

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

May 6, 2014

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, Denise Eskoff, Michelle Granger, Joseph Szpak, Kevin Veitch and Laura Sanda, Alternate.

April 1, 2014 MINUTES

MOTION: M. Granger

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of April 1, 2014, as submitted.

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

DISCUSSION

T. Conard states that he will not be present for the June ZBA meeting. M. Granger states that she may not be present for that meeting either. The remainder of the Board members state that it is their intention to be present for the June meeting.

NEW BUSINESS

ERIC RUTLAND – Temporary Area Variance

North Creek Road

Larry Rutland, Eric and Donna Rutland are present. The applicant is requesting a temporary area variance as they are going to be adding on to the one house on one lot, while living in the second house on the second lot and then they will be combining the lots and getting rid of the second house. He explains that because they are adding on to the house and it is separate lots they need a side yard variance because they are too close to the other house. It is a 19' right side yard variance.

(Marc Robin, Plank Road, asks if each Board member can identify themselves and who they are in the town, what their function is. The Board introduces themselves. M. Robin asks if anyone is present from the Fire Department.)

RESOLUTION – E. Rutland, Area Variance

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Eric Rutland as complete for property located at 390 North Creek Road, TM# 150.-1-71 and sets a public hearing for June 3, 2014 at 7:30 p.m.

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

CHRIS LAMICA – Area Variance

Braim Road

No one is present for the application. T. Conard reviews that the applicant is seeking roughly a 21' left side yard variance. Board reviews the application and would like to know the distance to any adjoining structures.

RESOLUTION – C. Lamica, Area Variance

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Chris Lamica for an area variance for property located at 997 Braim Road, TM#139.-1-45 and sets a public hearing for June 3, 2014 at 7:30 p.m., contingent upon:

- **Receipt of additional information regarding distances to any adjoining buildings next to the property line where the proposed addition will be done**

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

OLD BUSINESS

MULLEYVILLE SNOWMOBILE CLUB – Area Variance

Ormsbee Road

Suzanne Miller is present representing the applicant. T. Conard asks if the applicant has found any proof of a right-of-way to the club or a deed, etc. S. Miller states that they have not been able to locate that from the 1947 closing of Ormsbee Road. When they purchased the property the deed went back to 1921, but it was never written into their deed when the road was abandoned where the rights-of-way went. They have been searching but have not been able to find it as of yet. M. Granger states that we haven't seen anything in writing and then depending on the language, she would want the Town Attorney to look at it to see if it is indeed legal access. S. Miller states that they are postponing the barn, they are still looking for the area variance for frontage and they plan to close that trail entirely for access for snowmobiles, for access for anything for that matter. Right now the groomers, that weigh approximately 12,000 pounds, run up and down Ormsbee Road 30 times this winter, starting December 15th thru March 1st. So that section of road from L. Dutcher's house to where the Mulleyville property is would no longer be affected by the groomers, which are 12,000 pounds, two of them per night come and go, 30 times. She states that they are no longer looking for a building permit. T. Conard states that we would at least need to get in touch with the Town Attorney as to how to approach this, if the applicant can't find any language, to see how they would rule on that right-of-way. We are not going to do anything on this tonight. We are going to open the public hearing but we wanted to establish that we are looking into that and we are not going to make any ruling until we get a ruling back from our attorney.

A public hearing is opened at 7:40 p.m. T. Conard states that we have received a document from V. and G. Feulner, which has been put into the record, as they are opposed to the variance due to their concerns for road maintenance, was this only to be used for storage or would there be increased traffic, parties and

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concerns about the resolution of the Board. He states that we have just heard that the applicant is not going to be using it for many of those purposes. Vicki Feulner, Ormsbee Road, states that she is still concerned that even though S. Miller stated that they were going to shut the road down to the groomers, there is still a snowmobile club that owns that property, 600 members that own that property. She states that in her deed, she has no right-of-way to them from her property and she is really concerned about what is going to happen up there. She states that unless they have a gate down at the bottom with a shack and keep all the members out, she does not know how they are going to do that. There have been other things, such as the Town saying that the property up there was consistent to have this 600 member club up here – there is a house and three camps on that road, how is that consistent to the area? In the very beginning, when the club wanted to buy the property, the real estate paperwork says that they had checked for legal right-of-way access, they had a meeting with all the landowners and the landowners said it was not a good idea, the liability, etc. The snowmobile club said that out of respect for the landowners they weren't going to buy the property and they did a week later. She states that therefore she cannot trust anything that they say. When any property up there is sold it says landlocked. She did not give them a right-of-way to their property. She had to get a legal right-of-way for \$3,000 to live in her house, to build her house. No one has approached her, the road is a liability, she knows that the snowmobile club has insurance but she is still liable for her property. She states that she thinks that this is a poor place for a groomer barn. They need to be on a public road where they can have public access, not private road access. V. Feulner states that it is a bad situation up there and the Town has known this since they came in and asked for help from the Town. It goes nowhere. The Town just keeps allowing more people up there on everyone else's dime and it is not fair to the land owners. She states that 7 land owners were present at the Planning Board meeting and Steve Archer stood there and said that this was the first he was hearing about this. K. Veitch asks V. Feulner about the road that leads up to her house, she stated that she had to get an easement to gain access. He asks who she got the easement from. V. Feulner states all the landowners below them. G. Feulner states that they had to have the whole road surveyed and they had to get permission, signed legal documents from all the landowners in order to get to their property. K. Veitch asks how many land owners. G. Feulner states there are 7. V. Feulner reiterates that this is a 600 member club and people seem to forget. K. Veitch states that he is trying to understand the control of the road and who has rights to it and who doesn't. V. Feulner states that the people taking care of it should have a say. G. Feulner states that the road is posted. T. Conard states that the Board will not be ruling on this tonight and will be leaving the public hearing open. Jeff Meyer, Meyer & Fuller Attorneys at Law, states that he is the attorney for Mr. Dutcher. He is going to reserve his comments as the scope of the application is changing, but to touch on the status of the road he states that they did a title search from 1937 to date. There is no private recorded right-of-way, there doesn't necessarily have to be a private recorded right-of-way. When the Town abandons a highway, the public's right to use this highway disappears. If there isn't an underlying private document, it can land lock the property owners. There are other mechanisms in the law that may or may not apply. That is a private matter between property owners and he would argue that none of those provisions do apply and unfortunately the property is land locked. The applicant purchased it knowing that it was landlocked and he welcomes anything that they would provide the Board that would show the contrary. He is encouraged to hear that the ZBA is not going to act on this tonight. There being no further public comments, this public hearing is adjourned at 8:48 p.m.

M. Granger states that the other thing we are waiting for is that if the applicant has proof that they have legal right-of-way across these parcels of land, the Board needs to see that. If the Board receives that, we are going to turn that over to the Town Attorney for review. Even if we table this, the applicant comes back next month and still does not have any proof – at some point the Board is going to make a decision because we are not going to table it indefinitely. S. Miller states that she understands. T. Conard states that we will also ask the Town Attorney about this situation. D. Eskoff states that she understands from the Planning Board minutes that there is a letter to the Town Attorney from Mr. Dutcher's attorney, and we really need to see the response to that. Also, the Planning Board indicated that the Saratoga County Planning Board needs to take a look at this. R. Rowland states that this has been sent to the County. J. Meyer provides copies of the information that was submitted to the Planning Board.

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RESOLUTION – Mulleyville Snowmobile Club

MOTION: M. Granger

SECOND: D. Eskoff

RESOLVED, that the Zoning Board of Appeals tables the application of the Mulleyville Snowmobile Club for a frontage variance for property located at Ormsbee Road, TM# 110.-1-4 to the June 3, 2014 meeting, pending:

- **Receipt of information discussed**

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

Noes: None

G. DAVID EVANS – Area Variance

Plank Road

G. David Evans is present. T. Conard reviews that this is a request for a 250' area variance for property that is on a right-of-way. A public hearing is opened at this time. T. Conard states that a letter was received from Agnes Pompa in favor of the variance. Discussion takes place that this was a public road that was abandoned. Marc Robin, Plank Road, states that his property is adjacent to the property that the applicant is seeking a variance on. He states that the reason why he asked initially if anyone was present from the Fire Department is because he is being asked to do a number of things to his property and he does not know the specifics of what the requirements are. He has basically been kept in the dark as well as his fellow land owners and property owners, and they have been getting confusing information. He has been told that they need a turn around. He heard from Suzanne Miller, who is the real estate agent for D. Evans, that it is now a turn in. He states that this is going to affect his property; he is going to lose some of his property. In addition to that his quality of life and he has another problem - this is a private road, the Town is not involved and they take care of this road. On Friday, the Highway Department came up and knocked down trees on his property. He went down and saw Walter Barss who apologized and stated that Suzanne Miller told him that she had the authority and W. Barss gave the ok. M. Robin states that he is not going to cooperate with this gentleman here unless he knows what the scope is of what is taking place, what the Fire Department requires. He has a whole list of questions for the Fire Department and that is why he asked if anyone was here representing them. He has been living there for 4 years, other people have been living there longer than him, all of a sudden the road does not meet the standards for fire department access. What are the standards, are they in writing, when were these standards issued? He has been living there for 4 years, if a fire truck cannot get on that road, he should have been told. All of a sudden the fire department is asking him to change the road, to knock down trees, etc. He is not responsible to pay for it, this gentleman is responsible for paying for it, certainly the Town is not responsible, it is a private road, but it is going to impact his property. He already discussed this with his attorney and he is not going to cooperate unless he knows the specifics and so far he does not know the specifics. D. Eskoff asks who Suzanne Miller is. S. Miller identifies herself and states that she has the letter from Mike Chandler, Fire Commissioner, which she assumes the Board members have. K. Veitch states that if anyone needs the standards for roads for fire safety, NY State Fire Code and you want to look at the Roadways, Egress – if you look in that area that will tell you what is expected. It is a standard issue throughout New York State and if anyone comes in to see G. McKenna he can probably give you that information. K. Veitch states that the standards have been around for a long time. M. Robin states that therefore they have been vulnerable for the last 4 years. He spoke to G. McKenna regarding this because initially he was told that the fire department required a turn around. G. McKenna told him that this had nothing to do with his property; it has to do with the people who are buying the lot from D. Evans. They have to have a turnaround within 100' of their house. They have all kinds of trucks coming in there. He reiterates that he wants to know why all of a sudden the Fire Department is requiring for this gentleman to sell his property to these people, why all of a sudden he has to jump thru hoops and he has to affect his property. K. Veitch states that once something new happens, not necessarily

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impacting you, but the turnarounds are usually at the end of the driveway that is adjacent to the house. Karen Alpern, Plank Road, asks what is the variance. T. Conard states that it is for frontage. K. Veitch states that all it addresses is whether or not the Board can give a variance for the applicant who does not have as much frontage as someone else would have, and that is not uncommon. How it impacts the neighbors, how it impacts the environment – those kinds of things get taken into consideration. All the other things, the Planning Department would have involvement with; the applicant would certainly have to meet standards to the Building Department before he could even build the road or the house. All those components have to come together and he has to be in compliance or a CO will never be issued to the house. M. Robin asks if this has anything to do with the size of the house that someone can build on the property. K. Veitch explains road frontage. He states that if someone has an easement but does not have frontage, do we stop them from building on a piece of property that they own, that they have access to, they may be able to prove that they can get fire trucks up there. Do we say no? He suggests putting oneself in the applicant's position, wouldn't you want to be able to access the property that you bought, that although you only have an easement, you have some beautiful property up there. Wouldn't you want to build a house there? Generally what they are asking for is the flexibility to allow them to have at least the access of the easement to go in. M. Robin states that then the issues that he has brought up are not really issues that the ZBA is going to resolve. This is an issue between this gentleman and the other property owners. K. Veitch states that the ZBA can give him the variance tonight and if he cannot satisfy the building inspector and the Planning Board with all the things that they are going to ask for, this variance is only good for one year. This is just a starting point; it gives him enough to go to the next step. He has to meet all those standards. Laurence Alpern, Plank Road, states that this does not affect him directly, but he sees a public safety issue here because imagine if two or three trees on your property were cut down, unannounced, the trucks arrive, people are wondering what is going on. He states that if it happens with him, he is going to call the Sheriff and the State Police. The Town has a responsibility to its citizens not to go and just start cutting down trees without telling someone. That is a very bad way, ethically, to do business. He does not know if it is illegal, but it is a public safety issue because this is what starts fights. K. Veitch states, to remind the public, we have no jurisdiction over this type of thing. He states that they need to voice that to the Town Board. D. Eskoff states that she just wanted to lay that out, that before we approve D. Evans application, it went to the Town Board and has just come back to the ZBA. Anything that was discussed prior to this regarding the Fire Department came from the Town Board. Winnie O'Connell, Plank Road, states that she understands the limit of the ZBA powers. She indicates that she lives beyond the property in question, and she feels sorry for these people who are in the middle of buying this and are stuck in the middle of this mess that has been created. She states that they are landlocked and use the same easement, and the idea of these people having an easement to their property is ok. She does not know what Pandora's Box we have opened because now we are hearing all these fire regulations. K. Veitch states that he does not know how this is working out but it may not be that the portion of the road that W. O'Connell is using, they may be saying the road that actually access to that property. W. O'Connell states that it is the same easement and they have no objection. T. Conard reads the letter from Mike Chandler into the record. M. Robin states that most of what is being requested impacts his property. He needs to know exactly where this is going to occur. Is there an engineer involved in this; is there any other way to do it? He reiterates that he has lived there for 4 years and owned the property for 20 years; no one has ever come to them and said that they are not going to be able to get a fire truck in there. T. Conard states that the Town itself or the Fire Department do not have staff to go around and check every site again, or at times. When they usually come up is when a project is going on and there is a question raised. D. Eskoff states that if you go back and read the Town Board's minutes from when they approved this as an open development to send to the ZBA, it basically says that the Zoning Board should look at these things. It does not say that they direct the fire department to do these things. We have no authority over the fire department, but it does appear to her, as a Board member and a resident of Greenfield, that someone acted out of order, but it is not up to the ZBA to resolve that issue. It needs to be resolved before the ZBA can go any further with this to begin with. It is a very serious matter; it is a very serious precedent for the Town. It is up to the Town Board and the Fire Department, but also, we are in the middle of a legal process and it has to be taken in the proper order. To her it does not appear to have been taken in the proper order and we need to take a step back and try to deal with it. Francine Robin states that when they built the house why were

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they not told anything about the road not being wide enough. It was wide enough to bring in all the heavy equipment. D. Eskoff states that as far as the turn around, and she does not know if this is the same thing, there was a fire on her road that she actually called in. They did not have a circular driveway, it was a pigeon hole lot and they could not turn around. They couldn't get in there and they had a really hard time with the fire trucks. She knows they reviewed the fire laws after that. That may have something to do with it; they do review things as things come up, as fires occur. So they may have a law on the books, just like zoning will change, after you have moved in, things will change and until something comes up like this, you may not ever know about it or it may not become practical for your situation. T. Conard asks where M. Robin's property is. M. Robin explains. T. Conard states that they may not have needed a turnaround where they are located because they are fairly close to the road. D. Eskoff states that she believes it is being used in terms of D. Evans property. They are looking at it in terms of D. Evans property, but while they are up there, they are going to look at all the properties. M. Robin states that he questions the standards, communication, as they have lived there a long time, the opening to that road is very wide, there is a right angle there, he read his deed and he knows exactly what the gentleman's rights are and what his rights are. T. Conard states that is why he needs to go to the Town Board. The ZBA has no jurisdiction over this. Ed Kowalewski, Attorney for the Albertsons, the buyers, explains the process and states that they have gone thru that and the Town Board granted an open development area with two suggested items that the ZBA consider, they did not make them requirements. One was that there had to be an agreement relative to an easement so that the Albertsons can get over the Robin's lot to their lot, and there is language in the Robin's deed allowing access and they have agreed upon that. He reads the items that the Town Board suggested as conditions for approval. Access to the property was to be reviewed by the Fire Department and that the ZBA consider certification of the access for emergency vehicles. D. Evans got in touch with the Fire Chief and asked that he come up and take a look at the access, which he did and his concern is that a truck cannot come up Plank Road and take a left onto 'Mine Road'. It would have to come up to the top of the hill to the turn around and come back down. The concern is that by the time that they go to the top of the hill and come back down, you will lose a couple of minutes. He states that the Fire Department is looking to take an immediate left turn with an emergency vehicle off of Plank Road onto 'Mine Road'. Right now the Fire Chief is saying that they are not able to do that. E. Kowalewski states that as much as the ZBA is leaning towards tabling this, he does not think that that is required because it is really a matter that the approval could be granted with the condition that they make the Fire Chief happy. There is an easement to the property, it is a 60' easement, 60' from the center line, 30' in both directions, there is a right to make improvements to that. There is going to have to be an agreement between D. Evans and M. Robin in order for this to come thru, but rather than table it because his client has builders lined up, etc. If it doesn't happen tonight, the project might be abandoned and the sale is going to fall thru. He states that just as the Town Board sent it forward with conditions, there is no reason that the ZBA can't do that. It could be approved tonight contingent upon any sale or transfer or issuance of a building permit being worked out and that the fire chief is made happy. There are a lot of questions, but there is no reason to send it back to the Town Board. D. Eskoff states the Board did not say to send it back to the Town Board. Her comment was that a process was started on a recommendation, trees have been cut and the ZBA has not granted a variance. T. Conard states that we are going to continue with the public hearing and then we can discuss more. K. Veitch states that when we said to go back to the town, we are talking about you with your issues that the ZBA can't take care of. He states that he thinks we got a little glimmer on why things have happened the way they are. It is an older subdivision, it goes way back. Back in 1985 there might have been a different standard because nothing out there triggered the Town Board to say open development. M. Robin asks if in order for the subdivision to have been approved, would there have been access granted for a fire truck to come into that subdivision. K. Veitch states that what was there at that time might have met the standards. Look at the difference between fire trucks 20 years ago and today. L. Alpern states that it is obvious to many people here including some of the Board that there seems to be bulldozing going on. There are trees coming down, etc. He states that the property is ready to go, it has been excavated, it is a fait accompli. That is no way to do business and he wouldn't think that the Town of Greenfield is going to be happy that everything is done with a bulldozing style technique and a very good lawyer. That is just not the way to do things. L. Alpern states that if bulldozing is going to be the way that Greenfield does

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business that is very, very unfortunate. Josh Robin, Plank Road, asks if in the meantime is there anything that says or that will prevent any more trees getting cut down on their property before having stones moved, their driveway changed. K. Veitch states not here. M. Robin states that he has already discussed this with W. Barss. He is not going to do anything up there. Maurice O'Connell, Plank Road (Mine Road), states that he would like these people to have their house built and it looks like it is going forward. He supports E. Kowalewski's comments, these things can be addressed. He supports them being able to build. If we could do this and have two tracks going – one being the fire department and addressing their issues, Sean Crotty, property owner on Plank Road, states that he is above these properties, he is not on 'Mine Road', it has no effect on him in that regard and he has no negative comment. He states that these are all his neighbors. He is a pilot, he flies overseas quite a bit and one of the things that he thinks differentiates our way of living vs some of the places he flies to, is that as passionate as we become he thinks that the system is such that we don't get our emotions involved between each other, we talk to the Board. It is very important for everyone to do that so that the Board can make the decisions and leave us to being neighbors. He states that sometimes neighbors do things, we all have our problems and maybe we make a mistake every once in a while. He states that he would hope that the property rights that exist in the Town that allow the house to be built on a piece of land locked property, that does have a right of way, is issued with also, the Robins who have been fantastic neighbors, involved in the process as much as possible. He states that he knows that this is the Zoning Board, but he thinks that one of the things that happens in Greenfield and he thinks that everyone has a good interest at heart, is that we want to do things for our neighbors, but cutting the trees down was obviously kind of out of whack. He discusses the fire code being changed, the need for driveways that are longer than 500' to have turnarounds, etc. He supports D. Evans move to sell the land locked property as long as it is not affecting everyone else and we go thru the process. Greg Raczkowski, builder for the Albertsons, states that he just wants to make it clear that they did not cut down the trees. There being no further public comments, the public hearing is closed at 8:28 p.m.

D. Evans states that he was at the meeting with the Fire Commissioner regarding Plank Road and the intersection of 'Mine Road'. In that discussion, it involved far less than what people are assuming as far as what is needed for this road. He states that the regulations require a width of 12' for clearance for a fire truck and that is part of the NY Residential Code for single family homes, that is regulation 511.2.1. He states that M. Chandler would like something broader and higher than the code, but he is not talking about widening the surface of the road. He is talking about cutting some stumps along the edge of the road. They don't impinge on the 12' minimum, but they are close. They are not talking about cutting anything more than removing those stumps. What he is talking about mostly is the immediate entrance right near Plank Road which is already in the Town right-of-way but extending a little bit beyond that. In terms of what the easement calls for, the easement on 'Mine Road' says, that 'at the option of any current or future owners of Lots 2, 3 or 4 as shown on said map, and in order to provide a more right-angled intersection with Plank Road, the northern most section of said easement may be permanently relocated up to forty (40) feet west of its present location'. D. Evans states that that is more than what is needed but it certainly covers where those trees are that were cut down. One tree was dead and one tree was in bad shape, they were close to that road and that is why they were cut. In terms of how this happened, S. Miller talked to M. Robin about what we were doing and he wanted a white line painted on the ground showing where the fire department wanted the entrance to be changed. M. Chandler said that he would do that and to his understanding W. Barss knew what was being asked and gave the ok to cut those trees. D. Evans states that he is sorry that that happened. He states that they were not trying to be sneaky. M. Granger states that one of the biggest concerns she has is because part of what the ZBA tries to do is take input from the neighbors and one thing she is hearing is that there has been a basic violation of trust here. Moving forward it is not that anyone sitting here is saying that we don't want these individuals to not be able to build on this piece of property. What they want to know is how are we going to be respected and treated throughout this process. One of the criteria that we have in terms of looking at the balancing test is whether there is an undesirable change in neighborhood character or to nearby properties. The individuals who have spoken at the public hearing tonight, from their perspective, there is an undesirable change in their property at this point in time. That is a concern that she has when looking at, at least that one criteria, and that is not the determining factor. The other thing is that the applicant has

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proposed language in here as to how this easement would be. It is not for the Board to determine whether or not that is acceptable. She would want the Town Attorney to take a look at that so that we are not opening and setting up future problems for this property. D. Eskoff states that she shares the concerns about the easement and she apologizes for the confusion on that. She feels that M. Granger is absolutely right and where ever the blame lies, it needs to now get back on track. She states that there is absolutely nothing against this couple who are trying to build on this property, people have worked out of order, things have gone out of order, there is a time frame and she knows it is costing money, but things have to be right. We are a Board, we go by the law, we try to go as close as we can. We have to be very careful as to what we do and what precedent we set. Some things are not within the ZBA's control. The Fire Department issues are not in the ZBA control. It would be nice if everyone could get on the same page, formulate some type of plan so that everyone can move forward, but at this point, she does not see how we can tonight without input from the Town Attorney on the easement. M. Granger states that the requirements that the Fire Department has put forth, have been put upon other applicants before this Board. It has come up because something is before the Board and the Town Board brought that issue up. That is part of the reason why it is coming up for these property owners at this time, because there is something else that is out there. The experience has changed; the requirements have changed to try to make the community safer. That is part of an ongoing process just as the change in the zoning laws have changed over time. She states that earlier she believes that the attorney stated that they had owned this property for a year. E. Kowalewski states that he did not, they are under contract to purchase the property. T. Conard states that he would also point out that this is in the KROD district and he believes that there is supposed to be an application for the overlying district to the Planning Board and he does not believe that has been received. G. Raczowski states that he didn't know about that. S. Miller states that they were trying to get the variance first. M. Robin asks if that deals with the size of the house that can be built on that property. T. Conard states that there are a number of different things that need to be reviewed in the overlay zone. E. Kowalewski states that he is saddened to hear that this now needs to be sent to the Town Attorney because he sent the easement language and the Board knew that timing was critical. D. Eskoff states that the ZBA does not meet as a Board other than at their regular meetings, they do not meet individually, they don't discuss the cases before they sit here. E. Kowalewski states that his understanding was from the last meeting that if they came tonight and there were no problems, and he knows that there are some problems, but no one said to him that the easement language would have to be approved and that they would have to come back at another time because it would have to be sent to the Town Attorney. M. Granger states that part of what E. Kowalewski said was that 'if there were no problems', part of what was proposed to the Board when he spoke at the public hearing was that 'contingent upon'. She states that if they had come in here tonight and the neighbors here and D. Evans had reached some kind of agreement to address some of the issues that the ZBA was asked by the Town Board to consider in terms of the requirements with the fire department, then they would have removed that part of the element as well. Then M. Granger, as a Board member, might have been able to say contingent upon this. It is difficult for her to ignore this group and look at the criteria for approval when one part of that criteria for approval is no undesirable change in the character of the neighborhood. The other thing that has been brought forward is how important it is to work together with the neighbors so that you have a cohesive community and a cohesive neighborhood as well. Part of that goes back on the applicant as his responsibility, from M. Granger's perspective, that this could have been resolved and communication could have been had so that a determination could have been made. If the easement language was the only outstanding primary thing, then contingent upon. It seems to her that there is a larger issue here that has not been addressed. L. Alpern states that the map that the applicant has is not accurate, he has affidavits from D. Evans to show that we should slow this process down, because part of the contract with the buyer was that they had access to L. Alpern's property, to use his property and he will speak to his attorney. He gave D. Evans a way to go thru his property to hook up electricity. He asks the Board to slow down the process because this is as serious as anything that has come before the Board. J. Szpak states that he has no problem with the request. There are three issues. In his view it would have to be contingent upon the easement language with the Town Attorney, it would have to be contingent upon meeting the fire department's access conditions and it is too bad that there has already been an undesirable change to the neighborhood and that one has made an impact on J. Szpak. The good news though is that there is an opportunity to correct that

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with mitigating actions and we don't have a proposal for that. Something might be able to be done to mitigate that like replanting of certain shrubbery, bushes, whatever. That part can be fixed. He feels it is those three things that are conditional to him and he does not have an answer to any of those three. To him, that is too much for him to go forward, even though he does support and wants the house to there, they should totally get this acted on and get the house built. K. Veitch states that it is a pretty simple thing – one, if you want to make a decision tonight, you are going to make a decision without good information. If he does not have good information, then his answer is no. If you want to get the information together so that the Board can say yes, let's do that. K. Veitch states that the question is, do they want a quick no or a slow yes. T. Conard states that in his mind we would probably make any decision, if we made a decision tonight, contingent upon something. In which case, you are not going to get the building permit because the zoning won't go into effect until whatever contingencies are corrected. In his mind he would make it contingent upon safe fire access and that would be because that is safety for everyone on the road. If it could be mitigated and made to look better, that is fine. The concern he has is public safety. He does have some other concerns about the way that it occurred and he does have some concerns to make sure that legally the Town Attorney agrees with the right-of-way agreement. E. Kowalewski states that this will put them another month out. D. Eskoff states that the Board appreciates that fact; we tried very hard last time to accommodate everyone, but let's try to move forward and make it right for everyone as best they can. M. Granger states that very frequently this Board asks for additional information two weeks prior to the next meeting so that the Board has a chance to review it. A huge sticking point seems to be the requirements for the fire department. She states that if the resolution here, based upon the criteria that was received in the letter from the fire department, if they could all work out in terms of the neighbors to make sure that it is taken care of, then that is what is presented to the Board, two weeks before our next meeting. The language in the easement goes to the Town Attorney so that piece is taken care of. M. Granger states that the Board has done the best that they can with the time frame. We didn't create the timeframe, we didn't control when the Town Board was going to meet, the recommendation that they made, the trouble that the fire department has had in terms of the rules and requirements that they put into effect. That is something that needs to be worked out, there is a resolution there. It just depends how everyone can work towards that. She states that she is very reluctant to say that it is contingent upon safe fire access. That is a very undefined term; it is not clear what it actually means. We have a number of different people here and for each individual in this room; she would bet that the definition might be a little different. We need to work from the same common base and how that is going to be achieved. D. Eskoff states that things do change from the time people buy property. M. Granger states that the Board is not looking to not have that sale go thru because we understand that there is a timeframe, and certainly we support someone building on that property because we are part of the community and certainly encourage that. With the information we have, it is not possible. M. O'Connell asks if the Board is looking for a document from the residents of 'Mine Road' regarding the fire department, that they have gotten together and agree as to what they are going to do. T. Conard states that we are not asking for that. We would just hope that if they are going to clear things, that they would contact the property owners who have those obstacles on their land before doing anything. There are some situations where if a tree is close enough to the right-of-way of the road, the Town has every right to take anything down. D. Evans states just as he has with his right-of-way. T. Conard states that what we need to do is have contact before anything like that happens so you have a little warning. That is more what we would look for; hopefully have some form of mitigation that everyone would be involved in knowing. M. Robin states that he appreciates the Board's input but he just wants to say, in the deed it talks about what the rights are in terms of if there is work to be done D. Evans is responsible for the removal of trees, grass, etc. He states that he is going to have to defer and talk to his neighbors about this, but he will have to sit down with the applicant and make sure that whatever is done the applicant will do, as explained to him by G. McKenna and the Town Supervisor, Paul Lunde. It is his responsibility to take care of these things and M. Robin states that he has to hold him to the fire to make sure that it is done, done properly and it does not impact his property. He is going to have to have legal agreements with the applicant, he is going to have money in escrow, he has already discussed this with his attorney. Whether the applicant is willing to do this or not, these are M. Robin's requirements. T. Conard states that it would be nice to work this all out. G. Raczkowski states that he is the builder for the Albertsons. He had all his permits in and received a call from G.

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McKenna that this was not an approved building lot. No one knew that, he was ready to mobilize and get this house built. He has crews that he has put off for two months at this point. His business is very much suffering and he knows that has nothing to do with these folks – he did not take the trees down and he totally disagrees with that. We need to move forward or this probably is not going to happen. He states that this puts him in a horrible position. No one knew that this lot was non-conforming until the day G. McKenna called him. He states that if we could somehow come to a contingency of satisfying what happened on M. Robin's property, dealing with the fire department – do we have to wait thirty days to go forward with this, can't we just make things happen with the fire department. We have had a month to deal with this road access and we were on it. Feet have been dragged the entire way. We have had more than enough time to deal with things, get things going, get things in escrow. He asks if there is any way that we can make this happen sooner than a month. K. Veitch states that even if the Board does contingencies, they are still not going to be able to do anything; you are not going to get your building permit until all those contingencies are met and it could take 30 days. If we table this now, you could start getting that all in and we could have it for the next meeting. Either way they are going to be held up. L. Alpern states that 360 Plank Road, which he owns with his wife, was impacted by this, it wasn't just the Robins, there were smaller shrubs, but his property was impacted also. D. Evans states that when he came here a month ago he stated that he did not agree that this project needs a variance and he would like to discuss that. T. Conard states that we do not have anything from the Town Attorney.

RESOLUTION – G. D. Evans, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals tables the application of G. David Evans for an area variance for frontage for property located at 366 Plank Road, TM# 123.-2-33 to the June 3, 2014 meeting, contingent upon:

- **The easement language in the proposed deed needs to be forwarded and reviewed by the Town Attorney**
- **The e-mail received from Mike Chandler dated Friday, May 2, 2014, those items need to be addressed by D. Evans and the neighbors so that they are resolved**
- **The Board would like any resolution sent to the Board by May 20, 2014**
- **Clarification on the map as it has been discussed that it is not correct. If there is a more correct map, the Board would like a copy by May 20, 2014 for review**

J. Szpak states that the condition with the owner and the neighbors would discuss things for the trees that have already been removed and what the acceptable solution to that would be. M. Granger states that she would hope that there would be remediation. One of the audience members stated that he perceives some kind of legal documentation or agreement, but she is concerned about not having any of that addressed and still trying to grant. J. Szpak states that that is his concern and he is saying that this is an opportunity to make this a good thing.

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

E. Kowalewski states that the map being presented is the correct map. It is the only one on file. D. Eskoff states that someone said this was not the correct map and if there is another map, she would like them to produce it.

GREENFIELD COMMUNITY & BUSINESS ASSOCIATION – Area Variance
Wilton Road and Route 9N

May 6, 2014

Butch Duffney and John Bokus are present representing the Greenfield Community and Business Association. T. Conard states that the applicant is requesting an area variance for a sign of 20.55 square feet. A public hearing is opened and there being no public comments, this public hearing is closed. B. Duffney explains what they are requesting and provides a sample of the type and size of banner to be used on the sign. The sign has been designed in such a way that anyone at the corner will be able to see under the sign. He explains that all the banners will be the same size and they have grommets in them to attach to the board. They would like the sign board to be two-sided; they will have additional grommets attached to hold the banner more securely. They will also be re-doing the sign for the Hairport. D. Eskoff asks why they picked this size. B. Duffney and J. Bokus state that they felt that if it were smaller, it would be difficult to read and therefore a safety concern. M. Granger states that it had been mentioned that other members of the community could use this also. Discussion takes place that they would like to use it for public announcements also, community events, etc. M. Granger states that from the perspective of someone driving by, she would much rather have something large and she feels it serves the needs of most of the members of the community, she feels that it is consistent with the Town Center and redoing the Hairport sign along with this sign is very consistent and very consistent with the sign at the Town Hall.

RESOLUTION – Greenfield Community & Business Association, Area Variance

MOTION: M. Granger

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals approves the application of the Greenfield Community and Business Association for an area variance for a sign for property located at 20 Wilton Road, TM#138.1-2-24, as follows:

- **20.55 square foot sign variance**

This is based on the following criteria:

- **No undesirable change to the neighborhood, character or nearby properties**
- **Even though it is somewhat of a substantial request, it serves the needs of multiple members of the Greenfield Community, both members of the Business Association as well as non-profit individuals who will be offered the opportunity to advertise there**
- **No adverse physical or environmental impacts**
- **Size is appropriate to address safety concerns**
- **It is very consistent with the Town Center**
- **It is very consistent with the sign that currently exists in front of the Town Hall**

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

Noes: None

Meeting adjourned 9:10 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary