

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS
DECEMBER 1, 2009

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, Kevin Veitch, Stanley Weeks and Joseph Szpak, Alternate, are present. Gerry McKenna, Zoning Administrator is absent.

November 3, 2009 MINUTES

MOTION: M. Granger

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of November 3, 2009 as submitted.

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

NEW BUSINESS

TIM & DOROTHY TYLER – Case #834, Area Variance

Mia Way

T. Conard reviews that this is an application for area variances on a pre-existing non-conforming lot and they would like to make some additions to it. They need a front setback of 28.2 feet and a rear yard setback of 22.7 feet. S. Weeks states that he would like to see a map showing the distances to the neighboring structures. J. Szpak states that he drove around there and the houses are generally in the middle of the lots. The property to the left has an older shed very close to the property line. K. Veitch states that the three surrounding properties would be helpful.

RESOLUTION – T. & D. Tyler, Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Tim and Dorothy Tyler as complete for property located at 13 Mia Way, TM# 124.-1-25 and sets a public hearing for January 5, 2010 at 7:30 p.m., contingent upon the receipt of the following information:

- **Map showing distances to neighboring structures**

VOTE: Ayes: Conard, Granger, Lunde, Veitch, Weeks

Noes: None

OLD BUSINESS

MARY ANN FIORE – Case #833, Area Variance

Sand Hill Road

December 1, 2009

Mary Ann Fiore is present. T. Conard reviews that this is an application for an area variance for height for a wind turbine which would be 36 feet. M. Fiore states that it is approximate and she thinks it might be under that but she didn't want to take a chance on it. T. Conard states that the ZBA's job is to give the least amount of variance necessary. P. Lunde refers to the minutes of the last meeting stating that there are to be changes in Town codes. S. Weeks states that it has changed. M. Granger states that the proposed max for someone not connected to the grid would be 35'. T. Conard states that if it is connected to the grid they have 100'. M. Fiore states that this will be connected to the grid. P. Lunde states that she then does not need a variance. T. Conard states that the applicant will need to go to the Planning Board for a special use permit. P. Lunde states that since this code changed from the time that the applicant applied, how does that affect this case. M. Granger states that from the Planning Board referral, they were not aware that this would be connected to the grid. She states that the most appropriate place for the applicant to be would be to withdraw her application here and apply to the Planning Board. The applicant agrees and states that it makes sense to her. T. Conard states that the laws were changing at the time that she applied. M. Fiore states that G. McKenna explained that to her, but we didn't know when the changes would take place. She comments that she will still need that fall zone. She asks about the application process for the Planning Board. R. Rowland states that she will mail M. Fiore an application. K. Veitch recommends that the plan be a little bit clearer on what is actually around the area. M. Fiore asks if this needs to be away from trees. M. Granger states that the only issue with trees would be if the tower fell on trees that would then fall on to something that would impact something else. S. Weeks states that if this was passed the way it was originally written, the applicant will need a site plan by a licensed professional engineer. K. Veitch suggests that the company selling her this may have someone on staff. M. Fiore states that she is a distributor for the company. The application is withdrawn.

CHARLES & DOREEN COLLINS – Case#827, Area Variance

Barney Road

T. Conard explains that the applicants were granted a left side yard variance in June of 20 feet, however the contractor poured the foundation, the bank required survey and it was found that the foundation is 25.9' from the left side and not 29 feet. The variance would now need to be 24.1'. This would be a modification of the variance. S. Weeks states that what bothers him the most is that there must have been a survey to find out what they needed for a variance to begin with, so there must have been a line and then how do you get a foundation 4' askew? K. Veitch states that you can get a bad contractor. R. Rowland states that the applicant has had problems with this contractor and has been in to speak with G. McKenna before this. K. Veitch states that you can also have one person talking inside dimensions and the other outside dimensions and get the wrong measurements.

RESOLUTION – C. & D. Collins, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals grants a modification to Charles and Doreen Collins for an area variance for property located at 67 Barney Road, TM#149.-1-50 as follows:

- **24.1' left side yard variance from the original 20' left side yard variance**

This modification is based on the following:

- **No major change to the neighborhood from the original variance**
- **No environmental impacts**
- **This is not self-created**

December 1, 2009

Discussion – S. Weeks states that he is uneasy that the applicant does not appear to at least explain. R. Rowland states that G. McKenna told the applicant that he did not need to be here and that he, G. McKenna, would present the situation to the Board. Discussion takes place as to how to hold contractor's accountable, fining them, etc. S. Weeks reiterates that since a variance has been approved, the Board is entitled to an explanation for what is going on. J. Szpak states that if the ZBA approves this request with no understanding of cause and there are no consequences, we will show our expectations and standards are low. On the other hand, we do not want to penalize the property owner who is asking for the variance. He states that we feel that we want to know what happened, but why? What would we do differently? If the contractor comes in and says that he made a mistake and is to blame, would that change how we would behave? We would still want to know how it is going to adversely impact the homeowner, and who is going to pay for the mistake in the end? P. Lunde states that you could argue the fact that, listening to R. Rowland, the homeowner has already had problems with this contractor and we should not penalize the homeowner any more than he has been penalized. He states that he does not know if there is anything we can legally do to the contractor. K. Veitch states that we put a lot of people through a lot for little things such as the wind mill where we were scrutinizing one foot. He states that maybe when something like this comes in, there needs to be a written explanation from the property owner or the contractor, give the Board something to at least read. S. Weeks states that the message he is trying to figure out how to give is that we really don't expect this to happen again, which is what has been told to another contractor in a development. J. Szpak states that the course of action against the contractor would be that this variance wasn't approved, he would not be able to fulfill his contract obligation with the homeowner without fixing it. T. Conard states that if this was a spec house, he would say turn it down and let the contractor eat it and then they would learn that way. But for someone who has hired a contractor, and this applicant was living in a mobile home, has moved out of it to hopefully get into the new home, and that is going to create quite a hardship on the applicant. K. Veitch states that we should let the Code Enforcement officer know that the next time something like this happens, that the ZBA requires the person making the request to be here or a representative. S. Weeks states that he is concerned about the precedent, we have no opportunity for hearing public input, we don't know what the situation is and it makes him uneasy.

VOTE: Ayes: Conard, Granger, Lunde, Veitch
Noes: Weeks

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

Respectfully submitted,

Rosamaria Rowland
Secretary