

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

January 5, 2016

REGULAR MEETING

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

November 3, 2015 MINUTES

MOTION: J. Szpak

SECOND: D. Eskoff

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

VOTE: Ayes: Eskoff, Kolakowski, Sanda, Szpak
Noes: None
Abstain: Veitch

NEW BUSINESS

WILLIAM & BERNICE McLELLAN – Interpretation

Case# 956

This application has been postponed.

JEFF & TINA ZAKRZEWSKI – Area Variance

Case#954

Jeff & Tina Zakrzewski are present. K. Veitch reviews that the applicants are seeking an area variance to keep their horses on their lot. They would need a variance of 2.54 acres. J. Zakrzewski provides some photos. D. Eskoff asks if they applicants have made arrangements for the day boarding and which farm that would be. T. Zakrzewski states that she has not made those arrangements yet as it would be based on this approval. She states that it will probably be only one horse. She has two but one of them is older and ill and she does not know if he would survive boarding at another facility.

RESOLUTION – J. & T. Zakrzewski, Area Variance

MOTION: J. Szpak

SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals accepts the application of Jeff and Tina Zakrzewski for an area variance for property located at 407 North Creek Road, TM#150.-1-49, as submitted.

VOTE: Ayes: Veitch, Eskoff, Kolakowski, Sanda, Szpak
Noes: None

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G. DAVID EVANS – Interpretation/Area Variances

Case #955

G. David Evans and Greg Chandler are present. K. Veitch reviews that this is a request for an interpretation and area variances. J. Szpak states that this is a little confusing and asks if it is ok to ask the applicant to show us what he's doing. D. Evans states that he would like to withdraw the request for an interpretation and just go with the variance application. D. Eskoff states that there are actually 7 variances. D. Evans states that he is asking for a smaller number than that, but that is what G. McKenna had him write the check for. D. Eskoff asks what he is actually requesting. D. Evans states that he is looking at it as one variance from 1 regulation. D. Eskoff questions that he is asking for one area variance for one piece of property. D. Evans states yes, for one project. D. Eskoff states that it would be for a piece of property. D. Evans states that he has written a summary and provides that to the Board at this time. K. Veitch states that basically what we have right now is the request that has been forwarded to the ZBA for 7 different area variances which depend on the outcome of the interpretation request. D. Eskoff states that given the complexity of this case, she feels that we need to speak further with our Code Enforcement Officer and specifically the applicant has made an application fee request back to the Building Department and it would behoove everyone to put this off until our next meeting when we have more appropriate information and then can inform the applicant on the best way to actually apply to the ZBA, so that we address this in the manner in which we should. D. Evans asks if there is anything that he can address. D. Eskoff states that this is going to have to go back to G. McKenna to look at this since now the interpretation has been taken off the board. D. Evans states that G. McKenna convinced him that he was not going to get anywhere with the interpretation request so he is just asking for the variance. D. Eskoff states that the applicant is asking for separate variances, which the applicant perceives as one variance and that is a question in and of itself. D. Evans states that there are 7 lots. K. Veitch states that is why G. McKenna is saying that there would be 7 different variances requested. D. Eskoff states that the applicant may end up with one or 7 different applications. D. Evans states that G. McKenna said 7 and he is saying it is 1. D. Eskoff states that that is not a ruling that the ZBA would normally be making at this time. K. Veitch states that there needs to be some more clarification from the G. McKenna on what the applicant started with, and there seems to be some confusion on what the applicant thinks he needs, and what the Zoning Official thinks you need. K. Veitch states that he wants to make sure we get that straight before the ZBA takes any action on this. D. Eskoff states then we could have written communication from G. McKenna because as an appeals board we can only act on his actions. D. Evans states that G. McKenna is saying that keyhole lots must have road frontage and he is asking for a variance, for relief from that. D. Eskoff asks if this is the same area for which the applicant was previously before us in the last couple of years for open development areas. D. Evans states that was across the road. D. Eskoff asks that these are similar lots or so situated in the same area. D. Evans states that it is the same area. D. Eskoff states that there is definitely more procedurally here to discuss and she thinks it is best that it goes back to G. McKenna before we take the application pre-maturely. J. Szpak asks how this was placed on the agenda for tonight. R. Rowland states that it was placed on the agenda as it is before the Board, 1 interpretation and 7 area variances. K. Veitch states that he would like more information from G. McKenna also. D. Eskoff states that this is not the norm. Norm would be that an applicant comes to the Board for one parcel, as this applicant has in the past. If it's a question that we cannot answer we send it to the Town Board who would do something and send it back. This is different because the applicant is basically looking at a subdivision of a number of lots. She states that there is also the name of a Mr. Chandler on the application. D. Evans states that Mr. Chandler is present and that he and his wife would like to buy lot 5. He was hoping that the Board would listen to them as well tonight. D. Eskoff states that we would only be accepting, or not, an application tonight. J. Szpak states that he would need more information to know even if we should accept the application. He would benefit if we could at least hear what he is trying to accomplish to see if this paperwork actually allows us to work on that. D. Eskoff states that Mr. Chandler is interested in only one or two parcels, and then the application is combined with these other 7 parcels. Mr. Chandler is not the agent for the other 6 parcels, so the application is not correct in that regard. D. Evans states that Mr. Chandler is on the application for lot #5. J. Szpak states that this looks to him like it is for just one of the lots. D. Eskoff states that she would have preferred 7 different applications

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and one for the interpretation because these are individual lots that each require a variance. D. Evans states that it has to be addressed as a whole, one variance at a time is not going to make sense. D. Eskoff states that she would like an interpretation from G. McKenna on that. K. Veitch states that he is not comfortable moving forward until we have more information. D. Evans states that G. McKenna is against this variance. K. Veitch states that is why the ZBA is here, because they can override G. McKenna. D. Eskoff states that it is the application process right now that we are concerned with so that it protects the applicant as well. It is important that the applicant's interests be protected and if each one requires a separate application even if he wants to the Board to look at all 7 of them on the calendar at the same time, but there are individual variances and different pieces of property. They may raise different issues. We are not looking at a subdivision that the applicant is bringing to us, the Planning Board is not asking a question, it is not a mobile home park that is one parcel – these are different lots. K. Veitch states that each parcel may require a different type of variance. D. Eskoff states that only one has Mr. Chandler as an agent. D. Evans states that what he is looking for is to drop the frontage requirement for the 7 rear lots. D. Eskoff reiterates that each is a separate lot that has its own unique characteristics. K. Veitch states that the Board may be willing to do that on one or two but not the others, and that is why looking at each one individually we can say which ones we are comfortable with. D. Evans questions that if he sends in for 7 variances will that resolve that issue. D. Eskoff states that we just don't have individual paperwork for each one. K. Veitch states that each lot is asking for a variance although it is frontage. D. Evans states that there are 3 lots in front and 7 lots in the back, and he is asking for relief from the requirement of frontage for the 7 lots in the back. D. Eskoff states that she thinks this is going to have to go to the Town Board also and she would like to know more from G. McKenna, and she thinks it is going to behoove the Board to have 7 different applications – at least the one with Mr. Chandler has to be separate from the others because he cannot be the agent for 7 properties. D. Evans questions that the Board needs 7 pieces of paper as opposed to 1. K. Veitch states that he thinks that we need descriptions and he really needs G. McKenna to give us some more information on this. D. Eskoff states that the rest of it can all be copied but the actual information for each lot should be spelled out specifically. D. Evans states that he is here today having paid for 7, he has the information for 7. K. Veitch states that the ZBA is not ready to review; some things need to be straightened out.

RESOLUTION – G. David Evans, Interpretation/Area Variances

MOTION: D. Eskoff

SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals postpones the acceptance of the application from G. David Evans for an Interpretation and Area Variances for property located on Plank Road, TM#123.-2-28.21; TM#123.-2-28.31; TM#123.-2-28.11; TM#123.-2-28.12; TM#123.-2-67; TM#123.-2-68; TM#123.-2-58.121; TM#123.-2-66; TM#123.-2-58.11 and TM#123.-2-11, per the application, to the February 2, 2016 meeting with referral to Gerard McKenna for additional information and clarification on the number of actual applications and/or paperwork that specifically outlines each variance requested and whether or not there is an agent for each individual lot and to also address the internal issues given to us by G. D. Evans on this summary sheet.

D. Evans asks if the Board wants him to come back next month with 7 applications. D. Eskoff states that G. McKenna will let the applicant know.

VOTE: Ayes: Veitch, Eskoff, Kolakowski, Sanda, Szpak
Noes: None

DISCUSSION

K. Veitch explains that there has been a request from the Planning Board for an interpretation from the Zoning Board of what minimum width is of 100' in the mobile home park requirements, and they are also requesting clarification of the ZBA zoning variance approval and whether width was taken into

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consideration. This is just an item for discussion at this time. This is in regard to the UMH NY Brookview, LLC, ZBA Case#951, which was an area variance request. K. Veitch states that his recollection and in reading the ZBA minutes and acting on the case as it stood, it was a request for an area variance for the area that was the expansion to the existing mobile home park. We addressed it as an area variance and in the situation as it was a case that was already pre-approved back in 2007 and that because of whatever reasons, they have come back because they lost their special use permit. The applicant requested the variance because the code changed during that time and they submitted the same plans they had submitted back in 2007. They requested the area variance to allow them to have the same design. He recalls the ZBA discussion, during our meeting, that we didn't talk about width. We talked about minimum square footage for each unit and we put a minimum requirement for each unit. We didn't get into depth or width. So in understanding the mobile home park section of the Zoning Law, he does not know how lot depth and lot width pertain to that being that these individual units do not sit on lots as far as our zoning describes lots. You can call them what you want within your own business, but a lot to him is a surveyed, deeded parcel of property. D. Eskoff states by our code. K. Veitch states that the Planning Board is requesting our interpretation and personally he does not feel that we can give an interpretation because there isn't one that would apply to this situation. D. Eskoff states that in reviewing all the definitions in the code, and including the term density, which is what we ultimately based, felt in the most fairness in looking at the case and balancing the case and all the interest in the case, was looking at overall density and then trying to balance that with the change from 6000 to 10,500, which 10,500 was the original figure for density and it remains the figure for density. Part of that definition has 100' width. That hasn't changed since 2007. The 100' width was approved in 2007, somehow or at least taken into consideration by the Planning Board in that particular layout design. It was not questioned by G. McKenna and it was not brought before us to the ZBA as part of our question. Our question was simply the 6000 to the 10,500. Ultimately we based discussion and decision on density, overall density that those lots were in accordance with the density and therefore given the size of the park, given the environmental considerations – it was all part and parcel of it. The width did not become a separate thing. We certainly did not look at the individual widths of every single unit in there. We started to look at some dimensions and felt that was best left to the Planning Board, that they would review it and that is why the approval was “up to 64 units”. They have other figures that they are going to look at, but width, specifically, is really not something that we can define or interpret because there is no specific definition for it for a ‘mobile home lot’ vs. a ‘mobile home park lot’. K. Veitch states that he agrees with D. Eskoff. L. Sanda states that the section that the 100' width comes from is the mobile home park requirements and the park definition is not the same thing as a mobile home lot definition. In mobile home lot it says that it has to be 10,500 square feet – it does not specify a width for the lot. D. Eskoff states that is the only thing that we tried to correlate back to that density. The density - that never changed. It was 100' then and it is 100' now. The plan was approved and we went under those realizations that were given to us. She does not know what more we can give the Planning Board. They seemed to do ok with it the first time without that definition and we cannot make up a definition nor should we infer it. We have to look at it very specifically when we are trying to interpret something. L. Sanda states that she reads this that the 100' does not apply to the individual lots, that it is for the park itself. D. Eskoff states that it is for the density requirements. L. Sanda states that it is for the park and not the lots, and for the park they would have 100' width. For the lots there is no minimum width in that section. D. Eskoff states that is the most we can say in reading it on its face. J. Szpak states that it is a little peculiar that under the density section that it calls out for a 100' width. He does not know what the initial, original intent of that was, but he still agrees with the overall conclusion that he thinks that it is up to the Planning Board whether they feel the lay out of the park is acceptable or not. He does not see a need for the ZBA nor was the ZBA asked to act on any variance to lot width nor does he think that they could because he does not think that there is a definition of a lot. He thinks it is just the density which we addressed and as far as the layout of the park, that is up to the Planning Board to determine if that is an acceptable layout. Obviously it was determined to be acceptable before, we didn't question that nor did we have concerns about that. C. Kolakowski states that as he said during the original voting, he was not here for the original discussion but was here for the meeting when we talked about it and when the decision was made. His recollection is the same. It wasn't that all the lots were 100' and they were asking the ZBA to grant a variance on that, it was already done prior to that point with that in place. K.

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Veitch states that it sounds like we are all on the same page. J. Szpak asks if we think we have answered the question. L. Sanda states the second question for sure – we did not take width into consideration for the variance. K. Veitch states it is clear. Board consensus is that they did not have issue with it. J. Szpak questions the first question from the Planning Board. K. Veitch states that it is hard to give an interpretation on that but based on what we have just discussed, if we can put that into a condensed answer for the Planning Board. J. Szpak states that our interpretation would be that the 100' applies to the density requirements and not to lot size. The layout of the park itself is up to the Planning Board to determine and not the ZBA. We did not have any issue with the layout of the park. K. Veitch states that this is the best answer we can give them because it is what we have to work with. D. Eskoff states that the width question goes to density and that the ZBA feels it was adequate density and that is what they based the variance on. It is up to the Planning Board to work out the layout. It was brought to the ZBA as something that had already met that threshold or we assumed met that threshold because no one had taken issue with it including our Zoning Officer. K. Veitch states that there was no request for any other variances. Ours was just an overall area variance.

K. Veitch welcomes Andrew Wine as our new alternate member to the Zoning Board.

Meeting adjourned at 8:03 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary