

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

July 3, 2012

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, Joseph Szpak, Kevin Veitch and Denise Eskoff, Alternate.

June 5, 2012 MINUTES

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of June 5, 2012, as submitted.

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

Noes: None

Abstain: Conard

NEW BUSINESS

DAVID MURRAY – Temporary Use Variance, Case #896

NYS Route 9N

David Murray is present. T. Conard reviews G. McKenna's notes that the applicant was issued a violation for placing a mobile home on a lot without a building permit. The lot has 2 existing mobile homes. The applicant is seeking a temporary use variance to allow the mobile home to remain. D. Murray explains that the mobile home was in front on his house on 9N (1667 NYS Rt. 9N), and moved it to the back on this lot where it would be less noticeable while still trying to maintain a residence for his disabled sister. His sister is currently living in Florida, but he would like to have something for her to come back to if she eventually wants to come back. P. Lunde asks how long the mobile home has been there. D. Murray states that it has been in this location for maybe a year and it was in front of his house since the early 1980's, when he set it up in front of his home for his parents. P. Lunde asks how temporary would this be. D. Murray states that if he could get another year or two out of this he would be happy. He states that eventually all the mobile homes are scheduled to be removed, once the economy improves and he is able to get back into the building aspect of the subdivision. The location of the mobile home is discussed. M. Granger states that she would like to see a better map as the one provided is very difficult to make out.

RESOLUTION – D. Murray, Temporary Use Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of David Murray for a Temporary Use Variance for property located at 1735/1739 NYS Route 9N, TM#151.-2-104 as complete and schedules a public hearing for August 7, 2012 at 7:30 p.m. contingent upon:

- **Receipt of better site plan 2 weeks prior to the August 7, 2012 meeting**

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

Noes: None

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FRANK KRAMER – Area Variance, Case#897

Brigham Road

Frank Kramer is present. T. Conard explains that the applicant is seeking an area variance to replace a mobile home. D. Eskoff asks the applicant to make corrections to his SEQRA form. P. Lunde asks how long ago the mobile home was removed. F. Kramer states about 2 months ago. P. Lunde questions the reason for this application. R. Rowland explains that it is because of the acreage. P. Lunde asks what is on surrounding properties. F. Kramer states that there are houses but you cannot see any of the neighbors.

RESOLUTION – F. Kramer, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Frank Kramer for an Area Variance for property located at 372 Brigham Road, TM#126.-1-45 as complete and sets a public hearing for August 7, 2012 at 7:30 p.m.

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

SARATOGA BUMPER REPAIR – Area Variance, Case#898

NYS Route 9 (Marion Avenue/Maple Avenue)

No one is present for this application. T. Conard reviews that the applicant is seeking a variance for a larger sign. K. Veitch asks that the applicant be contacted and asked to do a better site map. D. Eskoff states that she drove by there today and the existing sign is in front of the Elks Club sign. K. Veitch states that if the applicant could provide some photos from different angles, that would be helpful. The drawing provided does not indicate the height of the sign or what the base will be constructed of. The Board would also like to see where it will be in relation to the Elks Club sign. D. Eskoff states that it can create issues if it blocks the Elks sign. The Elks Club alleviated some issues when they replaced their sign.

RESOLUTION – Saratoga Bumper Repair, Area Variance

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Saratoga Bumper Repair for an Area Variance for property located at 3 Marion Avenue (NYS Route 9), TM#153.17-2-13 as complete and sets a public hearing for August 7, 2012 at 7:30 p.m., contingent upon:

- **Photo's with the new signs location from the north and south**
- **Height dimensions and base construction details**
- **Location relative to the Elks Club sign**

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

DAVID CORSON – Area Variance, Case#899

Ridge Road

David Corson is present. T. Conard reviews that the applicant would like to build a 1680 square foot pole building, however, due to topography and positioning, the left side yard would not comply. D. Eskoff

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questions that the SEQRA application states that it is a modification and is there a pole barn there now. D. Corson states that there is not. D. Eskoff states that it should then be changed to new construction. K. Veitch asks about structures on the adjoining property. D. Corson states that there is a residence and out building on the right side and the other property is vacant. P. Lunde asks if there is a very steep slope here. D. Corson states that there is.

RESOLUTION – D. Corson, Area Variance

MOTION: M. Granger

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals accepts the application of David Corson for an Area Variance for property located at 461 Ridge Road, TM#123.-2-38 as complete and sets a public hearing for August 7, 2012 at 7:30 p.m.

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

Noes: None

THOMAS MERRILLS, JR. – Area Variance, Case#900

Lake Desolation Road

T. Merrills, Jr. is present. T. Conard reviews that the applicant is seeking to a lot line adjustment which would make one lot smaller, “A” on map, and join three other lots into lot “B”, which would remove three extremely substandard size lots and create 1 larger substandard size lot. T. Merrills explains and the map is reviewed. The applicant would have 2 lots when this is accomplished.

RESOLUTION – T. Merrills, Jr., Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Thomas Merrills, Jr. for an Area Variance for property located at 502 Lake Desolation Road, TM#135.11-2-9, as complete as schedules a public hearing for August 7, 2012 at 7:30 p.m.

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

Noes: None

JAY ELLSWORTH – Area Variance, Case#901

Barney Road

Jay Ellsworth is present. T. Conard reviews that the applicant is seeking an area variance to build an in-law apartment on an existing garage. D. Eskoff asks the applicant to make corrections to questions #8 and #10 on the SEQRA form. The applicant requires a variance of .23 acres.

RESOLUTION – J. Ellsworth, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals accepts the application of Jay Ellsworth for an Area Variance for property located at 114 Barney Road, TM#149.-1-47.2, as complete and sets a public hearing for August 7, 2012 at 7:30 p.m.

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

Noes: None

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PETER BARBER – Area Variance, Case#902
Greene Road

Peter Barber is present. T. Conard reads from G. McKenna's notes that the applicant would like to build a house on a pre-existing, non-conforming lot, which does not have road frontage. NYS Town Law S 280-a requires the Town to establish an "open development area", which would then allow the ZBA to grant an area variance for frontage. M. Granger explains the process to the applicant. K. Veitch asks if the ZBA could grant an approval contingent upon the Town Board proceeding. M. Granger states that we can refer this to the Town Board and ask them if they can take action on this prior to the next ZBA meeting so that the ZBA will have the proper authority to consider whether or not they can grant this variance. P. Barber asks how this application is different from a variance granted last month. P. Lunde also asks how about previous variances the ZBA has granted. R. Rowland states that this recently came to G. McKenna's attention. P. Lunde asks if the applicant has a deeded easement. P. Barber states that he does, along Ure Way.

RESOLUTION – P. Barber, Area Variance

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Peter Barber for an Area Variance for property located at 481 Greene Road, TM#126.-1-20.2 as complete and sets a public hearing for August 7, 2012 at 7:30 p.m., contingent upon:

- **Referring this matter to the Town Board and Town Attorney for a ruling**

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

VALERIE BAKER – Area Variance, Case#903
Bockes Road

Valerie Baker is present. T. Conard states that the applicant would like to replace an existing mobile home with a new double wide and needs an area variance. P. Lunde asks what size the existing mobile home is and what size she would like to replace it with. V. Baker states that there is a 14 x 70 there currently and the new one would be 28 x 48. The Board needs a plot plan showing the new home and the dimensions to the property lines. R. Rowland asks V. Baker if she has the Authorization of Agent to submit. V. Baker states that R. Moser was to fax that in to the office. P. Lunde asks how old the existing mobile home is. V. Baker states that it is 20 years old.

RESOLUTION – V. Baker, Area Variance, Case#903

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Valerie Baker for an Area Variance for property located at 302 Bockes Road, TM#137.-2-12, as complete and sets a public hearing for August 7, 2012 at 7:30 p.m., contingent upon:

- **Receipt of new plot plan**
- **Receipt of Authorization of Agent**

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

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OLD BUSINESS

WAYNE & POLLY SCHADE – Interpretation/Use Variance, Case #892
Grange Road

Wayne & Polly Schade are present. T. Conard states that this is an application for an Interpretation regarding hobby farming. He states that hobby farming allows a limited amount of animals on a property and the interpretation request is whether or not it is allowed in this particular zone, which is the Town Center district. A public hearing is opened at 8:04 p.m. Carrier Steuer, owner of property on Grange Road and Wing Road, asks if hobby farming is solely for the use of the property owner. T. Conard states that it is. C. Steuer asks if an interpretation is required because of the rezoning of Town Center. T. Conard states that is correct, Town Center was expanded. Jim Zeigler, Grange Road, questions that there are no fields there so he is curious about what is the intention regarding managing waste from the animals. C. Steuer asks the number of acres. T. Conard states it is a little over 9 acres. He explains that an interpretation is just whether the Code Enforcement Officer has made the correct interpretation to the law. That is what the Board is doing tonight. T. Conard states that the Board did receive a letter from Chris and Amy Hoge, Grange Road, opposed to this project and against the Board overruling the Code Enforcement Officer. There being no further public comments, this public hearing is closed at 8:08 p.m.

K. Veitch reiterates that this is not about what is going on on the property, this is about are we in fact in agreement with our Zoning Officer or do we disagree. If we agree with him then the applicant would be required to apply for a Use Variance. If we don't agree, then it would allow this to go forward without any use variance. It is not about what is going on on the property but about whether this law was properly applied to this situation. J. Szpak states that it seems to him that the complicating factor is that the intent of the Hobby Farm law was to allow property owners to do what they want without getting anything from the Zoning Board. However, the way it is written, he agrees with G. McKenna's interpretation of the law. He thinks that because it says that 'all zoning regulations shall apply', it would have been better written to say something like 'all other residential zoning'. D. Eskoff states that if it says that all zoning regulations apply, then all zoning regulations apply and you have to look back at the overall zoning. If there is a clarification needed, then it has to go back to the Town Board. K. Veitch agrees, if there is a regulation that says that these things are not allowed in this district, then that is what the law is saying. If the intent of the Town Board was not to have that in there, then they are the ones who are going to have to do the leg work and go back, review and restructure this. D. Eskoff states that they may not have intended to, but this is what came out. T. Conard states that at this time, Town Center does not allow agricultural use. P. Lunde states that in most municipalities you do not have farming in town center. T. Conard states that he does not think that the intent, with enough acreage, was that they were against people having chickens, for example, as long as they were taken care of, etc. D. Eskoff states that historically, those things all existed even in much smaller areas, but there are reasons for these restrictions. K. Veitch states that historically, that is why we have zoning because there needed to be some separation, there needed to be more control on how growth was going to be and where.

RESOLUTION – W. & P. Schade, Interpretation/Use Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals supports the Interpretation of the Code Enforcement Officer as correct that Hobby Farming, as written, does not allow this use in Town Center, regarding the application of Wayne and Polly Schade for property located at 111 Grange Road, TM#138.-1-40.11

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

Noes: None

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T. Conard explains that the Board supported the Zoning Officer's ruling. He states that as a warning, a Use Variance in the State of New York is very hard to get, because we have to follow very strict rules as far as you are not able to financially use the property for anything for which it is zoned and you have to prove that. That is a very hard thing. The Board has a lot more leeway in area variances. The other option is to go before the Town Board and ask what their thoughts were and perhaps they can change the wording of the Hobby Farm. He states that it would be a lot easier and probably a lot more doable than going for a use variance. J. Szpak states that is what he believes we were trying to do. We were trying to give people like the applicant the ability to do this. He would also like to remind the applicant that the regulation states that the farmer shall not create excessive noise, objectionable odors, etc. – being good stewards to the neighbors. P. Schade states that they were waiting for a decision and that the wetlands are at the very rear of the property.

JOHN HARDING – Area Variance, Case #893

Revere Lane

J. Harding is present. T. Conard states that the applicant is seeking an area variance to build a 24 x 36 barn. This is a corner lot with 2 fronts and 2 sides. A public hearing is opened at 8:17 p.m. A letter from Thomas Zito is read into the record in favor of the variance. There being no further public comments, this public hearing is closed at 8:18 p.m.

P. Lunde asks for clarification on the map of the location of the barn. He asks why the applicant wants to put the barn in this location. J. Harding states that otherwise it is in the middle of the backyard. Discussion takes place about other locations. J. Szpak states that the concern is between the cemetery wall and the proposed barn. M. Granger states that the larger concern of the Board is their charge with granting the minimum variance necessary. She asks if there is any other limiting factor. J. Harding explains that the topo from the road down to his property is 10' and what he wants to build is what is called a New England Bank Barn and sink it into the hillside. If he puts it out in the yard he has to bring in 3 to 4 times the amount of fill. Whereas now there is a field drive that accesses the back of his yard off of Locust Grove Road and he is going to tuck the barn into the hillside. D. Eskoff asks if it will be visible from Revere Lane. J. Harding shows drawings of what will be visible from the road. From the Revere you might be able to see part of it. P. Lunde asks if it can be turned sideways. J. Harding states that where it is shown on the plot plan is doing the best balancing of the cut and fill situation. P. Lunde asks who maintains the cemetery. T. Conard states the Town. He states that he would be more concerned with the placement if it was a house and not a cemetery, which is not longer used and only maintained. J. Harding states that the barn would fit in with the "period" of the cemetery and he would also like to preserve as much of the woods to the rear as possible. K. Veitch states that only 1/2 of the structure would be visible. J. Szpak states that because the impact is lower than it normally would be, he is ok with the size of the variance. T. Conard states that it is not unusual to have structures near graveyards anyway. M. Granger states that part of what does distinguish it, as discussed, is that since it is not another residence, it is a cemetery, she thinks that helps delineate in part granting the variance because of the surrounding lack of structures other than headstones.

RESOLUTION – J. Harding, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals approves the application of John Harding for an Area Variance for property located at 1 Revere Lane, TM#151.20-1-36, as follows:

- **20' front yard setback variance**

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This approval is based on the following criteria:

- **No undesirable change to the neighborhood**
- **The request is not substantial, since the property line that he is adjacent to is the cemetery and there are no other structures within that area nor will there be**
- **No adverse physical or environmental impacts**

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

KEVIN CLARK – Area Variance, Case#894

Combs Roadway

Kevin Clark is present. T. Conard reviews that the applicant would like to remove an existing structure and install a new modular home. He is in the process of joining three lots. This would require a front setback variance but complies with side yard setbacks. The applicant needs front and rear yard variances of 55'. A public hearing is opened at 8:26 p.m. A letter is read into the record from Thomas Merrills, Sr. and Louise Okoniewski in favor of the variance request. There being no further public comments, this public hearing is closed at 8:27 p.m.

P. Lunde states that the applicant is taking something that is substandard and making it much more standard even though it does need variances. It definitely does not change the neighborhood, it actually makes it better where he is taking something that you could feasibly put three structures on, you now will only have one. K. Clark states that the three lots directly across from him are also family.

RESOLUTION – K. Clark, Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals approves the application of Kevin Clark for an Area Variance for property located at 15 Combs Roadway, TM#135.11-1-19, as follows:

- **55' front yard setback variance**
- **55' rear yard setback variance**

This approval is based on the following criteria:

- **The applicant is improving the area by creating one larger more conforming lot versus three lots**
- **Benefit cannot be achieved by other means**
- **No undesirable change to the neighborhood**
- **Request is not substantial in that neighborhood**
- **No physical or environmental impacts**
- **It is not self-created**

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

THEODORE MAKKAY – Interpretation, Case#895

Goose Hollow Road

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T. Makkay and Rob Fraser, LA Group, are present. T. Conard states that this is a request for an interpretation regarding reducing the frontage in a cluster development. The law does not state frontage as part of the reduced size of the lots. The law allows a lot to be reduced by $\frac{1}{4}$ of the required lot size when you are doing a cluster development. G. McKenna did interpret the law as written that way. The applicant is wondering if that is what the intention of the law was. A public hearing is opened at 8:32 p.m. Clark Hayward, Goose Hollow Road, feels that there will be changes to the character of the area as it is a relatively small area and this proposal is to add 20 or so additional houses. He feels this will have a negative impact on the general character of the area. Goose Hollow is a light duty roadway and to build that number of houses would generate additional traffic from construction vehicles and other equipment. There would also be additional traffic from that number of homes. He also has concerns regarding the water table and whether it would be able to support that type of development. June Banning, Russell Road, states that she is to the rear of the property and below a hill. She is concerned about the water and sewage. She states that these are very small lots and they each need their own wells and septic. There is also a concern regarding wetlands. T. Conard explains cluster developments and that the actual subdivision is before the Planning Board. The ZBA is dealing with the interpretation of the law be the Code Enforcement Officer. Depending on how the ZBA interprets this, the applicant could put in the plan as it stands now. J. Banning reiterates that she has concerns about the water table, water conservation, and contamination of the water. She states that she would love to be a good neighbor to T. Makkay, but she has concerns. Kathleen Johnson, Goose Hollow Road, questions what is actually written. T. Conard states that the cluster law states that you can reduce a lot size by $\frac{1}{4}$ and reduce the setbacks. What was not clearly stated and what the applicant is asking about is whether the frontage can also be reduced $\frac{1}{4}$ to equal the rest of the lot. K. Johnson asks if what we are stating is that there is no statement regarding the road frontage. T. Conard states that there is no written statement about the road frontage. K. Johnson states that if this became a new ruling for cluster developments, would that allow future builders to also reduce the size of their road frontage. T. Conard states that is correct, but only in cluster developments. K. Johnson states that then this is going to be a determination for all cluster developments here forward possibly beginning with this application. T. Conard states that the ZBA is interpreting the law as to whether the Building Inspector made the correct decision. J. Szpak states that the Board is considering whether they are setting a precedent. T. Conard states that we always consider that. D. Eskoff states that the Building Inspector makes a determination, and the applicant is asking the ZBA to interpret whether the Building Inspector has made the correct interpretation of the law or not. K. Johnson states that she is concerned because the roads in that area are in bad shape. She states that towns are under pressure of what is coming in for tax dollars and what services to provide. If we are in a situation where we have to literally select what two miles of road we are going to pave, and future development is going to add more houses and roads, that is a concern. Another concern is that we are getting less money from the State; homeowners are picking up more tax burden. Granted you are building more houses that bring in more tax dollars but when you start subtracting out the additional services, does it balance itself. T. Conard states that, pointing out some facts, the reason people have cluster development is not only for the open space, but it also tends to have a lessening effect on the amount of roads that you have to maintain because the houses are now closer together. The less amount of plowing you have to do, because the houses are now closer together. This was the idea originally behind cluster developments. He is not stating whether or not he agrees with it. He states that there are some benefits to the community as well with cluster development. He states that the public comments have pointed out some disadvantages. Basically the ZBA's determination, while taking all this into consideration, is on whether the ZBA feels that the Zoning Officer's ruling was correct. Darryl Cutler, attorney on behalf of Dale, Denise, Loren, Susan and Sheldon Jenks who own approximately 40 acres, states that the Code Enforcement Officer interpreted the law correctly and that is because of the fact that the Cluster regulations, specifically in H of Section 105-122, deal with different aspects of what can be changed regarding lot size and dimensions. In H-2, it talks about the minimum lot size shall not be less than $\frac{1}{4}$ of the required acreage. In this case there is a 3-acre lot size requirement, so it can be $\frac{1}{4}$ of that. The applicant is not asking for less than that. The problem is that it goes on in H-4 to address the minimum rear yard setbacks. The minimum side yard is stated to be the same as required under the zoning district in which the project is located. What is not being really asked here is whether the ZBA believes that it should have been allowed to have a reduction, but you would have to not

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only decide whether a reduction should be allowed, but also how much of a reduction. The problem is that the statute specifically addresses area requirements, front setback, rear setback and side setback, but it is silent on the issue of frontage. If the Town Board had intended for the frontage to decrease, then the Town Board should have legislated that, but they did not. For an interpretation, the ZBA would have to say that they forgot to do that and the ZBA is going to allow a reduction of what? There is no insight on that. If the Town Board made a mistake and forgot to include that in the legislation, then the Town Board is the one who would correct that mistake. They would decide if a reduction is appropriate, but how much of a reduction. He states that in this case the Town Board specifically said that they were leaving the side setbacks the same. He states that is because the Town Board wants to maintain the rural character of keeping houses far apart from each other. D. Cutler states that you can do a cluster development without a reduction of road frontage. The lots would not be as deep. He states that if the ZBA does interpret that there should be some reduction, it wouldn't be ¼, because nothing else in there is ¼. He does not believe that they intended to give any leeway on the road frontage. If they intended that, they need to go back and change it. He states that the Code Enforcement Officer interpreted correctly. The statute does not allow for it and absent that, he cannot amend it. Janet Koelbel, Goose Hollow Road, states that to her, 23 clustered houses sounds like 46 cars, minimum. She states that she is very concerned about the water and the water quality. That is one of the reasons that they bought a house on a property like theirs. She is concerned about the changes to the neighborhood. Larry Klementowski, Wilsey Road, states that he is opposed, this should not be reduced. He states that there is a lot of ledge rock on this property and he does not believe that they can put this number of houses in there. There being no further public comments, this public hearing is closed at 8:50 p.m.

M. Granger states that in the Planning Board's referral, they stated that someone should research what other municipalities have in terms of what kind of reduction they may have. She states that it is not in the ZBA's power to make a decision and set a precedent in terms of how much reduction should be there. She thinks that this needs to go back to the Town Board, it needs to be researched, they need to make the decision and they should make any change that they need to. T. Conard states that he did contact Stewart Messinger who led the rezoning of the Town. He is with Chazen. S. Messinger did say that generally Towns do reduce the frontage, but T. Conard states that he would not feel comfortable in just saying that the applicant can have a certain amount of frontage. He does feel, as it is written, that the Code Enforcement Officer did interpret it correctly. He would suggest sending it back to the Town Board for review. D. Eskoff agrees and states that it should go back to the Town Board to decide if this town wants to do it. K. Veitch states that the Code Enforcement Officer interpreted what they wrote, not what they might have intended. What their intent might have been sitting there in theory might have been one thing, but what is there in black and white, and K. Veitch states that he has read a lot of code books, if it is not there, it is not there for a reason.

RESOLUTION – T. Makkay, Interpretation

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals supports the interpretation of the Code Enforcement Officer that a frontage reduction in a Cluster Development is not allowed under the current regulations in the application of Theodore Makkay for an Interpretation for property located at 60 Goose Hollow Road, TM# 150.-2-2.

T. Conard states that we had another interpretation problem where it was written differently than perhaps the way it was intended. That should also go back to the Town Board.

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

Noes: None

M. Granger states that it is important that the ZBA send these two issues, Hobby Farming and Cluster road frontage, to the Town Board and ask them to re-evaluate. P. Lunde states that it is important that G.

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McKenna got both of these right, that he should be commended for what he is doing and his comments should be directed to the Town Board, because that would make his job easier long term if things like this happen in the future. D. Eskoff states that many times these codes are taken from other codes and things get left out. R. Fraser states that they are not requesting area variances. He states that it seems that there should be a corresponding reduction. K. Veitch states that if there should be, it should be charted out. R. Fraser states that the ZBA should be able to make the decision. R. Fraser states that each subdivision would be different based on the way it is written. M. Granger states that this Board does not have that authority. R. Fraser states that he wishes the Board had done this last month because now they have to go around again. P. Lunde states that once an applicant comes here and their application is accepted, the ZBA must have a public hearing. R. Fraser states that he understands that there are procedures, but he could have gone to the Town Board between then and now. T. Conard states that the Town Board would not make that determination that quickly and they also have to have a public hearing if they are going to change the law. K. Veitch states that his question is how involved was G. McKenna during this process of the zoning change, because he knows, personally, he gets handed new laws and then when he reads them, they don't make sense. He states that if he were asked to be involved from the beginning, he could have stopped something from happening and could have at least had something a little more solid. J. Szpak states this is a very large piece of property, it is obvious to him that the neighbors don't understand the benefit of the cluster development and the applicant may want to put that in communications. T. Makkay states that most of the property will not be developed. J. Szpak states that he understands what the applicant is trying to do and likes it, but the neighbors are not understanding.

Meeting adjourned 8:59 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland