

**TOWN OF GREENFIELD**

**PLANNING BOARD**

**FEBRUARY 23, 2010**

**REGULAR MEETING**

A regular meeting of the Town of Greenfield Planning Board is called to order by Tonya Yasenchak at 7:00 p.m. On roll call, the following members are present: Tonya Yasenchak, John Streit, and Nathan Duffney. Gary Dake, Lorna Dupouy, Thomas Siragusa and Michael Thraikill are absent. Charlie Baker, Town Engineer, is present.

T. Yasenchak explains that without a quorum the Board will be unable to take action, however, if additional members arrive we will be able to proceed.

L. Dupouy arrives at 7:03.

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**MINUTES – February 9, 2010**

MOTION: J. Streit

SECOND: B. Duffney

RESOLVED, that the Planning Board waives the reading of and accepts the minutes of February 9, 2010, as submitted.

VOTE: Ayes: Duffney, Dupouy, Streit  
Absent: Dake, Siragusa, Thraikill  
Noes: None  
Abstain: Yasenchak

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**PLANNING BOARD CASES**

**CARL HULETT – Special Use Permit**

Alpine Meadows Road

Carl Hulett is present and explains that he would like to replace a mobile home. The new one will be placed in the same location. A public hearing is opened in this case. Robin Schumacher asks the age of the replacement mobile home and if the applicant will be living in it or renting it out. T. Yasenchak explains that there is a Town Code that the home must be newer than 10 years old. C. Hulett states that it may be a 2000 or a 2009, and that he will be living there. Correspondence from Roma Andenmatten in favor of the request is read into the record. There being no further public comments, this public hearing is closed at 7:06 p.m. T. Yasenchak explains that since this applicant is also going before the Zoning Board of Appeals, the Planning Board will not take action at this time.

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**KENNETH MERCHANT – Special Use Permit**

South Greenfield Road

Kenneth Merchant is not present. T. Yasenchak explains that the applicant is traveling and was unable to make it back for the meeting. We will be opening the public hearing but will leave it open for the next meeting so that the applicant can be present and comment as well. The public hearing is opened at 7:09

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p.m. James Fox, 286 South Greenfield Road, states that he has had continuing issues with this property since 2001. He shows the Board a copy of a survey of his property, which was done many years ago, and it shows the location of the neighboring garage. He states that this property was in court 5 years ago and the person who owned it at the time sued to be allowed to rent the apartment. The Zoning laws have been changed to allow garage apartments, J. Fox states that he was not in favor of that. He states that K. Merchant had a relative of his wife living in the apartment and tried to get a Zoning Board approval to allow her to live there. That request was not granted. He states that he has minutes from 2/5/02, which indicate his issues with this situation. K. Merchant has since left the property, has someone living in the house and would like to rent the apartment also. J. Fox states that the problem is, as he has stated before, that the septic system is not an approved system. He states that he expressed this eight years ago; the minutes of 2/5/02 explain this in the case of Ethan Lawas, the previous owner. J. Fox states that the septic is within 100' of his well. He shows the Board pictures of the system and states that they should be self-explanatory that this system is not approved. He states that he had stopped in and gotten a copy of a letter provided by E. Gailor regarding the septic system; he proceeded to call E. Gailor because this is not correct and there are discrepancies. He met with E. Gailor this morning and showed him the pictures, and he said that was not what he saw when he was at the property. E. Gailor told J. Fox that he would be calling G. McKenna. J. Fox asks if the Town hires engineers when they don't have any written documentation on an approved septic system on a piece of property. He states that E. Gailor said that to his recollection it was a visual inspection. J. Fox asks how you can visualize an inspection on a piece of property when you have to look at leach fields, septic system, distribution box, etc. He states that the septic system which is there is less than 10' from the property line which is against the law also. J. Fox distributes the photos for the Board to look at. He states that E. Gailor stated that if this is the case, it wouldn't pass the system anyway. J. Fox states that he understands that this can be zoned for this apartment and he wants a certified, proper inspection done of the system. E. Gailor's letter states that there was 180' of leach fields and that there would have to be 3 lines. T. Yasenchak asks if anyone has a survey locating the septic. J. Fox states that it was installed illegally to begin with. He states that the telephone pole in one of the photos is 12' from the property line. B. Duffney asks whose property the pole is on. J. Fox states that it is on K. Merchant's. He states that his property is down hill of the septic and therefore it comes directly downhill towards his well. He explains the photos. He states that this should not be able to meet any specifications. He refers to the 2/5/02 minutes again and states that the garage is only approximately 5' from the property. L. Dupouy asks what exactly J. Fox is looking for. J. Fox states that he wants the system to meet the code for an apartment. According to the letter it should be 180' of leach field.

(M. Thraikill arrives – 7:18 p.m.)

L. Dupouy states that then J. Fox wants the system to be in legal compliance. J. Fox states that the applicant can rent the apartment, he just has to have the septic system meet the approval, which it does not. He states that the thing that he is concerned about is when we pay anyone to do an inspection, he states that when he first moved here the town would inspect your leach fields before you got approved, now the town has thrown that responsibility on to engineers and the town pays them to do it. C. Baker states that is not true. T. Yasenchak states that whenever someone has a house or septic system up on a property it is the homeowner's job to hire a licensed engineer to come out and inspect and certify that system. J. Fox asks why E. Gailor's letter is addressed to the Town. T. Yasenchak states that the Board cannot speak for E. Gailor and she states that there are a lot of things that can happen on a piece of property before or after someone writes a letter. J. Fox shows the Board a copy of a letter signed by G. McKenna when the property was sold by Realty USA. He reiterates that this has been in and out of court for 9 years. He states that E. Lawas stated that he would comply. He never bothered, sold the property and left. He asks if K. Merchant showed the Town an approved septic design for this apartment. C. Baker states that for this application the applicant is required to provide the Town with a certification from a licensed professional engineer stating that the existing septic system is built according to standards. What we have is a letter from E. Gailor stating that it is adequate. This Board, right now, has a piece of information that has been presented to us, from a licensed professional that is stating that this system is adequate for what he wants to do there. Now J. Fox is

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questioning, and he has a right to do that, the certification and now it is up to the Planning Board to decide what the next step is and whether they want to get a second opinion on it, etc. J. Fox states that if K. Merchant hired an engineer, then the letter should have been sent to him. T. Yasenchak states that the only time a letter from an engineer is required is when the system is installed, not as people buy a property. The Board cannot speak for K. Merchant and that is why we are going to hold the public hearing open. J. Fox questions if he should get an attorney involved regarding his conversation with E. Gailor of this morning or is the Board going to take him at face value. T. Yasenchak states that the Board's job is to look at all the information that comes before them. When a neighbor does come in and has questions or concerns about neighboring property the Board does look into that. It may cause the Board to ask additional questions of the applicant, as well as our legal counsel, as well as the building inspector. The Board likes to have neighbors attend public hearings, because sometimes there are things that the Board does not know about. B. Duffney asks if J. Fox's well is still located where it is indicated on the survey. J. Fox states that it is and that the one leach field comes down towards his property. He points this out on the survey. He states that E. Gailor stated it had 180' which meant it would have to have at least three 60' leach lines, which there aren't. He states that from his well, straight across the driveway is pretty close to 100', which G. McKenna had once said was 60', but J. Fox measured it and knows he is right. C. Baker asks if the elevation of J. Fox's well is lower than the septic. J. Fox states that it is, that is a concern of his. If his well does fail and it is because of that septic, then there will be major legal issues anyway. He states that the whole point right now is that he is trying to avoid contaminating his well. According to what E. Gailor said, leach fields should go away from someone's property. The reason the previous owner had no leach fields was because they would have had to go towards their driveway. There is only 59' of frontage and if they were going to have 60' of leach field they would have to go from the garage all the way across the driveway, which is illegal. The septic tank and the distribution center are all supposed to be certain distances from the garage which they aren't. He states that there is no documentation and E. Gailor said, to J. Fox's recollection, that it was a visual. How can you visualize and approve a septic system? E. Gailor stated that he was going to call G. McKenna and that with the pictures that J. Fox showed him, E. Gailor would not have accepted this. B. Duffney asks when the pictures were taken – at the beginning, during or towards the end. J. Fox states that this was during the whole thing and it was open for basically the week for someone to come take a look at this and then it was covered up. He states that he checked it every day; he's been dealing with it for 9 years. B. Duffney asks if Bob Roeckle was the Code Enforcement Officer at the time. J. Fox states that it was put in before B. Roeckle. He states that three people have owned this house before. The original guy, LeBrun, put it in because his daughter married a Navy guy and he was going to have them live here. J. Fox did not turn them in because he assumed that they had gotten approvals. When he found out it wasn't right, he came down and talked to G. McKenna. Then the property was owned by Michelle and Patrick Lawrence, who still live in Greenfield; then Ethan Lawas, who had legal issues over the apartment and the septic; and then K. Merchant. At the time that K. Merchant bought this house he only owned 2.5 acres so he didn't have enough road frontage then to have the apartment. Then the Zoning laws changed and he bought another piece of property in the back from Harry Vradenburg. He then had enough acreage that he could have subdivided his property. He understands that the zoning law allows the apartment and he has no problem with that. J. Fox states that he just wants a fully approved septic system by law that he doesn't have to worry about the devaluation of his property and well. C. Baker states that one of the conditions that allows that garage apartment is that he has to prove to the Board that he has a septic system that can support it. J. Fox states that has not been approved. C. Baker states that in light of what J. Fox has shown the Board tonight, that is true. J. Fox states that the Board is telling him that the letter basically says he does. He states that he can't imagine someone having a license and inspecting any kind of a septic system and not having any records at all. T. Yasenchak states that when a septic is initially put in it is required to be stamped by a licensed engineer and be according to the standards given to us by the State. There was a time in Greenfield when the building inspectors reviewed things and not the engineers. There are things that can happen to a system after it has been put in and things can be moved. Like C. Baker mentioned, because this is a different process and there have been a lot of different owners involved, that is something that we can take into account when we look at continuing on with this project with K. Merchant. J. Fox states that he would like to see K. Merchant's diagram of this and who it was approved by. He states that the copy of the letter he has says it was to the Town of

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Greenfield, not to K. Merchant. T. Yasenachak states the Board is reviewing K. Merchant's application according to the laws and that is why we have a public hearing. The Board will definitely be discussing this with the applicant and that is something that we can have as a contingency before something is approved. She states that we are going to keep this public hearing open because the applicant is not here to comment. The applicant will also be before the Zoning Board at which time there will be another public hearing as well. The applicant has not been to the Zoning Board yet so a public hearing has not been set by them yet. L. Dupouy explains that as this is being continued, J. Fox can come back in two weeks. J. Streit asks, for his clarification, that the building exists and that J. Fox has no objection to the applicant renting it if the septic system is legal and intact. J. Streit asks if that is the only issue J. Fox has, that the septic system meets the standards and is distant enough from J. Fox's well. J. Fox concurs and states that is why he went to the engineer that the Town hired. T. Yasenachak reiterates that it is not the Town who hired the engineer. C. Baker states that E. Gailor has nothing to do with the Town of Greenfield; he was hired by the applicant. J. Fox states that is why he thinks the letter should be addressed to K. Merchant and not the Town of Greenfield. C. Baker states not necessarily, the engineer was hired by K. Merchant to prove to the Town of Greenfield that the existing system meets the NYS codes. T. Yasenachak states that the public hearing is adjourned to the next meeting. C. Baker states that it might be beneficial to pull the previous minutes.

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**JILL CUNNINGHAM – Minor Subdivision**

Locust Grove Road

Jill Cunningham is present. T. Yasenachak reviews G. McKenna's notes stating that the standard notes are missing from the plans; the footprint for the house shown seems very small, 1500 square feet, and does not appear to include a garage which would significantly reduce the house's footprint, and the plans are not stamped. C. Baker states that the applicant has done what was asked of her, the topo has been added as well as the house, well and septic locations. His only comment is related to the size of the house. Obviously, this piece of property cannot support a large structure and he does not know if that is something that the Board wants to consider as a restriction of the approval, because if someone tries to put a 2000 or 3000 square foot home there, this might not work, as G. McKenna has referenced. J. Cunningham states that there isn't really anything to live in, newer, in the Town under 2000 square feet. This might be something for someone who can afford to build a nice house. She states that she is not asking a huge amount for this property because of the wetlands and the small building envelope. She states that 1500 square feet is still a good size home and someone could put a modular or Cape Cod back there. C. Baker states that the only thing that does for this Board is that if the property is sold and a new owner comes in here with plans for a large scale house and we tell them that they can't build on that property, it could put the Town in an awkward position. J. Cunningham states that can be put in the deed and contingency of the sale of the land. M. Thraillkill asks if then the applicant wouldn't have an issue putting it in the notes. J. Cunningham states that she feels 1500 square feet is reasonable. T. Yasenachak states that her only comment would be that the house could be put in another location to make it larger, however because of the topo there might need to be a different type of septic system if it is put elsewhere. This would be an added expense also. J. Cunningham states that this is why she priced it lower knowing that there is going to be at least \$10,000 in excavation for the driveway, etc. She knows that they would not get as much as they would like for it, but it is still a nice little place to build on, 6 acres of private land. She also states that as a real estate agent she must by law disclose any issues and she is not going to lose her license over this. She states that this will sell quicker to someone who wants to build a 1500 square foot home. B. Duffney states that it makes it a lot easier if everything is up front. **The Board completes Part II of the Short Form SEQRA. All questions are answered "no". J. Streit makes a motion to check Box B, indicating that this will not result in any significant negative environmental impacts. L. Dupouy seconds the motion. All present in favor. J.** Streit asks what the length of the proposed driveway is. The map is reviewed. C. Baker states that there also needs to be a turn around for an emergency vehicle within 100 feet of the house location.

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**RESOLUTION – J. Cunningham, Minor Subdivision**

MOTION: L. Dupouy

SECOND: J. Streit

RESOLVED, that the Planning Board grants a minor subdivision to Jill Cunningham for property located at 525 Locust Grove Road, TM#125.-2-40.22 per the map submitted and contingent upon:

- **Addition of standard notes and PE stamp**
- **Payment of application fee**

VOTE: Ayes: Duffney, Dupouy, Streit, Thrailkill, Yasenchak

Absent: Dake, Siragusa

Noes: None

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**JAMI AND BRUCE KENISON – Lot Line Adjustment**

Greene Road

The applicant has asked for postponement.

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**ZBA REFERRAL**

**Joseph Ponessa** – The applicant is requesting an area variance to convert the basement of the home into an in-law apartment. C. Baker states this also requires septic verification and any code issues regarding egress from finished basement areas. No Planning Board issues.

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**CORRESPONDENCE**

T. Yasenchak points out the letter provided from the attorney of a resident of Triple J Way. No action is required at this time.

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**DISCUSSION**

L. Dupouy states that the Town Board is going to be holding a town-wide contest, details to follow, for a slogan or motto for the Town. The winner is to be announced at the Town-wide garage sale in the fall.

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Meeting adjourned 7:52 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland