

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

**April 5, 2011**

**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, Michelle Granger, Paul Lunde, and Stanley Weeks. Kevin Veitch and Joseph Szpak, Alternate, are absent.

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**March 1, 2011 MINUTES**

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of March 1, 2011, with a minor correction.

VOTE: Ayes: Conard, Granger, Lunde, Weeks

Noes: None

Absent: Veitch

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**NEW BUSINESS**

There are no new applications for this meeting.

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**OLD BUSINESS**

**DAVID PRATT – Area Variance, Case #868**

Lincoln Mountain Road

David Pratt is present. T. Conard reviews that the applicant is seeking a left side yard variance of 30' to build a garage due to the topography of the lot. A public hearing is opened at 7:32 p.m. Greg Martin, Lincoln Mountain Road, states that he is opposed to the variance. He feels that the applicant can put the garage in the area of the existing shed without disturbing any of the rest of the land and there would be no need for a side yard variance. He wants to make sure that when this is staked out, that it is staked by a surveyor so that should they sell their property in the future there would be no legal ramifications. He states that it is hard to tell the scale of the 75' setback, but on the side that faces his property, the land does go off at a little bit of a slope and it increases as you get to the 75'. He believes that the one corner may get into the side of the bank and may need fill. If that is the case, he just wants to make sure that anything that is done on the side of that hill would be controlled fill so that there is no erosion on the Martin's property. He states that if any of the Board members were to go take a look at the property, there is room on the back right by the house to put a garage without a variance. G. Martin comments on the 75' from the road. T. Conard states that that is legal, the applicant is only seeking a variance for a side yard setback. G. Martin comments that there are no contours on this map so it is difficult to tell. He questions if any of the Board members are going to go to the property. S. Weeks states that he has and knows the general location. G. Martin states that he does not see any stakes for spotting the garage. He has no other objections. Veronica DeLancey-Smith, Lincoln Mountain Road, states that she has a letter for the Board. She states that she has spoken both with Sandra and the applicant in regards to her feelings about this variance. She states that she is opposed, she feels that 30' is a huge request and that if the Board grants this variance, what precedent does this set for April 5, 2011

other neighbors who want to build when they do have the space to build a garage. She states that what makes it difficult for D. Pratt is that he has a circular driveway and if he puts the garage over far enough from the 50' it would cut off part of the circular driveway, yet he still does have a full straight driveway that has complete access to it. It would not be what the applicant wants or what he considers best for him, but it still maintains the integrity of the property lines and it seems to her that would be the fairest situation. She has no malice towards D. Pratt or Sandra and will be content with whatever the Board's decision. Her concern as a neighbor is what does this do down the line. Just because someone decides that they want to build a garage, and have at it, just build the garage in such a way that it is fair to everybody without infringing on anyone's established lines. She states that if there really weren't a place for it, that would be a different situation entirely, but there is the space to do it. She feels that there needs to be a sense of integrity here that these were the rules that were established when they all bought their properties, they all have parcels that are very similar in shape and size, they all built their homes based on the knowledge of those setbacks. It takes foresight to plan for the future and she understands that that was not part of his plan, however, it is not responsible for the rules to be changed to meet what is happening now. Michael DeLancey, Locust Grove Road, states that he is the executor of his mother's estate, which is a neighboring property. He states that he can probably add very little except to echo agreement with what is being stated. He states that the topography of the land is sometimes somewhat difficult, but everyone who has built up there has done so with that knowledge. In the estate that he is dealing with, he realizes in that situation to make the topo work within the guidelines cost well over 50 tri-axels of fill to make it appropriate and to stay within the guidelines. As the executor of the estate, he has some concerns about the integrity of the neighborhood and the effects that it would have on the estate. There being no further public comments, this public hearing is closed at 7:42 p.m.

P. Lunde states that a couple of the neighbors brought up the fact that it would appear that there is room to put the garage, without the 30' variance or at least a less substantial variance. In looking at a map that was provided and the topo, he states that it appears pretty flat near the house. D. Pratt states that the whole driveway is basically flat. He has photos to present. Regarding the public hearing comments, he states that the area where everyone would like him to put the garage would still require him to get a variance. It would be 35' to where he could actually put it, unless he put it on top of the house right where the driveway goes in. That would be where the 50' line is, but where he parks right now, the 50' setback runs right through that. P. Lunde asks if the driveway comes in perpendicular from the road and then angles towards the house. D. Pratt states that it angles slightly towards the house, but not much, it goes in fairly straight. He states that the purpose for the garage is storage so he wants to be able to park where he normally parks and still be able to use the driveway. If he puts the garage where he normally parks, he will need a variance at that location also. He states that as far as putting the garage wherever he wants on his land, he is a surveyor by trade and states that he has .37 acres of buildable land. That is less than 1/2 an acre to build on before it slopes off on all sides. P. Lunde asks how far the driveway is from the property line. D. Pratt states that it is 60' and was established by the Town of Greenfield. When he bought the land the driveway was there. It is about 20' wide. D. Pratt indicates on one of the pictures where the 20' would be and states that it would not obstruct anyone's view because of the woods and this shows how it drops off. He reiterates that even though it is a 5.4-acre lot, with the setback lines and the slopes he is left with 0.37 acres of buildable area. D. Pratt states that if he built the garage on the other side of the lawn, he would need a variance there because his septic system and leach field basically take up the entire lawn area. He states that if there were issues with someone having a lawn really close or obstructing someone's view, he would definitely consider coming up with something different. It is all woods up there; everyone has a lot of room. He states that someone across the street got a variance. As to changing the neighborhood, that person put in a pole barn and was in the same situation. The lot is very narrow to build on. Also, he believes that the setbacks changed in 2007 and asks if anyone knows what they were in 2001 when he bought the land. He does not believe that they were that great as he remembers thinking about it and believing that he would have plenty of room. P. Lunde asks how large the shed is. D. Pratt states that it is 11 x 15. P. Lunde asks if he got a variance to build that. D. Pratt states that it is within the setbacks. P. Lunde questions if he got a building permit for the shed. R. Rowland states that a permit is required if it were over 192 square feet. P. Lunde  
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asks if the applicant has thought about putting the garage next to that building, between it and the house. D. Pratt states that there is not enough room there. P. Lunde states that part of the Board's problem is that the applicant does have property to build the garage without a variance, and part of what the Zoning Board is required to do is give the least amount of variance. If the property shows that you can build it without a variance, it is very hard for the Board to give a variance, by law. T. Conard reiterates that the ZBA's charge is to give the least amount of variance that they can. It doesn't mean that the applicant would have to put it right up against the side of the house, but they are looking for hopefully a little less of a variance. P. Lunde states that in looking at what the applicant is giving for information, it is unfortunate that the applicant may have to lose part of his driveway, but the applicant can do it. D. Pratt questions even though it is an existing driveway that was there when he bought the property. He asks that then if he stays within the setbacks, he can build it there. P. Lunde states that then the applicant would not need a variance. D. Pratt asks if he can change his driveway and asks if there are setbacks for that. T. Conard states that driveways have no setbacks. D. Pratt withdraws his application. G. Martin asks for clarification that the applicant is going to put the garage within the setbacks. S. Martin asks if he then is going to put the driveway behind the garage. T. Conard states that the building itself will be within the setbacks. G. Martin states that he did speak with the applicant previously about moving the shed and putting the garage in its location. S. Weeks states that the applicant is being a good neighbor.

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**JOHN AND HETAL HERZOG – Area Variance, Case #869**

Coy Road

John and Hetal Amin Herzog are present. T. Conard reviews that the applicants are seeking a height variance of 17'7" to build their home. A public hearing is opened at 7:54 p.m. Jon Davis, Fire Chief, Porter Corners Fire Department, states that their only concern is that their ground ladder extends to 35' but when you put the incline of that ladder up you go down to about 28' to a window. He states that if the applicant has young kids on that third floor, God forbid that there is a fire and the Fire Department can't get to them, that is going to hurt everyone. The Department does have a 102' ladder that is capable of reaching the top of the house, but the timeline on that is 15 to 20 minutes. As far as J. Davis is concerned and the District Chief, they encourage the applicant as it is going to add to the tax base of the town, but the driveway is going to be a big concern - the house not so much as they are trained to go into burning buildings. The driveway being big enough to hold these trucks is a concern. J. Herzog asks what the needs for that are. J. Davis states that the ladder device has outriggers that stick out on each side of the truck so you are looking at, at the least, a 20' wide stable area up by the house to set that truck up. He states that normal driveways are about 12 to 15' wide. He asks how far back the house is going to be. J. Herzog states that it will be pretty far. J. Davis states that they will not wait for the ladder truck to get there, they will be there with the other fire trucks. They need the area to have enough room so that the ladder truck can still get in there if there are two or three other trucks there already. J. Herzog states that there is lots of room so he does not see why there couldn't be a clearing that big. J. Davis states that as far as the Fire Department their concerns are to make sure that the driveway is capable to hold 4 to 5 fire trucks close to the house. If this house ever were on fire, they would need that ladder truck in there. P. Lunde asks if most driveways can handle their 60-ton truck. J. Davis states no. J. Herzog asks how much a concrete truck weighs. J. Davis states 80,000 to 90,000 pounds. P. Lunde states that 60 tons is 120,000 pounds. J. Davis states that if we can say safely a 40 to 50 ton vehicle. R. Rowland states that the current keyhole regulations state 30,000 pounds. J. Davis states that they are going to need a wide driveway, 12 - 15' is not enough, it should be a little more. J. Herzog questions that they would need more room when they get towards the house. J. Davis states yes, but that they would need the main driveway to be wider. A house this big, they are going to need a lot of water if it ever burned. They are going to have to bring a lot of trucks. J. Herzog questions that he means they are going to have to be able to pass each other, and how much room would he need. J. Davis states that they would probably need 30'. J. Herzog states that he doesn't want his house to burn down either so it is to his advantage to cooperate. J. Davis states that the Fire Department is not against the applicant building the house at this height. He is just explaining that with the ladders they have, 28' is the highest they are going to be able to

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get into a window. J. Herzog states that the back of the house is what makes it 52' because it is a walkout basement. The front is 47'. He states that the roof is what messes this whole thing up. It is like this giant fancy roof. The floors are just 10' floors. J. Davis asks what the highest window with livable space is. J. Herzog states the second story, less than 20'. P. Lunde questions that the glass on the roof is just for space. J. Herzog states it is just space; nothing – storage - nothing. They just like that feature on the roof. The bedrooms are located on the second floor and there is no one up there at all. P. Lunde states that it looks like there are solar panels on the roof. J. Herzog states that they are. J. Davis states that unless the Board has any questions, their biggest concern is to have room in there for the 3 or 4 fire trucks. T. Conard states that there is an e-mail from Michael Chandler, Fire Commissioner, expressing the same concerns voiced by J. Davis. There being no further public comments, this public hearing is closed at 8:03 p.m.

M. Granger states that there were Planning Board comments regarding the fact that Polo was limited to the 35' height restriction even as a commercial business and they had suggested some type of visualization. J. Herzog states that this will be in the woods where the trees are 70' tall. P. Lunde questions how far back from the road the house is going to be. J. Herzog states that there is a sketch showing 120', it is quite a ways back. He states that from the front is it 42' and then it drops off in the back. P. Lunde states that then it is basically 7' higher. J. Herzog states that it is 7' higher in the front. He states that they are trying to make this look like a French country estate and that it will be a really nice property for the Town of Greenfield and for his family. M. Granger states that the drawings are beautiful and she understands what they are trying to do. Her concern is that the restriction is 35' and if we grant this variance to the applicant we are opening the door for precedence for a number of other things. Other applications have come before this Board, such as the wind turbines, and the Board has turned them down. M. Granger acknowledges what the Fire Chief has said. She understands that right now it is set back into the woods, however, the house is going to be there long after the applicants are not there and a variance stays with the land. If someone were to decide to cut down all the trees, it is clearly different from whatever else exists in that neighborhood at this time. P. Lunde states that someone down the line could take that third floor and make it living space. Those are concerns we have to deal with, too. T. Conard states that when the Planning Board was dealing with the Polo grounds they were very strict about the height and that is a commercial operation. J. Herzog states that they love Greenfield and want to stay here, but they have outgrown their accommodations; they love the school; they have money to travel and understand the Board's decisions. He thinks that on 35 acres this is reasonable and having a few of these scattered around Greenfield would be nice for the community. P. Lunde states that technically if they were to build this in downtown Greenfield they would need a 2' variance. There is a 50' height restriction in Town Center and 75' for industrial. He states that we can table this or make a decision. It does not sound like the Board is going to approve it, but if the applicant wants to stay in Greenfield if they check the regulations, there are differences in the height restrictions and that the concern of the Board is safety. J. Herzog states that they will make all the accommodations for the fire trucks, he does not see a problem with that. S. Weeks states that he feels that for a residential area this is a very significant variance. T. Conard reviews heights for other zones. S. Weeks states that he is comparing the different requirements in different sections of Town for lot sizes. The height thing is the same kind of issue so if we are talking about residential areas, there is a strong reason for the 35'. P. Lunde states that if you are talking about the center of Town, most of the roads you are on are State or County roads so the fire equipment doesn't have the problem. J. Herzog asks if they did some type of sprinkler system or fire system, if it is safety, with technology they could set that up. S. Weeks states that in talking about that, somewhere down the road residential buildings will all have sprinkler systems. M. Granger states that it is a difficult situation as a Board member because she totally respects the fact that the applicant has 35 acres of land and a beautiful design for a house that they want, but when she looks at the criteria that they have to look at as a Board member, the questions she has to consider are: whether the benefit can be achieved by other means feasible; undesirable change to the neighborhood character or to nearby properties; whether the request is substantial; whether the request will have adverse physical or environmental impacts; whether alleged difficulty is self-created. Depending on how you look at this in terms of it being a residential area, can the benefit be achieved by other means – if they had different house plans they could achieve it; is this self-created – it is self-created because of the plan that has been chosen. She states that in a residential area

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where the Board has been firm at 35', she does feel it would be an undesirable change in the neighborhood. She understands that they have 35 acres, it is off the road, and it may not necessarily be visible at all for anybody. In moving forward, the variance stays with the land. She understands that the applicant is in a position to have the capability to put in anything they need to make sure that they are safe, hopefully. When she looks at the criteria under which she is supposed to evaluate whether the variance is appropriate and how the Board's have handled other cases, she still comes back to the criteria and that we are in a residential area. She states that when we grant a variance it is the minimum amount necessary and this is an aesthetic that the applicants have elected. She does not feel that we are at the minimum variance that could be requested. She states that one of the options would be to rework it and come back with something else. When a variance is granted, there is a reason that it needs to be done. She does not see that existing here. S. Weeks asks if the architect asked what the restrictions might be on the height of a structure. J. Herzog states that they are from Glens Falls and the towns he had done properties in had no height restrictions. T. Conard explains that granting the variance could set a precedent. J. Herzog states that that could be a good thing to have a lot of houses like this in Greenfield. T. Conard states that it could be but the point is that then anyone could build a lot of houses at that height and they will come in for that. He states that if there were some unique feature of the land that made it different from anyone else in Greenfield where we could say because of this feature we have no problem giving the height variance, he would feel better about that. M. Granger states that the Town Board has several things before them in terms of making some changes. She is not aware that they are looking at height restriction changes. P. Lunde states that the applicant could go to the Town Board and explain the situation. J. Herzog asks if the Board feels that something like this is going to be a real request. T. Conard states that we have had other cases where height has been an issue. J. Herzog asks to have this tabled and he will think about their options. M. Granger states that the applicant should remember that the Board is charged with granting the minimum variance necessary to accomplish what is before us. She states that in this case there is not a justification for granting this variance. We need to find a better way or something that is unique so that the Board meets its mandate to meet the needs of the applicant.

**RESOLUTION – J. & H. Herzog, Area Variance**

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals tables the application of John and Hetal Herzog for property located at 812 Coy Road, TM#137.-1-3 to the May 3, 2011 meeting

VOTE: Ayes: Conard, Granger, Lunde, Weeks

Noes: None

Absent: Veitch

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Meeting adjourned 8:27 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland  
Secretary