Polly Schade for an Interpretation/Use Variance for property located at 111 Grange Road, TM#138.-1-40.11 as complete and sets a public hearing for July 3, 2012 at 7:30 p.m.

VOTE: Ayes: Eskoff, Granger, Lunde, Szpak, Veitch

Noes: None

Absent: Conard

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**JOHN HARDING – Area Variance, Case #893**

Revere Lane

J. Harding is present. P. Lunde reads from G. McKenna's notes that the applicant is seeking an area variance to build a pole barn. This is a corner lot and is considered to have two fronts and two sides. The applicant has 20-feet and 40-feet is required.

**RESOLUTION – J. Harding, Area Variance**

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of John Harding for an Area Variance for property located at 1 Revere Lane, TM#151.20-1-36 as complete and sets a public hearing for July 3, 2012 at 7:30 p.m.

VOTE: Ayes: Eskoff, Granger, Lunde, Szpak, Veitch

Noes: None

Absent: Conard

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**KEVIN CLARK – Area Variance, Case#894**

Combs Roadway

Kevin Clark is present. P. Lunde reads from G. McKenna's notes that the applicant would like to remove the existing structure and install a new modular home. The applicant is in the process of joining three lots together and would require a front setback variance of 55-feet and a rear yard setback of 55'. D. Eskoff states that on the applicant's SEQRA form, #5 should state that it is a new action because they are demolishing and building a new structure. That should be changed. She also states that at the time of application, until the Board rules, it does not comply with Zoning, so the applicant should change that and state that he is seeking a variance.

**RESOLUTION – K. Clark, Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Kevin Clark for an Area Variance for property located at 15 Combs Roadway, TM#135.11-1-19 as complete and sets a public hearing for July 3, 2012 at 7:30 p.m.

VOTE: Ayes: Eskoff, Granger, Lunde, Szpak, Veitch

Noes: None

Absent: Conard

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**THEODORE MAKKAY – Interpretation, Case#895**

Goose Hollow Road

T. Makkay and Rob Fraser, LA Group, are present. P. Lunde reads from G. McKenna's notes that Section 105-122-H (2) allows a cluster development to reduce the lot size by ¼ of the required size in a given district. G. McKenna states that he believes that the intent is to allow road frontage reductions in cluster developments; however, it does not specifically allow the exemption for road frontage reductions. P. Lunde states that the applicant is being held up on Planning Board action by this interpretation request. P. Lunde states that we should ask the Town Attorney for comments/suggestions on this request. K. Veitch states that what the Board is supposed to be doing is taking what the Zoning Officer has interpreted and whether we June 5, 2012

agree with his interpretation or not. M. Granger states that she does not know that the Town Attorney is really going to provide any additional information. K. Veitch states that the biggest thing would be if we have had any other cases like this and how it was interpreted then, any history. P. Lunde states that would be anything since the Zoning change. D. Eskoff states that #8 of the SEQRA should state that compliance would be dependent upon ZBA determination. J. Szpak asks what the shortest road frontage is on one of the keyhole lots. R. Fraser states that the smallest lot is 60', but that keyhole lots are exempt. He states that the point they are trying to make is that they are allowed to reduce the lot size but according to the way the zoning code is written, there isn't a corresponding frontage reduction. The Board would like to see some of the proposed frontages, which are not indicated on the plan. R. Fraser states that in order to comply with or work with the intent of a cluster subdivision, it would make sense to have a corresponding reduction to make it work. He states that they have reduced the frontage corresponding to the lot size. That is what they have been discussing with G. McKenna. P. Lunde states that what the Board is asking is that there is a 200-foot requirement. Some of the decisions this Board makes are based on substantiality of the variance requested, so it would be helpful if they had the actual frontage. T. Makkay states that he has the lot frontages and could drop them off tomorrow.

**RESOLUTION – T. Makkay, Interpretation**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Theodore Makkay for an Interpretation for property located at 60 Goose Hollow Road, TM# 150.-2-2 as complete and sets a public hearing for July 3, 2012 at 7:30 p.m.

VOTE: Ayes: Eskoff, Granger, Lunde, Szpak, Veitch

Noes: None

Absent: Conard

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**OLD BUSINESS**

**LEIGH O'CONNOR – Area Variance, Case #885**

Locust Grove Road

L. O'Connor is not present and had stated that he would be withdrawing his application. However, we do not have any written notification. P. Lunde reopens the public hearing at 7:53 p.m. There being no public comments, this public hearing is closed.

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**DENNIS & KAREN DOWEN – Area Variance, Case #888**

North Creek Road (County Route 19)

Dennis and Karen Downen are present. Public hearing is opened at 7:55 p.m. There being no public comments, this public hearing is closed at 7:56 p.m. P. Lunde reviews that the applicants are seeking an area variance for 200' of frontage on a pre-existing, non-conforming lot. The home will be located in the MDR-2 portion of the lot. K. Veitch asks if there are any structures on this property currently. D. Downen states that there are none.

**RESOLUTION – D. & K. Downen, Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals grants the application of Dennis and Karen Downen for an area variance for property located at 1146 North Creek Road, TM#124.-1-30.2, as follows:

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- **Frontage variance of 200'**

This approval is based on the following criteria:

- **No negative impact to the neighboring properties**
- **No negative environmental impact**
- **Relief cannot be found any other way**
- **This is not a self-created hardship**

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

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**DONALD HARRISON – Area Variance, Case #889**

Howe Road

D. Harrison is present. A public hearing is opened. There being no public comments, this public hearing is closed. P. Lunde reviews that the applicant is seeking an area variance of 24' to build a garage. K. Veitch asks if the garage will be in line with the existing house. D. Harrison states that is correct, the house was built in 1974.

**RESOLUTION – D. Harrison, Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals approves the application of Donald Harrison for an area variance for property located at 127 Howe Road, TM#99.-1-40, as follows:

- **Front setback variance of 24'**

This approval is based on the following criteria:

- **Not a self-created hardship**
- **No negative impact to the neighborhood or environment**
- **Request is not substantial**
- **Benefit cannot be achieved in any other way**

M. Granger states that she would make note that the location of the septic tank and leach field make it impossible for the applicant to achieve this by any other means and that it is maintaining the same site line because it is in line with the house.

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

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**ROBERT & STACY COX - Area Variance, Case#890**

Allen Road

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Robert Cox is present. P. Lunde reviews that the applicant is seeking an area variance to build a garage, but due to the location of the well and lot topography, the only reasonably flat spot does not comply. The applicant needs a 3' front setback variance.

**RESOLUTION – R. & S. Cox, Area Variance**

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals approves the application of Robert & Stacy Cox for an area variance for property located at 82 Allen Road, TM#111.-2-42, as follows:

- **Front setback variance of 3'**

This approval is based on the following criteria:

- **Benefit cannot be achieved by any other means feasible to the applicant due to the location of the well**
- **There is no undesirable change in the neighborhood character or to the environment**
- **Request is not substantial**
- **There will be no adverse physical or environmental impacts**
- **The alleged difficulty is not self-created**

VOTE: Ayes: Eskoff, Granger, Lunde, Szpak, Veitch

Noes: None

Absent: Conard

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**SPRINGFORTH LLC – Area Variance, Case #891**

Wing Road

Antonia Shields, Springforth LLC, is present. P. Lunde reviews G. McKenna's notes that the applicant would like to have agricultural use on this property. The lot is pre-existing, non-conforming with 40' of road frontage and 6.1 acres. Area regulations require 75' of road frontage and 5 acres. The variance requested would be 135'. A public hearing is opened at 8:03 p.m. P. Lunde reads letters into the record from Bill Brooking and Victoria Brooking expressing their concerns. Chris Harris, Wing Road, states that this subdivision has a conservation easement on it and he finds it ironic that they are applying for a variance. He believes there are other lots that would also require a variance and he comments on setting a precedence. Carrier Steuer, states that she owns 99 acres on Wing Road, and she is Bill Brooking's sister. She states that it was her understanding that the keyhole lots were not supposed to be agricultural use. Her concern is that someone else will come forward who will want to do the same. She has nothing personal against the applicant, she is just looking at this as the third generation and they have seen a lot of change in the area. A lot of it has been very positive. She is not against farming but feels we have to be very careful about looking to the future of that property. Her concern is that the variance will transfer to the next owner. P. Lunde states that a variance stays with a property. C. Steuer states that if the applicant is approved for organic, would there be restrictions on what people can do on neighboring properties. M. Granger states that this is not an issue before this Board. C. Steuer states that she is unsure of what is being proposed as she was unable to get here to review the file. P. Lunde reviews. C. Steuer states that the applicant is asking for 75% more than what she will have. There being no further public comments, this public hearing is closed at 8:14 p.m.

Antonia Shields states that the reason she came here is because of the code requirements. P. Lunde states that the decision of the Board will be to grant, or not, the variance being requested so that the applicant  
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can use it for agriculture. A. Shields states that she is not going to have a farm stand sitting at the end of the driveway. P. Lunde states that once the variance is granted, part of the Board's responsibility is that two generations from now that variance goes with the land. Two generations from now a farm stand could be on that land. R. Rowland states that the applicant is also before the Planning Board for a special use permit and site plan review. If anyone in the future wants to do a farm stand, they would have to go back to the Planning Board. C. Harris asks for clarification, that there were two issues here. One to do with the variance so that she could farm and one to do with the actual lot frontage and building a house there. P. Lunde states that the only thing that this Board can deal with is the actual frontage. R. Rowland states that the reason the applicant is getting an area variance is not for a house, if she were just building a house there she would not need a variance because those lots were created under a subdivision and are considered to be pre-existing, non-conforming and they are keyhole lots. The applicant needs a variance for the frontage because of the agricultural use. The special use permit for an agricultural use is before the Planning Board. A. Shields states that she is before the Planning Board for a public hearing on June 12, 2012. P. Lunde states that the Planning Board cannot make a decision without the ZBA decision. R. Rowland states that the ZBA decision, if the Board approves this, can be contingent on Planning Board approval. K. Veitch states that the applicant is asking for an area variance for road frontage, which will stay with the property. If she goes to the Planning Board and they deny her request for agricultural use, the area variance stays with the land unless we make it conditional. So all that would be there would be a variance that allows for a smaller frontage for an ag use and it wouldn't matter anyway because it would just be a residential piece. It is already an approved lot for building. J. Szpak states that if the ZBA does not approve, then there is nothing for the Planning Board to do then. M. Granger states that the minimum required is 5 acres and the applicant has 6.1 acres. K. Veitch asks if ag use is allowed here now. R. Rowland states it is. D. Eskoff states that 200' of frontage are required. K. Veitch states that he is trying to understand the Planning Board's part of this. R. Rowland states that when these lots were approved, some of the zones allowed ag use, but the zoning changed and ag use is allowed, but they changed the area requirements. M. Granger states that the Planning Board will have the special use permit and site plan review, and the question was how is this going to impact the neighbors. D. Eskoff asks what the applicant's purpose is, agriculturally. A. Shields states that she is going to be growing cut flowers and herbs. She is seeking USDA organic certification, not to be better than anyone, just a different way of marketing. She states that it is a USDA specialty crop. K. Veitch states that at some point the applicant could sell the property and then there is the variance for frontage and the agricultural permit that allows them to continue, but the agricultural use could change. D. Eskoff asks if they would have to go before the Planning Board again. P. Lunde states that a special use permit does not go with the property. D. Eskoff states that they could have an agricultural use but have to go before the Planning Board and explain what they are planning on doing. P. Lunde states that when the Planning Board sets a special use permit, they can put a lot of conditions on it. A. Shields states that she is asking for a permanent permit, she intends on being here for the rest of her life. P. Lunde states that the permanent goes with the land. D. Eskoff states that it does not go with the property. R. Rowland states that if the applicant receives approvals and at some point sells the property to someone, that person has to come in and get the special use permit in their own name. If that person chooses to just live in the house, they don't need to do anything. If they choose to continue "farming" they have to have their special use permit approved to their specifications. A. Shields states that she looked at this area because of the Right to Farm provision and the Town's support of farming. She states that she has been here since 2010 working towards this goal. M. Granger states that the Board acknowledges the applicants goal, but there are people who have been in the community for their entire lives who have to come before the Board for variances. The Board has to go by the criteria for approval. She states that this is a significant variance, but when she looks at that road, it is consistent with the surrounding property and if it were contingent upon the Planning Board issuing the Special Use Permit and doing a site plan review to make sure that there were enough parameters in there, specifically some of the issues that were raised by the audience members this evening, she would be in favor of this. C. Steuer questions that any person going forward has to go to the Planning Board before they could do anything. D. Eskoff states that if the variance is granted, it will run with the land, but anyone coming after this applicant would have to have a special use permit in their name. It would be a permanent one for the applicant. C. Steuer questions that 'agriculture' covers chickens. D. Eskoff states that 'agriculture' covers an enormous amount of categories. K. Veitch  
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states that the Planning Board would set the specifics as to what is and is not allowed. D. Eskoff states that there are permits that are going to be required. C. Steuer states that she is not concerned about what the applicant is trying to do, she is concerned about the future. K. Veitch gives an example of a recent case, which was seeking a use variance for a garage in which the owner took care of his own vehicles. The person now renting the property wanted to fix a few vehicles but also wanted to do some towing. It didn't happen. Once the neighbor's realized and complained, it was taken care of. Regarding this variance being substantial, K. Veitch states that he does not feel that it is because within that area, the frontage is already minimized. It is also a conforming use for the area. The only thing the ZBA can look at is the request for a road frontage variance. A. Shields states that the variance being requested is the maximum as she has a surveyor coming to survey the property and verify. She is still under contract to purchase the land.

**RESOLUTION – Springforth LLC, Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals approves the application of Springforth LLC for an area variance for property located at 110 Wing Road, TM#151.-4-6 as follows:

- **Frontage variance of 135-feet**

This approval is based on the following criteria:

- **The variance will not have a negative impact on the neighborhood**
- **Benefit cannot be achieved by any other means**
- **Not an undesirable change to the neighborhood**
- **The request is not substantial when you consider that all the neighboring properties are all pre-existing, non-conforming**
- **The request for the variance will not have an adverse physical or environmental effect**
- **The difficulty was not self-created**

The approval is contingent upon:

- **Compliance with the granting of the Special Use Permit and consistent with compliance with the Site Plan Review**

VOTE: Ayes: Eskoff, Granger, Lunde, Szpak, Veitch

Noes: None

Absent: Conard

P. Lunde states that the public comments should be addressed to the Planning Board who will have the ability to put restrictions on approvals. The Planning Board is the one who is going to ease concerns. C. Steuer states that they had a problem with the subdivision initially and now variances are being requested. K. Veitch states that there are a lot of people who would rather have something like this in their neighborhoods. He reiterates that from a Zoning Board standpoint, all the Board can look at is what the applicant is asking for, not so much what she wants to do with the property. The Planning Board is going to be where the public should go to express their concerns and they can put a lot of restrictions on what the applicant wants to do with the property. C. Harris asks if keyhole lots are acceptable. K. Veitch states that they are allowed. P. Lunde states that they are difficult to get approved. K. Veitch states that they were allowed and then not, and now they are again. R. Rowland states that this subdivision was approved in 2004 with the keyhole lots.

Meeting adjourned 8:35 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland