

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

**April 7, 2015**

**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.

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**March 3, 2015 MINUTES**

MOTION: M. Granger

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of March 3, 2015, as submitted.

VOTE: Ayes: Eskoff, Granger, Szpak, Veitch

Noes: None

Abstain: Conard

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**OLD BUSINESS**

**SHAWN & KATHERINE HARRIS – Area Variance**

Case# 944, Liberty Drive

No one is present for the application. A letter was received from the applicant's attorney requesting that the case be tabled to the May 5, 2015 meeting.

**RESOLUTION – S. & K. Harris, Area Variance**

MOTION: K. Veitch

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals tables the application of Shawn and Katherine Harris for an area variance for property located at 3 Liberty Drive, TM# 151.20-1-30 to the May 5, 2015 meeting.

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

Noes: None

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**NEW BUSINESS**

**STEWART'S SHOPS #360 – Area Variance,**

Case#945, Middle Grove Road

Chris Potter is present for the application. T. Conard reviews that Stewart's is requesting to replace some signs. He reads from G. McKenna's notes from Section 105-123-B (9) stating that any pre-existing, non-conforming sign which is altered in any way must now conform to current code. The applicant would like a variance from our current zoning in order to replace these signs. M. Granger questions where the new sign will be. C. Potter states that it will be in exactly the same location but they will be changing the face of the signs. D. Eskoff requests the applicant bring some photos next time.

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**RESOLUTION – Stewart’s Shops #360**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Stewart’s Shops #360 for area variances to replace signs for property located at 465 Middle Grove Road, TM#162.12-1-6 and schedules a public hearing for May 5, 2015 at 7:30 p.m.

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

Noes: None

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**STEWART’S SHOPS #310 – Area Variance**

Case #947, NYS Route 9N

Chris Potter is present for the application. T. Conard reviews that this is the same application but for the Route 9N store. D. Eskoff questions that the sign is staying in the same location. C. Potter confirms. M. Granger questions that on the Middle Grove Road application the building sign action is listed as ‘replace/move’. She asks that he bring a photograph of where the sign is located and where it will be moved to.

**RESOLUTION – Stewart’s Shops #360**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Stewart’s Shops #360 for area variances to replace signs for property located at 2532 NYS Route 9N, TM#138.3-1-34 and schedules a public hearing for May 5, 2015 at 7:30 p.m.

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

Noes: None

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**DEREK & JENNIFER ZEH – Area Variance**

Case# 944, Bump Hill Road

Al Packard is present for the application. T. Conard reviews that the applicant is seeking area variances for construction. He reviews G. McKenna’s notes. Discussion takes place as to what is around this property. R. Rowland states that to the rear is vacant and there are houses on either side. M. Granger asks for dimensions of the structures on the adjacent properties to the property lines. A. Packard states that he is not sure that he can get that. R. Rowland states that she will check for plot plans for the other homes. L. Sanda states that there are aerial images that are available on-line. L. Sanda asks that the location of the proposed driveway be added. M. Granger states that that would help for the Board to be able to visualize overall. She states that we do not know what the reaction of the neighbors will be to what is being proposed, but sometimes we have to find ways to minimize a little further, change the location of something, etc. She asks that A. Packard come prepared to the next meeting to see if there is anything that could be tweaked a little bit to work with the neighbors if they come in so that the Board can do the best thing possible for everyone. M. Granger asks that we have that information by April 21<sup>st</sup>. D. Eskoff questions that the house is currently at an angle to the road. A. Packard states that it is a little bit of an angle.

**RESOLUTION – D. & J. Zeh, Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Derek & Jennifer Zeh for area variances for property located at 53 Bump Hill Road, TM#138.-1-70 and schedules a public hearing for May 5, 2015 at 7:30 p.m., contingent upon receipt of the following:

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- Dimensions from the adjacent buildings to the property lines.
- Layout of the driveway placement on a site plan

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

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## **DISCUSSION**

M. Granger states that it was very helpful that G. McKenna provided the Code section regarding non-conforming signs for the variance request from Stewart's.

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D. Eskoff asks if we need to request additional information for the Harris case. R. Rowland states that there is some additional information in tonight's folders. D. Eskoff states that G. McKenna was either going to come and address the ZBA or write something regarding the case. R. Rowland states that she believes that he did not because of the request to table. D. Eskoff states that her concern is whether we should have a formal copy of the fire report and she thinks we should if we can get one. M. Granger states that the other thing that might be helpful would be to get a copy of what was provided for in order to get the building permit as to what it was proposed to be used for. R. Rowland states that is in the packet. D. Eskoff states that if they know that there was a fire, then we don't need the report. R. Rowland states that we did know that there was a fire and that was the reason the previous owner got the building permit to renovate and replace the garage with a room above for storage. The CC was issued for a garage. J. Szpak states that he missed the part where we didn't know how to classify that garage and we do have something that clarifies – garage apartment vs. in-law apartment. T. Conard states that an in-law apartment is supposed to, as he understands it, have one entrance into the house that is shared. It shouldn't have two entrances. A separate garage apartment would have a separate entrance. He would consider this a garage apartment. M. Granger states that right now it is considered a bedroom because the cook top has been removed, they got the electrical inspection and she spoke to G. McKenna today who did an inspection for insulation. It is now classified as an additional bedroom. Discussion takes place regarding other garage apartments and that the Code states that it cannot 'look' like a separate entrance, but garages usually have a separate door. D. Eskoff states that when you look at the definitions of the building code, it only discusses dwellings. This is something we need to look at when we discuss it and then as the Town looks at code changes with G. McKenna to make sure we are very clear on these things. J. Szpak states that it makes a big difference if it is an in-law apartment or a garage apartment. M. Granger states that the new owners who are purchasing the property wanted the application tabled so that they could come back and discuss that with the ZBA. J. Szpak states that we don't know what they want to do with that. D. Eskoff states that there have been changes made and that is all that we know. K. Veitch states that if this changes ownership then that application is no longer valid and they would have to reapply. R. Rowland states that she and G. McKenna discussed that the new owners would have to fill out an application in their own name. D. Eskoff states that that becomes a new issue because basically the others have withdrawn it. T. Conard questions that then should it be withdrawn. D. Eskoff states that is not the part we really voted on. That is something we need to discuss before we discuss the rest of it. She states that G. McKenna is involved and that is the important thing. M. Granger states that if that sale goes thru, then there has to be a new application by the new owner; it can't transfer because there is no agency relationship there. D. Eskoff asks if that is something that we want to require tonight. K. Veitch states that we could amend the motion that if it is sold. T. Conard states that we would have to have a unanimous vote to amend. K. Veitch suggests that next month when it comes up, it will either be closed or not. D. Eskoff states that we would be accepting their application or not, or do we have to do something in addition to that. Board consensus is that the new owner would have to fill out their own application. J. Szpak states that it would be reasonable to inform the lawyer and/or the new owners that we can't act on the tabled recommendation because there would be new owners. D. Eskoff states that the situation has also changed, the facts of the case have changed. J. Szpak states that would allow them to submit something before the meeting for the ZBA to accept an application. D. Eskoff reads from J. Hover's

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letter. She states that they can do that all they wish, but that does not mean that the ZBA has to accept that. M. Granger states that it is unclear to her if those rights can actually be assigned. T. Conard states that we need to have a determination on that from the Town Attorney. K. Veitch questions amending the motion. D. Eskoff states that it is better to make a new motion because the previous motion only tabled. T. Conard states that we tabled the current case so if they don't sell the house. D. Eskoff states that the question is, can they assign the rights and if not we would need a new application from the new owners. M. Granger states that K. Veitch's point is that it is part of that motion; we will table it for the current owners but then ask for a determination from the Town Attorney whether or not those rights can actually be assigned instead of a new application being submitted by the new owners. From that perspective, as J. Szpak pointed out, it would be helpful for someone to know that that is what we are looking at. J. Szpak states that would allow the Board to move this along if they chose to move it along. M. Granger states that we should amend the motion to include that we need to know from our attorney if those rights can be assigned and if not, then should the sale of the property proceed, then the application would be done and the new owners would have to submit a new application. The circumstances have changed dramatically compared to what that application was submitted for. D. Eskoff states that we learned that thru the Town and not thru the other parties. M. Granger states that a letter should go to J. Hover to advise him that the application has been tabled but we are consulting with the Town Attorney to determine whether or not his clients can assign the rights. K. Veitch states that he does not know how they can assign the rights since as soon as they sell the property, they don't have the right. M. Granger states that given the adversarial nature of these proceedings to date, that if we could get that determination from our Town Attorney, then that removes one additional layer. The other question she would have, considering the circumstances under which that application was submitted have changed; now it is no longer a question of whether it is a garage or in-law apartment, now it is being marketed as an additional bedroom – it is a moot point to begin with. K. Veitch questions if we even want to table this. L. Sanda questions if they don't sell it and want to continue. K. Veitch states that they can reapply. D. Eskoff states that she is unclear as to what they are going to be reapplying for. T. Conard states that it can be a bedroom, and the problem is that they may come back and ask to have the variance to have an apartment. D. Eskoff states that they advertised the home with more square footage than the Town has on record that not only included that bedroom but third floor space which we apparently have no record of. She does not know what else they would be coming to request other than an apartment. M. Granger states that what is written in the application no longer applies. K. Veitch states that we could table it with the provision that the tabling is only good until May and only good for the Harris'. If anyone else is going to be submitting an application for the same type of variance that the Harris' wanted then they are going to have to submit a whole new application. D. Eskoff states that she would still like the Town Attorney to respond to this. When we get communication from an attorney in this manner it is important that the Town Attorney respond. M. Granger states that she does not recall having other applications in front of us that have changed to this extent. They came in asking for an in-law apartment, have modified the space and it is an additional bedroom, why is that application appropriate. What they originally applied for no longer exists. T. Conard states that in order to sell the house, they have now gotten a CO for a bedroom; therefore it is a different application. M. Granger states that the clarification may be from the Town Attorney also, when the application was submitted for one thing and circumstances have changed, isn't the application automatically moot and no longer applicable? K. Veitch states that the change has been made in order for the sale to happen, because a bank won't finance a property if there are violations on it. They corrected the violations. M. Granger reiterates that she does not think that they can assign rights and that when the circumstances under which the application was submitted no longer exist; it seems that we can't actually table the application – it is null and void. K. Veitch states that we know it no longer exists because we have been advised by the building inspector. T. Conard states that they can still ask for a variance. D. Eskoff states that she does not think that tabling it is a huge issue and we can deal with that on May 5<sup>th</sup>. M. Granger states that she would like for her own edification to understand that if an application is submitted and the circumstances change, is that application automatically null and void or is the applicant allowed to amend it to conform to the circumstances that now exist. J. Szpak states that if we did amend it to change the scope, he would like to reopen the public forum. Board concurs. K. Veitch states that the motion is as stated to begin with, and then with the two additional conditions.

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**RESOLUTION – S. & K. Harris, Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals makes a motion to amend its previous motion to table the application of Shawn and Katherine Harris for an area variance for property located at 3 Liberty Drive, TM# 151.20-1-30 to the May 5, 2015 meeting, and requesting clarification from the Town Attorney as follows:

- **Can the applicant assign their rights to a new applicant under an application that has been submitted**
- **If the circumstances dramatically change in an application, does that automatically make the application null and void, or is the applicant allowed to amend it to conform to the circumstances that now exist**

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

Noes: None

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K. Veitch asks if anyone has any input they would like to submit to the code committee. Discussion takes place regarding some of the issues that have been previously discussed. K. Veitch states that there seems to be a need for an actual committee to look at these types of issues on a regular basis so that the committee could work on things as they come up.

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Meeting adjourned 8:00 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland  
Secretary