

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

April 4, 2017

REGULAR MEETING

A regular meeting of the Zoning Board of Appeals called to order by Denise Eskoff at 7:30. On roll call the following members are present: Denise Eskoff, Laura Sanda, Joseph Szpak, Curt Kolakowski and Andrew Wine, Alternate. Absent: Kevin Veitch.

MINUTES

MOTION: J. Szpak
SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals waives the reading of and postpones the review of the March 7, 2017 minutes until the May 2, 2017 meeting.

VOTE: Ayes: D. Eskoff, C. Kolakowski, L. Sanda, J. Szpak
Noes: None
Abstain: A. Wine
Absent: Veitch

OLD BUSINESS

Gage, C. & M. Case# 977
Bockes Rd.

Area Variance
TM# 137.-2.27-112

No one is present for this case. D. Eskoff states that this case has a Public Hearing scheduled. D. Eskoff opens the Public Hearing at 7:35. D. Eskoff states that we will give the applicant until the end of the meeting before closing or adjourning the Public Hearing to the next ZBA meeting.

NEW BUSINESS

Piper, P. Case# 980
Brigham Rd.

Area Variance
TM# 138.-2-9

Patrick Piper is not present. D. Eskoff explains that the applicant would like to subdivide one 6 acre lot from the existing 43.52 acres, however, due to lack of road frontage an area variance is required. He has one hundred and ninety two feet and needs two hundred and fifty feet, he needs a forty feet minimum. L. Sanda would like photos of driveway and of across the street plus some additional labeling on the plan. D. Eskoff asks if the application seems complete. J. Szpak states that we would want photos by April 18th providing the Board with views of across the street of the new driveway and to the left of the new driveway up and down the road in either direction from where the driveway is. D. Eskoff asks if this project is in front of

the Planning Board. The secretary states yes. L. Sanda states that she wants to see what is around the driveways, a clear map of what shows this.

MOTION: J. Szpak
SECOND: L. Sanda

RESOLUTION: Patrick Piper, Area Variance

RESOLVED, that the Zoning Board of Appeals accepts the application of Patrick Piper for an area variance for property located at 87 Brigham Road, TM# 138.-2-9, contingent upon a map showing road frontage including any existing driveways of neighboring properties and a picture of the new driveway to be submitted by April 18, 2017. A Public Hearing is set for May 2, 2017.

VOTE: Ayes: D. Eskoff, C. Kolakowski, L. Sanda, J. Szpak, A. Wine
Noes: None
Absent: Veitch

Royal Rhino Case# 974
Route 9N

Area Variance
TM# 164.-1-40

No one from Royal Rhino, LLC is present. D. Eskoff states that they were supposed to get back to us regarding what the applicant/owners intentions are with the signs. D. Eskoff states that we have asked them to respond however, they are not here. A. Wine asks if they comply with NYSDOT. D. Eskoff states that they would not need the area variance if they did what we requested which was either use one sign or take both signs and put them back to back which would basically make one sign facing in each direction in addition to finding a better location on the property and work with G. McKenna and NYSDOT. A. Wine states they are just asking them to push them off the right away, they are not asking to consolidate. There is plenty of room to move the upper one. L. Sanda states that it basically came down to them needing a variance because they wanted two signs. L. Sanda states that they needed to move the signs anyway, they can combine them to be back to back or do a whole new (one) sign. D. Eskoff states that they can do a whole new sign if they chose. J. Szpak states that they walked away with options that would not need variance options that were not compliant with NYS. J. Szpak further states what I think we are doing is giving them an opportunity here if there is a need for a variance. A. Wine states that because they are not here we do not know what they want to do. J. Szpak states that I think we need to send them a letter to let them know that we have postponed this for one last opportunity.

MOTION: J. Szpak
SECOND: C. Kolakowski

RESOLUTION: Royal Rhino, Area Variance

RESOLVED, that the Zoning Board of Appeals postpones Case # 974, Royal Rhino, LLC, regarding an area variance for the property on 845 Route 9N, TM# 164.-1-40 and instructs that a letter be sent to notify the applicant that the ZBA required a response per their March 7, 2017 meeting for the applicant's to respond to the ZBA prior to tonight's April 4, 2017 meeting

with their intentions for the signage. This case is hereby postponed for a final decision until the May 2, 2017 meeting of the ZBA.

VOTE: Ayes: D. Eskoff, C. Kolakowski, L. Sanda, J. Szpak, A. Wine
Noes: None
Absent: Veitch

Ford, P Case# 975

Maple Ave.

Area Variance
TM# 153.13-1-12

The applicant, Patricia Ford, has withdrawn her application for an area variance.

Cochran D & G Cases# 978, #978-2

Lake Desolation Rd.

Area Variances
TM# 136.-1-55.1
TM# 136.-1-55-2

Daniel Cochran, Lucy Veitch and Heidi Montaro are present for the application. D. Eskoff asks if we have two applications. D. Cochran states yes. L. Sanda asks if the second application is for L. Veitch's property. D. Cochran explains that they are taking away a shared driveway and as a result we have deficiencies as far as the garage and the barn go. D. Cochran explains that they are going through the Planning Board and we had a sight distance issue and we got an engineer to sign off on that. D. Cochran explains that he and his wife agree with that L. Veitch wants to do here they don't want a shared driveway. He states that we don't know what is going to happen in the future, she needs an easement basically here too. D. Cochran states that he needs help from the Zoning Board with the area variances. D. Eskoff asks if there is anyone here from the public to comment on this project and there is no one present to do so. L. Sanda asks if the garage is on L. Veitch's property. L. Veitch states yes. D. Eskoff asks if there are there any correspondence regarding this case. K. McMahon states there is none. D. Eskoff states that there are two separate lots and they are two separate variances. D. Eskoff states that first area variance is for 342 Lake Desolation Rd. for a left side yard variance. They have 39.3' they require 50' they will need as variance of 10.7' J. Szpak asks if the barn is at 342 Lake Desolation Rd. with the 50' need so they are looking for a 10.7' variance there. D. Eskoff states that it is the smaller of the two variances requested. J. Szpak states that the issue is if you move the property line. D. Cochran states that they had a shared driveway. J. Szpak asks because you couldn't get onto it without it. D. Cochran states no basically L. Veitch actually owns the barn and the driveway but she wants to have it free and clear with an easement. L. Sanda states that in the future when D. Cochran no longer own this property L. Veitch don't want to have that shared driveway with so making this lot line adjustment now saves them from future shared driveway situations when there comes a time when this property is not owned by family. L. Sanda states that she believes that this shift in lot line is well worth it, because nothing is actually changing in real life. J. Szpak states that it looks to him like D. Cochran is self-creating the difficulty that is driving him to do this if you kept the property lines where they were the barn and the garage goes with this lot why can't you access

the second lot. L. Veitch states that to create a driveway from here would be a major undertaking, trying to come through the horse and cow field changing lines just to get a driveway. D. Eskoff states that she thinks they are trying to make easier access for themselves and it will be an easier access for safety reasons too especially given the nature of Lake Desolation Rd. D. Eskoff states that self-created is also not detrimental in an area variance. J. Szpak states that he is trying to clarify in order to get rid of the shared driveway. D. Cochran states that if he and his wife pass away he does not want it to be a shared driveway if the property was to be sold. J. Szpak states that he understands the need to eliminate the shared driveway but, what if the lot line were drawn here (refers to map), for an example, would that still require a variance because you would still have to have fifty feet. D. Eskoff asks did you self-create the shared driveway to begin with. L. Sanda asks did you self-divide this property/ D. Cochran states that he did to give L. Veitch property. L. Sanda states that when you did these properties you created this property line and this shared driveway. D. Cochran states yes because I owned it. L. Sanda states that now you are trying to change it. L. Sanda states that the question is if we don't change the lot line and left it exactly the same to avoid the need for a variance, you do have frontage so why is this a better solution why should we grant a variance. L. Veitch states that it is more financially feasible. H. Montaro states that we would have to redo a whole well system. L. Veitch states that there is artesian well in the middle of it. D. Cochran explains that it is a natural spring. D. Eskoff states that there are environmental considerations then that also weigh in. D. Eskoff asks if there are storm water issues or run off issues. D. Cochran states no. D. Cochran states to get rid of a shared driveway seems like a better price to pay to ask the ZBA to give us a variance with the setbacks. D. Eskoff states that she knows what J. Szpak is saying to offset that criteria, and that is what we do and she can't think of another way to do that. J. Szpak states that he is satisfied. D. Eskoff states that she feels that shared driveways are never a good thing for the future in the best of situations L. Sanda states that environmental impacts would involve field disturbance and financial burden. D. Eskoff states that these issues apply to both variances. A Public Hearing will need to be held for both properties involved before a final decision can be rendered.

MOTION: J. Szpak
SECOND: L. Sanda

RESOLUTION: Cochran D & G., Area Variance

RESOLVED, that the Zoning Board of Appeals accepts the application for Case #978-2, Daniel & Gail Cochran (Lucille & Brian Veitch owners) regarding an area variance for the property located at 330 Lake Desolation Rd., TM# 136.-1-55-2 for which the request is attached to case # 978 where the application was accepted on March 7, 2017 for an area variance for the property located at 324 Lake Desolation Rd. TM# 136.-1-55.1. The Public Hearing for both cases will be held on May 2, 2017.

VOTE: Ayes: D. Eskoff, C. Kolakowski, L Sanda, J. Szpak, A. Wine
Noes: None
Absent: Veitch

Zeh, D. & J Case# 979
Bump Hill Rd.

Area Variance
TM# 138.-1-70

Jennifer Zeh is present for the application. D. Eskoff asks if there is any correspondence. K. McMahon states there is none. D. Eskoff states that she is opening the Public Hearing at 8:03 and seeing as no one from the public is present then we will close the Public Hearing at 8:04. D. Eskoff asks if J. Zeh has provided the Board with everything they were requesting from the applicant. J. Zeh states that the Board had requested another map and picture which she has provided and D. Eskoff confirms that is what the Board has received. J. Zeh asks if the ZBA would like her to explain the map and D. Eskoff states that would be great. J. Zeh explains where her septic, leach fields, and shed are as well as where there neighbors are to the left and the natural border is. D. Eskoff asks if the Zeh's were given a variance when they were building their house. J. Zeh states yes. D. Eskoff states that their lot was not nonconforming to begin with. J. Zeh states exactly, and there is a natural border around their property and they considered doing a rectangular pool but if they do that it is even it wasn't pool shape it was the operational right. encroaching more. D. Eskoff states that is why you are going back. D. Eskoff asks how much space they are planning to enclose. J. Zeh states that they are going to do a patio around the pool. D. Eskoff asks if the measurement reflects the pool. J. Zeh states that it reflects the edge of the pool. D. Eskoff asks if we are looking at the footprint of the actual pool. J. Zeh states yes, ideally they would have loved to have it more in the sun but, it really is the only spot we have. J. Szpak asks would you consider purchasing the property behind you. J. Zeh states that we own that property. D. Eskoff states that is a contingency that we are looking at for the Zeh's to potentially combine both properties so we don't have to give the second variance for this property without requiring some give and take on that. The Board sometimes does that when it's owned by the same person, it's a small lot in this case that they probably can't do much with but, if they combine it they offset that footprint of that pool and that helps us to provide a variance. D. Eskoff asks if that is something the applicant would be willing to do. J. Zeh states that they are trying to avoid it because they don't want to have to pay more. D. Eskoff states that the Board has required other applicants to do this and basically it's just filing a new deed. D. Eskoff states that parcel variances are somewhat pre-existing lots and now you have two of them. In the long run, the hope is that it increases the value of your property, it becomes a larger property and you could check with the Tax Assessor though you are already paying taxes on it now. By combining the hope is you have something that is a little more saleable down the road by adding to the acreage. J. Zeh states that it is a tiny little lot. D. Eskoff asks what they are going to do with that lot to get the best uses of it. Curt Kolakowski asks what is the actual request for variance. D. Eskoff states the size and that we are in MRD2. C. Kolakowski asks how big the lot behind you is. J. Zeh states that it is very small. D. Eskoff states that she thinks they are looking at an overall area variance not the actual setbacks, I think that we are really looking at the fact that they are building something on less than three acres in a three acre minimum, the lot is one acre. L. Sanda asks what are the requirements for a pool, where are the setbacks because. D. Eskoff states that all she can think of because G. McKenna did not provide any setback amounts. L. Sanda states that there are setback for building. D. Eskoff states that is what we can go with. L. Sanda states she does not ever remember reading anything about a pool. D. Eskoff states that you have 1.1 acres it's not two acres and by combining the two lots the setbacks will better conform. J. Szpak states this is what is said, if the lot was joined to the house perhaps an area variance could be setback to the rear. D. Eskoff states yes setback to the rear. J. Szpak states that it is showing that there is a 21.2' boundary where there could be 78' boundary at best. L. Sanda states that it is the applicant telling us what the dimensions actually are. D. Eskoff asks the applicant when they plan on having they pool installed and would they postpone one more month to try to get all the information. A. Wine states that he is curious about the property having a Galway address is it still owned by them. J. Zeh states that the people lived in Galway. J. Szpak states that the code 360 for pools doesn't come up with anything. J. Szpak states that

we could do contingency based and do some research. D. Eskoff states that we could also do a general variance and resolve the case. L. Sanda asks if we add both properties does it make up for the pool. D. Eskoff states that G. McKenna did not give us any numbers. L. Sanda states that every setback is a fifty foot setback. D, Eskoff states that we have to go by what our Code Enforcer has declared for this case and we don't know anymore than what he says which is that the lot is preexisting nonconforming and in a three acre zone. The lot is one acre. G. McKenna is saying if you combined it you could potentially avoid an area variance not specific on the setback but on total area variance. L.Sanda states that it has to be a setback because they are never going to get to three acres. D. Eskoff states correct we don't have this information and there is no way you are going to get to three acres. D. Eskoff states the issue is whether it is enough to make up for the pool. L. Sanda states that it is her understanding that we are looking at basic setbacks 36.3' here and our issues adding this property only saves us a little bit. D. Eskoff states yes, but that makes up for the total square footage of the pool. L. Sanda states yes it does make up for the total square footage. D. Eskoff states it's an offset. L. Sanda states we are talking about a 35' side yard and 75' rear based on the house but the pool line is where we need 75'. D. Eskoff states that we are looking at house setbacks. A. Wine states that if we don't know that for sure if there is any liability involved on our part. D. Eskoff states we are the Zoning Board and we can actually determine that, we are the ones that are supposed to determine what the Zoning code says. J. Szpak states that he would feel more comfortable calling G. McKenna. D. Eskoff states that she is convinced that these have to be area but that is just her interpretation. D .Eskoff states that it is a structure so it would have the same setbacks and I think that G. McKenna didn't put them in and that is not our call because he is the one who is technically saying that no you can't have a building permit and have a variance so we are ruling on his judgement so we can't infer that otherwise. We can only infer what we think we have to do. L. Sanda agrees. J. Szpak states that the contingency will validate that. D. Eskoff states this puts the Zeh's in a predicament. A. Wine asks what kind of financial obligations have they made with the pool company and have they put down a deposit with anyone. J. Zeh states yes they did around the pool people's schedule. D. Eskoff asks can you wait until our May 2nd ZBA meeting. L. Sanda asks if they could start May 3rd. The applicant states that it would be very difficult due to schedules. D. Eskoff states that this is the second month and we are just kind of hanging here on this case. J. Szpak states that another way we could go about it is by giving her a variance on lot size but, we also can conquer with the setbacks. Board discusses the options and resolution below.

MOTION: J. Szpak
SECOND: L. Sanda

RESOLUTION: Derek & Jennifer Zeh Area Variance

RESOLVED, that the Zoning Board of Appeals approves the application for an area variance for the installation of an in ground pool for Case #979, Derek & Jennifer Zeh, located at 53 Bump Hill Rd. TM# 138.-1-70 and grants as follows:

- **A 1.8 acre area variance for this case based upon and contingent upon the combining of the adjacent Parcel TM# 138.-1-72.22, also owned by Derek & Jennifer Zeh, that consists of .19 Acres with TM#138.-1-70 to allow for a merged total of 1.2 acres that will reduce the area variance needed to 1.8 acres vs. what would otherwise require a 1.99 acre area variance**
- **The request is substantial but the addition of the .19 acre adjacent back parcel that is in the common ownership of the applicant to the main parcel that is the**

subject of this area variance offsets the square footage footprint requirement of the in-ground pool for which this variance is sought and thereby, minimizes the area variance to the most practical extent

- The lot is a pre-existing non-conforming lot that required an area variance for the applicant's house to originally be built. A reasonably sized in-ground pool could not be installed in a suitable area without an area variance and therefore the benefit cannot be achieved by other means feasible to the applicant
- There is no undesirable change to the neighborhood
- There are no adverse physical or environmental effects
- The difficulty is not self-created given the nature of the lot

The ZBA further directs that Derek and Jennifer Zeh shall complete the merger of their two parcels of property into one parcel and shall also submit proof of this parcel merger by deed to the Building Department by July 12, 2017 in order to satisfy the conditions of this area variance as granted.

VOTE: Ayes: D. Eskoff, C. Kolakowski, L Sanda, J. Szpak, A. Wine
Noes: None
Absent: Veitch

Gage, C. & M. Case# 977
Bockes Rd.

Area Variance
TM# 137.-2.27-112

Continued: Neither the applicant nor anyone from the public is present for this case by 8:44 p.m. D. Eskoff adjourns the Public Hearing until the May 2, 2017 ZBA meeting.

Meeting adjourned at 8:45 p.m., all members in favor.

Respectfully submitted,

Kimberley McMahon
Secretary