

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

**November 4, 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.

---

**October 7, 2014 MINUTES**

MOTION: M. Granger

SECOND: D. Eskoff

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of October 7, 2014, as submitted.

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

---

**NEW BUSINESS**

**A. JAMES MASON – Case# 940, Area Variance**

Locust Grove Road

James Mason is present. T. Conard reviews that the applicant is requesting a left side yard setback variance of 24' in order to build a lean-to roof for wood storage and a boat. K. Veitch questions that it would be attached to an existing garage. M. Granger asks if there are other buildings in the area. She asks that the applicant provide a map showing the location of those other buildings and the distance. She would also like the distance between the house and the garage and the dimensions on either side of the garage.

**RESOLUTION – A. James Mason, Area Variance**

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of A. James Mason for an area variance for property located at 217 Locust Grove Road, TM#152.-1-69 as complete and sets a public hearing for December 2, 2014 at 7:30 p.m., contingent upon:

- **Additional information regarding adjacent structures and the distance to those**
- **Distance between house and garage, and the dimensions on either side of the garage**
- **To be submitted two weeks prior to the December 2, 2014 Zoning Board meeting**

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

---

**MICHAEL GYARMATHY – Case# 941, Area Variance**

Spier Falls Road

James Vianna is present for the applicant. T. Conard reviews G. McKenna's notes that the builder did not follow the original site plan. The house is too close to the front property line and would require a 41'

November 4, 2014

variance. D. Eskoff asks if there has been a Zoning violation cited because of this. R. Rowland states that there has not. K. Veitch questions why the applicant is here if there is not a zoning violation. R. Rowland states that when they did the final survey for the bank it was found to be too close. J. Vienna provides the Board with a plan showing the site of the original house on this lot as compared to the new house.

**RESOLUTION – M. Gyarmathy, Area Variance**

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Michael Gyarmathy for an area variance for property located at 249 Spier Falls Road, TM#112.-2-7.111 as complete and sets a public hearing for December 2, 2014 at 7:30 p.m.

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

Noes: None

---

**AMANDA BELMONTE – Case#942, Area Variance**

Wilton Road

Applicant requested postponement.

---

**OLD BUSINESS**

**THOMAS MERRILLS, Jr. – Case#937, Area Variance**

North Creek Road

Thomas Merrills, Jr. is present. T. Conard reviews that the applicant is seeking to subdivide this parcel into 3 lots and requires a variance of 12.18' on one lot with two lots having the correct frontage.

A public hearing is opened at 7:40 p.m. There being no public comments, this public hearing is closed.

T. Conard states that this is not a significant variance and is only being requested for the one lot. K. Veitch states that this is also the largest lot.

**RESOLUTION – T. Merrills, Jr., Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals approves the request of Thomas Merrills, Jr. for an area variance for frontage for property located at 560 North Creek Road, TM#137.-1-26.2, as follows:

- **Frontage variance of 12.18' for Lot #2**

This approval is based on the following:

- **No negative impact to the surrounding properties**
- **No negative environmental impact**
- **The request is very minimal**

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

Noes: None

---

November 4, 2014

**JOSEPH MULVANEY – Area Variance**

North Creek Road

Joseph Mulvaney is present. T. Conard reviews that the applicant would like to construct a 28 x 40 garage with an attached 12 x 40 carport. This is a pre-existing, non-conforming lot with 1.229 acres. He is requesting a 55' rear setback variance and a 20' left side yard variance.

A public hearing is opened at 7:43 p.m. and closed as there are no comments.

M. Granger questions the distance from the carport to the leach field. J. Mulvaney states that it is about 15'. J. Szpak asks what is on either side of the lot. J. Mulvaney states that it is wooded on three sides. J. Szpak states that it is certainly tight. T. Conard states that you certainly could not get it over much because of the septic. K. Veitch states that the driveway comes off of North Creek Road and would go into the garage. He states that one of the issues here is that the back line is at an angle, which creates the need for more of a variance. He asks if the applicant has considered angling the whole garage and carport at the same angle as the house. J. Mulvaney states that he could try that. T. Conard states that by doing that, the applicant might get closer to the side yard. L. Sanda states that he would be closer to the leach field and if he pivots this the entrance would also be behind the house. J. Szpak states that he is not asking for a huge structure, so he does not have a problem. It is not an oversized structure; it is an undersized lot for the area which is already non-conforming. He tends to be ok with this. It is behind the house, he does not see a better way to put it on the lot from a practical perspective, unless you put it in the front of the house and that doesn't seem to make too much sense. J. Mulvaney states that he would like to try to keep it behind the house as much as he can. He does not really want it in front of the house, and the siding will match the house. M. Granger explains that the Board is charged with giving the minimum variance. She asks if it is possible to maintain the 15' and bring it forward a few feet. J. Mulvaney explains that when he originally put the house in he pushed it away from the road, not thinking of the future. The house is 62' from the garage location. He states that there is a deck on the back of the house. The deck is not depicted on the drawing. M. Granger states that she is ok with the information given – the deck, location of the leach field, the pre-existing lot and that it is not feasible to change the location. There are no other options.

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

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals approves the application of Joseph Mulvaney for area variances for property located at 1042 North Creek Road, TM#137.-1-14.2 , as follows:

- **55' Rear yard setback**
- **20' Left side yard setback**

This is based on the following criteria:

- **This is a pre-existing, non-conforming lot**
- **The benefit cannot be achieved by other means, given the location of the leach field and the septic, the location of the house and the approximate 20' deck off the back, the rear property line that runs at an angle**
- **No undesirable change to the neighborhood character or to nearby properties**
- **No adverse physical or environmental impacts**

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

Noes: None

---

**MARY LISA BAKER – Area Variance**

Lady Slipper Lane

November 4, 2014

Mary Lisa Baker is present. T. Conard reviews that the applicant would like to replace an old mobile home with a new one and lacks the appropriate frontage.

A public hearing is opened at 7:57 p.m. and closed as there are no public comments.

K. Veitch states that the footprint of the home is going to be larger as the applicant is replacing a single wide with a double wide home. M. Baker states that is correct. She explains that there is a structure built over the mobile home which will remain as a storage building. K. Veitch states that this will be a big improvement.

**RESOLUTION – Mary Lisa Baker, Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals approves the application of Mary Lisa Baker for an area variance for frontage for property located at 15 Lady Slipper Lane, TM#111.-2-39.11, as follows:

- **183.68' Road frontage variance**

This approval is based on the following criteria:

- **This is a pre-existing, non-conforming lot**
- **The replacement of this mobile home with a new one will be an improvement to the property**
- **Benefit cannot be achieved by other means**
- **No undesirable change to the neighborhood**
- **No adverse effects to the environment**
- **Hardship is not self-created**

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

Noes: None

---

**CARL & MARIANNE GAGE and DAVID & CATHY DOMOZYCH – Interpretation Request**

Allen Road

Applicants are present. T. Conard reviews the case and that this case was tabled at the last meeting so the Board could make a site visit and request additional legal information. The public hearing was held and closed. M. Granger states that it was very helpful to do the site visit and really understand what is happening on the property. There is a tremendous amount of activity on that site that is connected with the building of the house and the landscaping of the land. The Board did look at the machine that is used for screening of soil, it had soil in it with several areas of grass growing on it, it had been inactive for a period of time. There are a couple of separate things on the property. That being the business that is close to where they are building the house and the tremendous activity that is associated with the building of the house and tremendous activity that is going to continue to be associated with the house especially in terms of landscaping for a significant period of time. She still thinks that there is a bit of a difference between a storage yard and the processing of the material for the business, however, that said, with the property owner building their house and trying to landscape the land appropriately so they have an appropriate slope for their new house, she does believe that screening material for their personal construction of their house is acceptable. M. Granger states that for the business there is the question of whether or not a special use permit may be appropriate. We have some other businesses in the Town of Greenfield that do have special use permits for some of the processing that they do and that has some limitation on the hours in which they do that. From her perspective, she would certainly support a recommendation for a special use permit for that particular process, however, that the screening of top soil would be totally within their rights for the

November 4, 2014

building of their house and their landscaping. D. Eskoff states that the issue before the Board is whether or not that is part of a contractor's storage yard, not whether it is part of the construction of the house. She states that one of the biggest revelations was that there are two separate properties that adjoin – one is the "contractor's storage yard" with the building and then the house. The soil sifting machinery that they saw was on the house site. While it goes with the construction of the house, if they are using it for business purposes, then perhaps he should not be doing that. K. Veitch states that the piece of equipment, no matter where it goes during a construction phase, whether it is at that property or anyone else's property, it doesn't need a special use permit in any community for that operation while the construction is going on. He states that he agrees that that equipment may be running for a time while that house is under construction. He believes that the building inspector is going to have to keep a close eye on that and make sure that when they reach the point of completion that that equipment is removed from that property and does not continue to operate until such time as they do apply for a special use permit. D. Eskoff states that the letter from J & K, and we did request photos but she does not see them, he does state that he does bring in other soil for processing other than the construction. K. Veitch states that he thought it was said that some soil was brought in that is to be used on that land. D. Eskoff states that that was not made clear in the letter. K. Veitch states that there is a lot of sand on the property. He can have the screener at the business property, he can run it and maintain it, whatever operational things, but the hauling the material in opens up the processing. M. Granger states for the business, she agrees with that, but from looking at the property, there is a tremendous amount of soil there that, as explained to the Board, will be screened for their backyard. D. Eskoff states that the only thing the ZBA is here to interpret is the second piece of property and the concerns that were raised about that are what we are trying to deal with. She states that she wants to clarify because we never did get to the correct definition of what we were looking at last time – light industry, etc. Top soil is part of excavation and it has its own definition within the code but J & K Trucking is not of the level that it would require permits or to be in the top soil business, it is a secondary business from what we can gather and that is what we are looking at this as and we look at that Contractor's Storage Yard, Small, as part of that. M. Granger states that there were a lot of issues raised about noise, trucks, etc., and she thinks that it is important as a Board that we made the effort to go and look at the property, and there is a lot of trucking noise that is going to be associated with the continued completion of that house, with the landscaping of the house, and she thinks that the perspective needs to be broadened so that there is not an assumption made that it is all due to the business and they are in violation. The only issue before the Board is whether or not the screening and processing of the top soil by the business is appropriate. She thinks that what the Board has discussed and she seems to be hearing from her fellow Board members is that we believe that a special use permit application needs to be done by J & K Trucking to use that screening machine for their business on the site. However, that screening machine can be used for the private building of their residence during construction hours. D. Eskoff states that we have the noise parameters, we have the air pollution parameters, the nuisance parameters and she thinks that has all been taken into account as to why you would need a special use permit. M. Granger states that if we go back to G. McKenna's interpretation, the Board is not in complete agreement with him that this is a permitted use under a Small Contractor's Storage Yard, that it requires a special use permit. K. Veitch states that the confusion is that it is a permitted use under the construction of what is going on there. D. Eskoff states that there may have been some confusion about the two properties, but if we go strictly by the Code that it is for the storage of building materials. K. Veitch states that the Board is in agreement that they do not agree with the interpretation and that if that piece of equipment is going to be used for anything other than the private property at that location, they will have to apply for a special use permit for that. K. Veitch states that we saw that it is designed to be transported from site to site. M. Granger states that with the exception that if there is maintenance that needs to be done, that that would be appropriate at the business site.

**RESOLUTION – C. & M. Gage and D. & C. Domozych, Interpretation Request**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals, for the Interpretation Request of Carl & Marianne Gage and David & Cathy Domozych, is not in agreement with the interpretation of the Code Enforcement Officer for the property located at 336 Allen Road, TM#124.-2-45 for the use of a soil screening machine for the business, based on the Code, Section 105-127, Contractor's Storage Yard Standards, and if that piece of

November 4, 2014

equipment needs to be run at that particular site it will need a Special Use Permit, but because it is a unique situation in that it is the same location where construction is being done on a private home, it will be running during the time frame to build the house during the construction hours specified in the Code.

D. Eskoff states that hopefully this will be done with some deference to their neighbors. M. Granger states that with the neighbor's deference to the property owners, as well, as they complete their house.

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

---

## **DISCUSSION**

M. Granger states that she would like to see the Town Board actually hold a contractor's feet to the fire instead of having a house built and then say, oh by the way, the contractor did not adhere to the original site plan and now we need a 75' variance, because that has come back again and again. K. Veitch states that maybe there is going to have to be some sort of bonding. M. Granger states that she thinks that a penalty and a bond are appropriate. R. Rowland states that we will have to ask G. McKenna about tonight's applicant building in the same footprint as the original house. K. Veitch states that if there are circumstances, he would like to know about them. K. Veitch states that there is a zoning violation and that is why the applicant is here or they wouldn't be seeking a variance. L. Sanda asks who laid out the site plan and located the house for the builder. D. Eskoff states that we have made requests of the Town Board regarding this matter and we don't know if they did anything about it, however, this would be the time. The Open Development Area needs to be looked at. She states that we also had an issue with extensions. M. Granger questions that D. Eskoff is saying to put a time frame on extensions. D. Eskoff states that some towns do have limits on some of them, certain restrictions, a little more clear than ours is. D. Eskoff suggests there are things the committee might want to look at with the Contractor's Storage Yard – the small is not listed on the acreage chart. Also, hobby farms and a few of the other ag-related items. K. Veitch states that kennels was also an item to look at – day care vs kennel, etc. D. Eskoff states that we are not real clear on a lot of the animal codes. K. Veitch states that given a little more time, our minds will click on some things. He asks if we feel that it is necessary for someone from the ZBA to be on the committee. M. Granger suggests D. Eskoff. D. Eskoff states that she would be happy to do it. She told P. Lunde early on that she would do it. She suggests that the other ZBA members give her their ideas, concerns, questions, etc. She states that the Town needs to get caught up; we are behind in some areas. We are sitting next to Saratoga and we have that influence, after a while you just have to say, we have to do some of these things. K. Veitch states that he brought some of Saratoga's codes in to the Supervisor. He has been interested in the vacant structures ordinance. It is important not only for the municipality to know where these things are and who is responsible for maintaining them and tracking them, but the police departments and fire departments need to know. In Saratoga they have started a registry and the Fire Department goes to every structure and makes a determination on it, grading it one of three ways – vacant and there is no problem, if there is a fire they will go in; vacant but there is material being stored and unless we know what that is; or vacant and they will not send anyone into because of structural problems. He is not sure how much of a problem we have with the homeless in Greenfield. D. Eskoff states that you wonder because there is a house that is in foreclosure that sometimes you see the door open and sometimes it is closed, but they sit for 2, 3, 4 years? K. Veitch states that although that is a nice ordinance, you have to make sure that the municipality gets this right; you have to budget money for that, for emergency response – if you have to send someone to board up a window or door, etc. – there has to be money there. There has to be a process for getting that money back and that is being able to attach those fees to the taxes. R. Rowland states that that is what happens now if the Town is required to send in someone to clean up or remove a structure, it gets attached to the taxes. K. Veitch states that he would like to have better definitions on what is a garage sale, some limitations, anything more than 2 days is excessive unless it is a holiday weekend. M. Granger asks J. Szpak what could be put in the Town Code so that things like what has happened behind him do not recur. J. Szpak states that it was not defined what 'forever wild' is, what does that mean. The different designations for these buffer areas or forever wild, etc., if there is no definition attached to that. He is not saying that it has to be in the Code, but at least when a

November 4, 2014

plan is approved, it has to define what it is. K. Veitch discusses a situation in Saratoga with the Knights of Columbus. He states that there needs to be a plan where you will also maintain the buffer, replant, replace, etc. If a tree has to come down, one has to go back. J. Szpak states that there have been more and more definitions of forever wild which includes the maintenance of the property for dead, diseased and damaged trees. K. Veitch states that Saratoga also has some language where it talks about a cutting a 'percentage of ' the trees on a piece of property and one must go before the Planning Board before beginning to cut. J. Szpak states that if we did have a couple of standard definitions that could be referred to, but in lots of cases it might not be a standard definition. He states that in this case, what the Board was lead to believe was not actually what happened, but the contractor claims that that was his plan all along. J. Szpak states that the Board has said that there is no way they would have let the applicant do that if they had known that was what would be done. K. Veitch states that he has seen that in other situations where someone is saying, "Oh, no, no, the Planning Board said...", then you pull the file and there is no documentation of it. That is the biggest thing, are those considerations recorded. L. Sanda asks how that gets enforced though. If something is approved contingent upon X, Y, and Z. When those don't happen, who is responsible for making sure that happens? J. Szpak states G. McKenna or the Zoning Officer. L. Sanda states that then unless G. McKenna personally followed up on every one those contingent upon's and then he would have to be cloned. J. Szpak states that in this case it was raised as an issue; G. McKenna came and looked it, and said that it was in violation. M. Granger states that then maybe that's where it comes back to having a monetary incentive or some type of bond or something. D. Eskoff states that there are other towns that are very strict on these things. M. Granger states that we need an incentive so that one complies with what they have agreed to instead of getting caught after the fact and spending months arguing about doing some kind of repair. K. Veitch questions that wouldn't it have been nice if he had to have a license to operate in this town and now, because you did this, the penalty may be whatever monetarily, but the Town is pulling your license and you are no longer allowed to build in the Town of Greenfield. D. Eskoff states that being stricter is not going to stop the Town of Greenfield from being developed; it just may help it to be developed in a better more organized manner. K. Veitch states that people who are in this business will take advantage of every opportunity they can – it is easier to get forgiveness than to ask for permission. M. Granger states that that is the forgiveness piece that keeps coming back again and again, because there is no dis-incentive. J. Szpak states that in this case there are actually two neighbors who witnessed that statement by the contractor – he said let's take them down, if there is an issue with that, we will deal with it later. M. Granger states that we have to put something in force and she thinks the licensing idea is great, because there is a consequence that you choose and then you have to figure it out. L. Sanda states that that only handles a certain category of people, what about the people who don't need a license to do what they do – for instance, the subdivision that she lives in. They were basically given approval to sell her lot and the lot across the street contingent upon certain things happening and those things didn't happen. They don't have a license, they don't need a license, they are not really able to be penalized in any way – there is really no repercussion to that. K. Veitch states that is where the bonding comes in. L. Sanda states that if there is a bond, that is the repercussion – you are not getting your money back unless you finish the road correctly, etc., but when there is a situation that we have told a private resident that they can build it contingent upon – if you tell someone you can build a house contingent upon taking down the old one on the property, then G. McKenna has to go out, enforce that and that takes his time and effort. M. Granger states that she agrees and the problem is that we can't cover all of it because we are not going to have the personnel or the money resources, but there are things we can do better and the road thing has come up in another area. K. Veitch states that the difference between Greenfield and the City of Saratoga is that when someone is in violation and he wants to take legal action against them, he does not go to the City Board; he takes them directly to the Judge. The Town Council doesn't know about it until they read it in the paper. It makes it nice because it separates the legal part of it from the Town. M. Granger asks if he means to give G. McKenna more authority. K. Veitch states to start using the courts more. M. Granger states that Supreme Court ups the ante tremendously. J. Szpak states that that still costs time and resources. K. Veitch states that you are going to have to spend a little to win a little, because once that starts getting out there. L. Sanda states that if you start cracking down, less people are likely to violate. K. Veitch states that there are a couple things you can do – the bonding is one; penalties – not come before the Town Supervisor and plead your case, you are going before a Judge. K. Veitch states that he loves Greenfield and what is great about it is that it is a pretty simple town and he likes that, but we are not Mayberry RFD, but we still have to start protecting what we have here more aggressively. We are

November 4, 2014

very fortunate that a lot of these mistakes are like buildings in the wrong places but we have a lot of resources here like water. If one big company comes in and does something stupid and wrong, a lot of people could be impacted here. D. Eskoff states that it is going to become increasingly desirable. Do you want to pay \$25,000 in taxes a year to live in Saratoga or go ten miles up the road to Greenfield where you are going to pay a lot less than that for the same size house? As time goes on, those prices have been increasing dramatically here compared to many parts of the country. We are just going to keep getting this influx. K. Veitch states that you are also going to start seeing where people will be coming in, buying properties, knocking down and building up something on top of them. D. Eskoff states that it doesn't have to be a city code like Saratoga, but we have to look at what is important to us. L. Sanda states that she read a lot of the subdivision section and she did find a lot of room for interpretation there that allowed a lot of these things to happen. She feels that our system needs to be tightened up. D. Eskoff states that so much of the code is just taken from Town Law and nothing was ever done with it to adapt it to our specific Town. L. Sanda states that it does appear that the DEC SWPPP information may be out of date and the Rural Road section is referring to DOT items that are no longer approved by DOT.

---

Meeting adjourned 8:33 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland  
Secretary