

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

August 4, 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, Joseph Szpak, and Laura Sanda, Alternate. Kevin Veitch is absent.

July 7, 2015 MINUTES

MOTION: J. Szpak

SECOND: D. Eskoff

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of July 7, 2015, as submitted.

VOTE: Ayes: Eskoff, Sanda, Szpak

Noes: None

Absent: Veitch

Abstain: Conard

OLD BUSINESS

DEREK & JENNIFER ZEH – Area Variance, Amendment

Bump Hill Road

T. Conard reviews that the applicants had recently received a variance and it has been found that the front yard setback is 1' closer than originally anticipated and the rear yard setback is approximately 2' closer. D. Zeh is present. T. Conard states that we do not need a public hearing for this and there were no public hearing comments at the last meeting. D. Zeh states that nothing else has changed with the house plans. Board consensus is that there are no issues.

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

MOTION: J. Szpak

SECOND: D. Eskoff

RESOLVED, that the Zoning Board of Appeals approves an amendment to the previously approved area variances of May 5, 2015 for Derek & Jennifer Zeh for area variances for property located at 53 Bump Hill Road, TM#138.-1-70, as follows:

- **Front yard setback variance of 9'**
- **Rear yard setback variance of 17'**
- **Left side yard setback variance remains at 1'**

This approval is based on the following criteria:

- **Benefit cannot be achieved by any other feasible means**
- **No undesired change to the neighborhood or character or nearby properties**
- **Not a substantial request**
- **No adverse physical or environmental affects**

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- **This was not self-created**
- **This is a pre-existing, non-conforming lot and no matter how you rotated the proposed additions and changes to the structure, one way or the other you would still have to have additional variances. This is the best compromise as presented to the Board and is as minimal as it can be.**
- **This approval supersedes the variances granted on May 5, 2015**

VOTE: Ayes: Conard, Eskoff, Sanda, Szpak
Noes: None
Absent: Veitch

UMH NY BROOKVIEW MHP, LLC – Area Variance

Case#951, NYS Route 9N

T. Conard opens a public hearing at 7:35 p.m. Joe Bulmer, NYS Route 9N, states that he has a letter to read into the record for his neighbors Hank and Jen Mulder, NYS Route 9N. This letter is made part of the record. J. Bulmer states that he lives on the next subsequent property bordering the Mulder's. He states that the old and new code were worded almost exactly the same as to the requirements. He quotes from 105-58 regarding special use permits and states that no extension has been granted to the applicant's special use permit. In those 8 years there has been a culvert put in, dirt put over it and it is now overgrown. That is pretty much the total amount of work done. He understands that architectural and legal plans were drawn up. That cost is really a miniscule number relative to the value of UMH. According to UMH's own statement, the project was discontinued due to the economic downturn in 2008 and they are now seeking help from the town. Economic feasibility is not a reason for a variance. UMH wrote a letter to DEC in 2008 stating that they were ceasing work. He quotes from that letter and states that they, in their own words, stated that the project was shut down. J. Bulmer states that since then, there has been very little if any work done on the project which goes back to that 'diligently pursued' statement regarding the permitting. To J. Bulmer the economic feasibility reason for stopping is self-imposed and now it becomes one of profit and margin using the old code which was 6000 square feet per unit vs the new code which was changed to 10,500 square feet. That was done to protect the community, the environment and surrounding property owners property values. If the Board grants this variance, he thinks that they are making a very large statement and that would be the easy choice to allow a large company to come in, make an investment and pack in as many homes as they can. You will make a large statement to the community as well. The hard choice for the ZBA is to stick to their guns and tell the applicant that they need to meet the current codes. He thinks that is what the charter of the Board is – let's protect Greenfield, let's protect the property owners because their property values are going to take a hit when you bring in a large number of mobile homes in a small area. He states that all they want is for the applicant to conform to the current code, they don't want to stop the project, they just want them to conform to the current rules and regulations. They are asking the ZBA to stick to the code as it will not hurt UMH's bottom line to have a few less homes in that one area but it hurts the community and the surrounding properties. There being no further public comments, this public hearing is closed at 7:47 p.m.

Attorney David Engel; Peter Kelleher, engineer; Craig Koster, in house council; Abby Goldberg; Crystal McGovern and Marty Mancini, regional manager are present for the application. D. Engel provides a handout with the types of housing stock which UMH intends to develop with at the Brookview expansion. He states that this Board is not being asked to issue a final approval for the UMH project. They are here to request a variance from the new density requirements that were adopted in 2007/08 subsequent to the prior approval. They understand that they have to go back to the Planning Board for the entire process for the special use permit. That is the appropriate place at which all of the concerns raised this evening can be addressed. The applicant is looking for a variance so that they can go back to the density that was previously approved in 2007. At that time, after considerable environmental review and after UMH's acceptance of a lot of environmental restrictions, what had originally been an 80 lot proposal was approved at 64 lots. D.

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Engel states that if you look at the map of Brookview, you will see a gap between the existing community and the new expanded community. That gap represents all the protected wetlands that were agreed upon and are being set aside and protected under the previous approvals. There was an extensive environmental review conducted. He states that they not only accepted those but entered into restrictive covenants and proceeded to do everything that was required under ACOE and DEC to assure that the wetlands permits and the protections that were agreed to at that time were effectuated. So when there is a reference made to some dirt being pushed around and a culvert, etc., please understand that that construction was specifically required by the ACOE and to assure the environmental protection of a large section of the property. The notification to DEC in 2008 was a standard notification that the company had ceased construction due to the economic conditions at the time and indicating to DEC that the standard Nationwide Storm Water permit that would apply to the construction no longer was operative because they ceased construction. D. Engel states that if you look at the code, it continues to have two conflicting provisions in it. One states that the overall density for any mobile home project shall be 10,500 square feet per unit. That is still in the code but somewhere after their approval the individual lot size requirement of 10,500 square feet was adopted as opposed to the old provision which he believes was 6000 square feet with a minimum width of 100' per lot. That is a ¼ acre lot and not necessarily here in Greenfield, but thru much of the country represents a good size suburban lot. A ¼ acre lot per manufactured home/mobile home is a highly unrealistic approach and is simply not something that works within the economics of this individual mobile home park operation which is separate from looking at the overall UMH operation on a nationwide basis. He states that they are sensitive to the concerns that the neighbors have and when they get to the Planning Board they are certainly willing and able to address the concerns that have been expressed. UMH is looking to be good neighbors and work with them. Some of the concerns about traffic - they went thru an extensive process with DOT and got curb cut approvals to change the entrances and came up with a plan. Those are issues that are going to have to be addressed regardless of whether they get an approval for 38 or 64 units. There will be additional traffic and those DOT issues will have to be addressed. There was a traffic study and considerable analysis done. He states that we can speculate about noise, etc., but they are on a very narrow issue. They have invested a chunk of money, they have already in perpetuity blocked the use of a large section of holdings to protect the wetlands and they cannot go back now and ask ACOE to take off that restrictive covenant. They have already invested in creating the means for access across the wetlands to the expansion area. What they are trying to do is get a reasonable return given the realistic use of that property and the type of expansion that was previously approved after an extensive review. They ask this Board to grant the variance so that they can then go back to the Planning Board to complete that process. L. Sanda asks what the dimensions of the lots are as proposed. P. Kelleher states that there are two - 100' x 63' and 105' x 58'. L. Sanda asks aside from the culverts and the restrictive covenants being in place what work has been done. P. Kelleher explains the area that has been cleared; they installed the 8' x 5' culvert for the total of 4 lanes that would be crossing; disturbance to Federal wetlands with additional culverts and he indicates the locations. D. Eskoff asks when that was completed. P. Kelleher states in 2007/08. D. Engel states that they had to provide, at that time, a certification to the ACOE that that work had been completed. D. Eskoff states they were still under the original special use permit at that time. D. Engel states that they provided that and received a response. P. Kelleher states that a clearing permit was filed for. L. Sanda asks if they have done any additional work design wise - updated wetland delineation, etc. P. Kelleher states no, that they reviewed all the previous approvals regarding storm water; DOT issues along the driveways; DOH approvals for water supply and wastewater systems. DOH approval was given. Nothing has changed as far as the storm water plans go because they started the project before those rules changed and DEC recognizes this project. DOT had very minor comments as far as curbs, sign placement, etc. They are prepared to approve the application. T. Conard asks if they had done any preliminary work on wastewater. P. Kelleher states that it will all be collected by a force main to the existing wastewater treatment plant which would have reports that show it has adequate capacity. L. Sanda questions that no infrastructure is in place yet. P. Kelleher states that is correct. D. Eskoff asks if this is the maximum they are planning for this particular lot of 64 units, this would be the final expansion on this lot. D. Engel states that this would be the final piece and the gray shaded area has all been encumbered in perpetuity. D. Eskoff states that the ZBA is to give the least amount of variance they can give and this is multiplied by 64 times - an extremely large variance based on present code which is

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where they stand now given the fact that they did not renew the special use permit and go forward at the time. She asks if they are willing to make any concessions, do they have an alternative plan for less, are they holding steady on the 64. D. Engel states that he does not understand the math of '64 times'. What they are looking for is a variance from the present, new, defacto density requirement which is not really implicitly stated but by implication arises from the minimum lot size of 10,500 back to that which was approved in 2007. By the way, the new density requirement was adopted at the time when the expectation was that they would be proceeding with this development as approved in 2007. D. Eskoff states that it applies to all mobile homes moving forward from that time and had the applicant moved forward there wouldn't have been an issue because it had been thru the planning board and they had approved it. Now in 2015 we are looking at the code the way it is written which is 10,500 per unit and we are looking at 64 units, each needing a variance. L. Sanda states the applicant would be requesting 4500 square feet of variance per unit. D. Engel states that it is not 64 variances, he asks that the Board understand that these are not separate lots with separate home ownership. The ownership, as is typically the case in any mobile home development, the land ownership resides with UMH so they do not have 64 variance applications in. They have one variance application which addresses the lot size for each one of the mobile home lots which is a term defined in the code but is not a term which is cognizable in a real property ownership sense. L. Sanda states that the Board is thinking more along the terms of, for instance, if maybe not every lot needed to be 10,500 but if they took 3 lots and made them into 2. The Board is asking for some sort of concession, something that the app is willing to do because they are asking a large variance and it is the Board's job to provide the minimum variance. D. Eskoff states that we are not looking at 64 variances, but at the total square footage amount times 64 is still going to be the bottom number that they are looking at. D. Engel states that he is not prepared to tell the Board one thing or another as that is not what he is charged with or empowered to do. The applicant is entitled to 38 lots under the code. Suggesting for every 3 lots they go to 2, in essence takes them back to that which they are pretty close to being entitled to, but everything they have done in terms of the work that was done years ago, encumbering the property, agreeing to the environmental restrictions – was done with the expectation that the pay back on that would be supported by a much more substantial development than the 38 lot development. D. Eskoff states that those are not factors that the Board looks at when granting a variance. They look at hardship to some degree, but the applicant can still have the 38 lots so it is not like they can't expand the mobile home park. She states that the Board often asks people if they can move their home over 10 or 20'. In this case there are 38, but maybe there could be something proposed in between. D. Engel states that he would have to consult with his clients as they are not prepared to address that this evening. In terms of green space, between the wetlands and the other open space, the size of the development is less than that which is set aside. D. Eskoff states that if they don't have the mobile homes in there they would have open space or some other space taking up that area where they would have the other mobile homes. She suggests they might want to consider bringing an alternative. J. Szpak states that in hearing the discussion perhaps we give the applicant the option of either acting tonight or come back with an alternative. T. Conard states that he is fine with that. He states that they have approval for the drainage for that number of lots. J. Szpak states that he would like to discuss some things. One would be the environmental issues, which are of concern to the neighbors, but this was engineered for what the applicant is asking for. He states that he does not like the statement that the applicant 'agreed to the environmental decisions'. They don't have a choice. The wetlands are what they are and you can only use the property within those limits and disagreeing would be that you just don't develop there. J. Szpak states that he does not have concerns about adverse physical or environmental effects because they have been engineered not to be concerns. T. Conard states that it will be going back to the Planning Board. D. Eskoff states the ZBA is looking at whether or not the variance is substantial, the project could have been continued and it wasn't and now that puts them into the present so the next mobile home park coming thru the door, we are open to throwing the code out the window. T. Conard states that you are talking a potential exception here because this was already approved in the past and the engineering was all in place, but it is a substantial delay. D. Eskoff states that you can blame the economy or you could say that they chose not to continue. She would like to see some alternative. T. Conard states that this was designed as somewhat of a cluster development approach. D. Eskoff asks the representative from Sterling to outline on the map the present and the future areas of the park. P. Kelleher does so. T. Conard asks the sizes of the current lots. D. Engel states that the

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density in the existing community is much higher than the expansion. M. Mancini states that there are 136 units in the current. D. Engel states that the existing park is far denser than the proposed. D. Eskoff asks if they have an actual difference in density, a number that we can work with. P. Kelleher states that they can get that. D. Engel states that most of the existing park was developed back in the day when these kinds of facilities did not meet the sort of approaches or standards that are observed today, the density was greater, the units were not of the quality that are being built today, and UMH, when it has acquired communities like this, although they have owned this for at least 25 years, they are not new comers to town. He states that it is not an appropriate comparison to compare UMH to a major corporation coming in and steamrolling the Town. This is going to be a state of the art development using the highest standards and UMH has upgraded every one of its parks and when it has the opportunity to develop from the ground up they do spectacular, beautiful communities which are an amenity to the municipalities in which they exist. They don't make money and don't do well be producing something that isn't good. J. Bulmer asks if he can respond. T. Conard states that the public hearing is closed. T. Conard states that the purpose here is to determine whether the variance is ok, the remainder of the issues are for the Planning Board. J. Szpak states that he would like to talk thru the criteria. The first is whether benefit can be achieved by other means – they are landlocked with that space and the question becomes that the full benefit is what is outlined here vs doing something rather than nothing. There has been investment in environmental aspects of the job and property itself. It is not like nothing can be done, there can be the 38 lots. That is one thing to balance between 38 lots and what is proposed. We have to balance that against the undesirable changes to the neighborhood and nearby properties. J. Szpak states that one thing you can do is use mitigating conditions. What he did not get a feel for is what is behind the property. P. Kelleher explains. J. Szpak states that the zoning issue here is that we balance the undesired change to the neighborhood and nearby properties. He states that he did not hear issues with immediate views, it was the traffic. He reiterates that environmental and traffic were concerns, but they are not issues for the ZBA to deal with. J. Szpak states that an undesirable change is not substantial in his mind. Whether the request is substantial – he thinks it is substantial. Like it or not the current requirement is 10,500 vs 6000. He asks if anyone has the history for that, he can guess why we would want bigger lots. D. Eskoff states that it goes along with a lot of the changes made in Town with the Comprehensive plan to have larger lots for single family homes whether they be mobile home lots or regular single family dwellings. J. Szpak states that it would be consistent with the other zoning changes. He states that it is substantial and certainly that can be addressed with scaling back. Whether the request has physical or environmental effects, it could but he does not believe it will because it was engineered to do that. He does not feel that it is up to the ZBA to challenge that. Whether it is self-created – he states that it is a risk that was out there. They engineered it, put money into it expecting to build that, they made a business decision not to build that and that was a risk they took, and the zoning changed. The zoning changed because we are trying to change the character of Greenfield Center. He has a lot of respect for the Greenfield plan and when you are in business you take risks and that one didn't work out too good. L. Sanda states that the zoning changed within a month of the final plan being approved. D. Eskoff states that she is assuming that some thought process went into the mobile home density at that time. This was out there and someone had some input and the Town voted to accept that. She takes that rather seriously because this was one of the bigger mobile home parks in town. L. Sanda states that shortly after the Town voted to change the code and there was some reason for that. J. Szpak states that when he does his balancing test he does not see anything unreasonable or egregious. His personal view is that he would not go to the extreme, there is some happy medium between the 38 lots and what is proposed would pass his balancing test. D. Eskoff states that she is very concerned with precedent and it is something that we constantly deal with here. J. Szpak questions what is unique here and what would make this a precedent and what would not make it a precedent. T. Conard states that one of the things that would not make it a precedent is that the engineering was already done, some of the culverts were already put in and they have approvals from the ACOE. They had gone thru an extensive review by the Planning Board. D. Eskoff states that would help. T. Conard states that would not establish a precedent for anyone else to come in and do the same. J. Szpak asks what the counter argument is for setting a precedent. D. Eskoff states that is always out there it just depends on which argument ultimately wins. The project was started and stopped and then started after the code was changed. You are still looking at a very large project. J. Szpak states that although we think we have a unique

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situation there is always the risk. T. Conard states that he does not know of any other trailer parks that were doing that same type of thing at that time. D. Eskoff states that most are not of this magnitude or quality. J. Szpak states that the argument would be that the requirements changed back then but you just recently allowed for the density to be the overriding factor and not the size of the lot. J. Szpak states that the precedence thing does not change his original perspective. D. Eskoff states that the ZBA is charged with giving the least variance feasible and we need to determine what that is. L. Sanda asks how this affects a general precedent. If someone comes in and says they did all their engineering, all their plans and permits, and then wait 7 years to build it. If you go the DEC or ACOE you will have to re-request, and often you will be required to do a re-delineation, redo the permit process and come up to code with their new permits, especially if it has been a substantial amount of time. Typically you have to re-delineate after 3 years thru ACOE. The homeowner who comes in and says that they did their engineering 7 years ago, but now this isn't the same - it's the same idea. J. Szpak states that might be a little too general for him. He is thinking of the Greenfield code changing. Just like this one expired. L. Sanda states that her lot is a 2 acre lot and now 5 acres is required, so if she had designed her house she would have to ask for a variance. J. Szpak states that you could argue that was unique. L. Sanda states that she feels we would have more of those coming before us. T. Conard states that the ZBA's charge is to deal with the zoning, not to deal with whether or not the engineering has been done, etc. As to precedence, he does not feel that there is a project of this size that has had the engineering done and it would have to be redone. He does not see a lot of projects coming out of the woodwork. D. Eskoff suggests postponing for one month to allow the applicant to make an argument as to why this is not substantial and not as dense, that is what we are most dealing with. L. Sanda states why the benefit cannot be achieved by other means, why it is not self-created – she would also like answers to those. D. Eskoff states that we are not comfortable with making a decision which probably would bode well in the applicants favor. We would like to give them the opportunity to come back next month with an argument specifically directed as to why this is not substantial, why it is not self-created and why the benefit cannot be achieved by other means, and in the alternative, give the board an alternative proposal for less mobile homes. D. Engel states they are not prepared to do that and will consult with the client. D. Eskoff states that the Board wants to give the applicant every opportunity as the Board is unclear on some of the issues they have just gone thru. This is a serious matter and the Board wants to be clear on all the points. Give us the density, give us the square footage, give the Board an argument. D. Engel states that they will give the Board an argument or proposal. He states that a comment was made that in essence all they have done was engineering and there was a considerable amount of physical work done. D. Eskoff states that the engineering is very important but that goes to the special use permit and the Planning Board review. D. Eskoff states that we take in everything, but have to focus on the area variance standards. Discussion takes place about getting information to the Board by August 20th. T. Conard states that one thing that might be helpful would be comparing the densities of the two areas because that was asked earlier tonight. D. Engel states that the applicant will get the Board numbers galore. He states that ACOE approval required that they file restrictive covenants and their deal with ACOE and DEC protecting the wetland is in perpetuity. Gentleman questions that there should be a reopening of the public hearing if the applicant resubmits. J. Szpak requests that we do reopen the public hearing. Board consensus is in favor. J. Szpak states that he is not sure that we are providing enough clarity in what we are asking the applicant. For him the stumbling block is whether or not the benefit can be achieved by other means feasible to the applicant, that is more of a what makes this even reasonably profitable. It would be interesting to know if it is definitely not profitable at 38 lots and here is the evidence, or any evidence that it is profitable at 38. They have already put in a cost and took the risk that they were going to lose that. D. Eskoff states a reason factoring into why they would or would not want to meet the ZBA on any less than 64 lots. J. Szpak states that would be helpful to him in discussing and weighing that factor in as to what is a reasonable compromise. L. Sanda states that since they are saying that is the main purpose of the feasibility, it doesn't balance out, they did all this work ahead of time and it cost a certain dollar value and they were expecting to get a return based on the number of lots. Now with the reduction of lots that work has been done, it has been paid for and the restrictive covenants are in place, so one of the main arguments for the benefit can be achieved by other feasible means is that - so she thinks that is a reasonable thing to ask. J. Szpak states that he thinks that lots of things have changed since then – the rental prices relative to income have changed. D. Eskoff states that manufacturing costs have

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changed too. J. Szpak states some type of analysis or evidence that makes it financially feasible or not to go from 64 to any number less. D. Eskoff states that it is difficult because what they envisioned and planned for at the time is much different than if they were walking in today to a brand new mobile home park as a start-up – we would be looking at a different number of homes.

RESOLUTION – UMH NY BROOKVIEW MHP, LLC, Area Variance

MOTION: D. Eskoff

SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals tables the application of UMH NY Brookview MHP, LLC for an area variance for property located at 2025 NYS Route 9N, TM#151.-2-7 to the September 1, 2015 meeting and the Board votes to reopen the public hearing at that time.

VOTE: Ayes: Conard, Eskoff, Sanda, Szpak

Noes: None

Absent: Veitch

COLIN & LISA QUINN – Area Variance

Case#952, Lake Desolation Road

Colin Quinn and Tonya Yasenachak, engineer, are present for the application. A public hearing is opened at 8:33 p.m. and closed with no public comments. T. Yasenachak reviews that this is a pre-existing non-conforming lot, they did submit the floor plans that the Board had requested and they have been tweaked a little. They have made a diligent effort to make it so that someone will have to come thru the house to get to the apartment. They have made the apartment smaller and there is a transition space between the two which will be a shared laundry/mudroom area. D. Eskoff asks if there is any firewall between the two. T. Yasenachak states that there will not have to be but the ceiling of the garage will be fire rated and the interior wall of the stairway will be fire rated. D. Eskoff states we are not looking at a total separation that it is all in the garage or the house. T. Yasenachak states that there is no direct exterior door from this apartment to the outside, which would preclude it from being rented. T. Yasenachak states that they have met all of the criteria as far as environment. As to the character of the neighborhood, even though they are adding to the footprint, the rest of the lots in the area and most of the homes are on very small lots. A lot of them are becoming all season. D. Eskoff asks if there are some in-law apartments up there too. T. Yasenachak states that she does not know of any but as far as the density of the number of people and the footprint, there are so many lots in that area and the number of residents in the same footprint of a lot you have maybe about 3 or 4. T. Yasenachak refers to the maps she submitted. D. Eskoff asks the size of the apartment. T. Yasenachak states it is about 728 square feet and C. Quinn states that the house is about 2500 to 2600. T. Yasenachak refers to the elevation drawing. J. Szpak states that they are seeking a 5.51 acre area variance. T. Yasenachak states that what she would say as far as the uniqueness of this lot from the others is just the rest of the character of the neighborhood as far as the density. D. Eskoff states it is one of the biggest lots up there. L. Sanda questions that the whole area is 6 acre zoning. D. Eskoff states that it is not realistic and she does not know why it wasn't made a special district. T. Yasenachak states that we are dealing with that whole area where there are not even lots of that size. T. Conard states that the special district was made in order to look after the septic systems that were polluting the lake and this was done so that if you did construction you had to prove that you had an appropriate septic. J. Szpak states that it is a substantial request but in balancing the positives he does not have any overall issues. It enhances the character of the area. D. Eskoff states it is one of the large lots and can accommodate increasing the size of the house. T. Conard states that it is a substantial increase. His question is whether we should have a 6 acre minimum on these lots. D. Eskoff states that the size of lots has come up and maybe it is time to re-look. T. Conard suggest that we make a suggestion to the group looking at zoning to review that as well. D. Eskoff states that these are single family residences or single family residences with in-law apartments, they are not a huge mobile home park or condo development, they are where people live and these lots are realistically not big enough to ever be 6 acres. The vast majority are

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very small. T. Conard states in this case this is not a separate garage, etc. T. Conard states that 99% of the time we have to give variances for any construction in this area. T. Yasenchak explains the variances they need. J. Szpak states that they are all pre-existing. L. Sanda states that this does not change the character of the area, while the request appears substantial based on the surrounding area, it is not as substantial as it seems initially and she has no issues with the request.

RESOLUTION – C. & L. Quinn, Area Variance

MOTION: J. Szpak

SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals approves the application of Colin and Lisa Quinn for area variances for property located at 493 Lake Desolation Road, TM#135.12-2-1, as follows:

- **Area variance of 5.51 acres**
- **Front setback (from Braden Road) 34' variance**
- **Front setback (from Lake Desolation Rd) 33' variance**
- **Side setback variance (from the lake side) 20' setback variance**

This approval is based on the following criteria:

- **Benefit cannot be achieved by other feasible means**
- **No undesirable changes to the neighborhood, it equals or improves the character to the nearby properties**
- **There is no obstruction of lake view**
- **No adverse physical or environmental effects**
- **Difficulty was not self-created**
- **This is pre-existing condition around Lake Desolation with these small lots**
- **Density of this lot will actually be lower than the density of surrounding lots**

VOTE: Ayes: Conard, Eskoff, Sanda, Szpak

Noes: None

Absent: Veitch

DISCUSSION

J. Szpak states that in G. McKenna's notes he does not understand that for the UMH properties it states that they only have a 10' setback. He questions that there is an issue that G. McKenna is trying to point out. L. Sanda states that in the old meeting minutes Peter Kelleher stated that a berm is not realistic because they have a 10' setback however that conflicts with what the mapping shows. They had stated that they could not put in a berm to satisfy what the neighbors had requested because they only have a 10' setback. D. Eskoff states that the Planning Board would address that. J. Szpak states that if they put the berm up, that is a mitigating condition for impact to the neighborhood. D. Eskoff states that is something that the ZBA can request that the Planning Board look at. T. Conard states this is a substantial variance and it has been a long time since they discontinued building. D. Eskoff states that you make choices in business and there are repercussions. We have to base it on the Town, the need for housing and mobile homes have changed dramatically and continue to change dramatically. T. Conard states he would like to hear what they have to say.

J. Szpak states that sometimes the Planning Board will, after they close a public hearing and there is discussion, find there is a need to reopen the public hearing. Is that something that is an option that we have? T. Conard states that they adjourn it usually. R. Rowland states that sometimes they have closed it and then there is new information. D. Eskoff states that the Board can ask the public questions whether it be for

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fairness or we need more information. T. Conard states that we have reopened it and we will be getting more information.

Meeting adjourned at 8:55 p.m.

Respectfully submitted,

Rosamaria Rowland
Secretary