

TOWN OF GREENFIELD

PLANNING BOARD

October 9, 2012

REGULAR MEETING

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

MINUTES – September 25, 2012

MOTION: B. Duffney

SECOND: M. Gyarmathy

RESOLVED, that the Planning Board waives the reading of and approves the minutes of September 25, 2012, as submitted.

VOTE: Ayes: Duffney, Dupouy, Gyarmathy, Weeks, Yasenchak

Noes: None

Abstain: Siragusa, Streit

PLANNING BOARD CASES

GARY LAMOTHE – Minor Subdivision

Canty Road

No one is present for this application.

ZBA REFERRAL

Richard Stutzenstein – T. Yasenchak reviews that this is a request for an area variance on Hyspot Road. G. McKenna's notes state that there was an existing barn which burned down and the applicant would like to replace the barn on the existing foundation. The foundation is 10' from the edge of Hyspot Road, so the applicant would need a front setback variance. T. Yasenchak states that there is a letter from the Highway Superintendent to the ZBA. L. Dupouy states that she thinks that this is different yet similar to the 5 year rule. The 5 year rule was something that we noted that did not work and we let the Town Board to know and they revised it. She thinks that if you have a building that has been there for 150 years, and just because it burns down and you want to put a building right back in its place, to make the person have to jump through all the loops to go through Zoning, get the variance, the road supervisor, etc. She states that that seems not quite right. She states that maybe there is something here that needs to be adjusted in our Code. It just doesn't seem right. T. Yasenchak states that she understands, it is a frustrating step, but it is not uncommon. Even though it is jumping through hoops, it gives it a legal foundation so if someone else wants to build so close, they know the reason why and all that paperwork is done. It gets a little bit difficult to discern if it is destroyed by fire or what if someone just lets it go. Sometimes it gets a little confusing, but she understands. L. Dupouy states that she does not know this person. She is just saying that if it is something that is done to you, then it becomes incumbent upon you to have to go and jump to make it all happen for something that has been there longer than any of us have been alive. It is a little ridiculous to her. J. Streit states that he

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would suggest that we say that we are in favor of rebuilding on the same site, almost like a grandfathered situation, although it is not, and that we see no other Planning issues. B. Duffney states that he agrees with J. Streit. S. Weeks asks if there is a timeframe involved with this. Even if the applicant had wanted to rebuild the day after, he still would have to do this same process. T. Yasenchak states that is correct. B. Duffney questions that he thought that it was if you lost a building to a fire and you rebuilt within the first year, you could do it with just a building permit. T. Yasenchak states that the applicant does have to get a building permit, but in order to do that when G. McKenna does the review he has to see if it meets zoning. B. Duffney states that it has also been over the one year. T. Yasenchak states that G. McKenna did not mention that there is a one year stipulation. She states that is not one of the issues before us right now. She states that usually when the ZBA looks at something like this, they look at that as an outside circumstance. It is a hardship that was not caused by the applicant. J. Streit states that if the situation was such that rebuilding on the same site created a sight problem or like the barn over on Strakos Road that is very close to the road and kind of dangerous. He states that he knows this property and there are no issues like that. T. Siragusa states that he has a building like the one on Strakos that is right on the road, the barn has a stone foundation and he would want to rebuild it even though it is the same, about 30' from the road. He states that there is another structure that is right on the road and he could see the Highway Department not wanting that put back there if it came down because it is 3' from the road. T. Yasenchak states that the Planning Board does not see any Planning issues, but L. Dupouy would like to state that perhaps the Town Board could investigate this code for the future.

Daniel and Christy Lill – T. Yasenchak reviews that this is for an area variance on Greene Road. The applicant needs a side and rear setback variance. There is a neighbor who has similar variances because of the lot size. B. Duffney states that this is a tricky area to build in. T. Yasenchak states that there is an issue with wetlands. C. Baker asks if the house is existing. He states that when this was approved they knew that they had a limited building envelope. To ask for a variance, for what purpose? C. Baker states that the road is in and there is an existing house. He states that a septic field can be within the setback that is why he is questioning this. T. Yasenchak states that it looks like they can't fit it anywhere. Her best guess is that they don't want to up in front so they decided to put it in the back. C. Baker states that his question is, are they building something bigger than what is shown. T. Yasenchak states that then he is asking why they can't just build the house differently. T. Yasenchak states that then this is a self-created hardship. T. Siragusa asks when this became pre-existing, non-conforming. T. Yasenchak states that we don't know when this was originally subdivided. She states it is pretty much pre-existing, non-conforming because of the lot size. The lot size is 4.5 acres. Also, with the wetlands, that makes it difficult to build on so those pre-existing conditions force the location of the house. She states that if he tries to build in front of the wetlands, he is still going to be too close to the front of the property and would still need to have a variance. C. Baker states that he does remember this subdivision. They built on the lot next door, the lot to the left, and there was very limited area that they had for septic systems. There is a test pit shown and it was the best area they could find on that lot. The only question he has is that they presented this when they did this subdivision, the question is are they going to build a bigger house that they need that variance? Right now they have an approval to build a house where it is shown on that lot and it meets the setback, so what are they seeking. T. Yasenchak states that then the hardship is not necessarily the wetlands, the hardship is that they chose to build a different configuration of house that requires them to infringe on the setback. C. Baker states that that is what he thinks they are saying. J. Streit states that this is a zoning issue.

DISCUSSION

T. Yasenchak states that she is handing out a copy of a memo from the Town Attorney in regard to how our zoning laws relate to the re-approval of subdivisions. This is not for public record. As it is a letter between our legal council and the Planning Board explaining the subdivision rule about conditional subdivision approval and what our code states about extensions of approval. This is for the Board's knowledge in understanding how extensions work. T. Yasenchak states that she asked about this because of

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a certain project that is listed in the memo but has not come before the Planning Board yet for re-approval and she wanted to be pro-active so that we know how the code relates. She states that because this is from our legal council, it is not for public discussion as far as this memo or this specific project. She states that after reading the memo, if any Board members have any additional questions on how we address this situation in the future, we can ask the Town Attorney to come to a Planning Board meeting and present us with more facts or explain it further. J. Streit questions that this has to do with lot sizes. T. Yasenchak states that it really just comes down to our code does not say that we can grant more than two approvals. It says that we can grant one extension. J. Streit states that then, hypothetically, an applicant could reapply and have to start from scratch. T. Yasenchak states that anyone who has a project who has conditioned approval and has not met that and not filed an official map, they would have to reapply and therefore meet the code. L. Dupouy asks why this is a letter for the Planning Board and the Town Board and we do not have our Town Liaison member here to discuss this with us. T. Yasenchak states that this letter is from our legal council and that she spoke with M. Schachner and M. Hill herself, so that she could have a clear understanding of the code. If we ever have a question, she goes right to the attorneys, not to the Town Board. She states that she does not even know if the liaison knows about this.

T. Yasenchak states that R. Rowland will be contacting everyone about the in-service training.

Meeting adjourned 7:23 p.m., all members in favor.

Respectfully submitted,

Lorraine Fiorino