

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

JULY 7, 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, Paul Lunde, Michelle Granger, Stanley Weeks and Joseph Szpak, Alternate. Kevin Veitch is absent. Gerry McKenna, Zoning Administrator is present.

JUNE 2, 2009 MINUTES:

MOTION: S. Weeks

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of June 2, 2009 as submitted.

VOTE: Ayes: Conard, Lunde, Szpak, Weeks

Noes: None

Absent: Veitch

Abstain: Granger

NEW BUSINESS

WALBRIDGE ENTERPRISES, LLC – Case# 829, Area Variance

Maple Avenue

Bill Walbridge is present for this application. T. Conard reviews that this is a pre-existing, non-conforming lot in the OR requiring 2 acres and 120' of road frontage. The applicant would like to rent space in an existing business for use as a retail store. The use is allowed with a site plan review. The applicant requires an area variance of 1.21 acres and 20' of frontage. T. Conard asks if the Board feels that the map is adequate as it does not show neighboring yards or locations. It is good for relations of the buildings on the lot. J. Szpak states that there are houses on either side. T. Conard states that it would be nice to have, on this map or something similar, a rough distance to the houses on either side. P. Lunde questions the number of parking spaces. T. Conard states that will be reviewed in the Site Plan Review. B. Walbridge states that he has had a tenant in there operating an appliance store for 10-plus years and now because of the economy, the tenant is consolidating into half of the space. M. Granger asks if the applicant could get the distances to the neighboring structures to the Board by July 20, 2009, two weeks prior to the next meeting.

RESOLUTION – Walbridge Enterprises, LLC, Area Variance

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Walbridge Enterprises, LLC for property located at 455 Maple Avenue, TM#153.13-1-24.11 and sets a public hearing for August 4, 2009 at 7:30 p.m., contingent upon:

- Receipt of map indicating locations of neighboring structures

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J. Szpak asks for clarification on question 6 of the SEQRA form. B. Walbridge states that the commercial use is the same as it has been for the past 10-plus years.

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

A. JAMES MASON – Case #830, Area Variance

Locust Grove Road

James Mason is present for this application. T. Conard states that this is a pre-existing, non-conforming lot and the applicant is seeking left and right side setback variances to build a single family residence. The applicant is requesting side setback variances on each side of 8'. J. Mason states there is a slight change to that as he was told by an engineer that for the driveway, the minimum turnaround area should be 30-feet so he would be adjusting the house location to 30 feet on the right side and 24 feet on the left. P. Lunde asks if the applicant thought about having 35' on the one side and then just needing a variance on the other. J. Mason states that he did not. P. Lunde states that by law the Board is supposed to give the minimum variance necessary. T. Conard states that it really doesn't matter because we would be giving the same amount. G. McKenna states that he had figured it out based on the 27', but he suggested that the Board go 9-feet so that the applicant does not have to be absolutely perfect where it sits because he only has 100-feet to play with. If they miss it by one foot and the house gets kicked a little bit, he would be back here. He suggests going one foot over for some adjustability. The applicant will have to provide a plot plan when he builds the house and if it is actually 99 feet and not 100 feet. A. J. Mason states that there is a survey in the file and it is 100'. G. McKenna states that he missed that. P. Lunde asks what is on the neighboring lots. A. J. Mason states that there are houses on the adjoining lots, neither of which you can see from where the house would sit. He states that it is in excess of 60 feet on the one side and over 100 feet on the other. S. Weeks states that from his standpoint he would rather see the house more centered and give variances on both sides. T. Conard concurs and based on moving the driveway, that would be 11 feet on the left and 5 feet on the right.

RESOLUTION – A. James Mason, Area Variance

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of A. James Mason for property located at 217 Locust Grove Road, TM#152.-1-69 and sets a public hearing for August 4, 2009 at 7:30 p.m.

J. Szpak asks if the applicant doesn't want to go with an extra foot on each side because if the house isn't built exactly to this scale, then he will not be within the variance. G. McKenna states that honestly, he would not pick up 6 inches or make an issue of it. If it gets twisted a little and then you come back with a survey that is a foot or two off, at that point the applicant would be back. J. Szpak states that in order to avoid any kind of future potential for another variance and he does not think it is going to make any difference in a decision. M. Granger states that her only response to that is that we just talked about the fact that the Board is supposed to give the minimum variance necessary and here we are talking about increasing the variance that the applicant is asking for. G. McKenna states that the only reason he was even concerned is because the lot is so tight and there is no room for errors. M. Granger asks the applicant if he feels comfortable in terms of what that survey has shown. A. J. Mason states that the owner had the survey done and it is staked.

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

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OLD BUSINESS

TERI & WILLIAM CROWE – Case #814, Area Variance

Old Stone Ridge

No one is present for the application. T. Conard states the applicant is waiting for a ruling on the new regulations regarding outdoor wood boilers.

RESOLUTION – T. & W. Crowe, Area Variance

MOTION: M. Granger

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals tables the application of Teri and William Crowe for an area variance for property located at 10 Old Stone Ridge Road, TM#164.6-1-7, to August 4, 2009 at 7:30 p.m.

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

Noes: None

Absent: Veitch

JILL CUNNINGHAM – Case #823, Area Variance

Locust Grove Road

Jill Cunningham is present. T. Conard states that this application has had its public hearing and the case was tabled from the previous meeting. The applicant would like to subdivide the lot and the Board had asked for a couple of drawings. S. Weeks questions whether the public hearing notice was posted. J. Cunningham states that it was on her front door for the time it was supposed to be up. M. Granger states that part of the question that the Board had was the limitations of where a house could be situated with the way the lot was set up. She states that it is still not clear to her from the drawings, there are some wetlands there, there is the pond, and the question was if this subdivision was given, would someone be back here again for another variance because it is not really buildable as situated. J. Cunningham states that she does not understand. M. Granger states that there are some wetlands on here and it was a question in terms of configuration, if things could be built without anyone coming back for any other kind of variance. J. Cunningham states that the lot is 318' wide, it will be a keyhole lot and a house would be set back in the middle, she asks if that wouldn't be plenty of room on each side. She does not understand why any more variance would be needed. T. Conard asks how far the house would be from the pond. J. Cunningham states at least 50'. T. Conard states that it possibly has to be more than that depending on if it is a pond that is regulated by ACOE or DEC. There are different footages depending on who is regulating it. G. McKenna states that DEC does not regulate water bodies, only the shorelines and wetlands, but there is a Town regulation that requires one to be 50' from streams and water bodies. P. Lunde asks how far the septic system has to be. G. McKenna states that it all depends on the size, but a minimum of 100'. S. Weeks asks the applicant if someone mapped out the wetlands on her plans. J. Cunningham states that this was the survey she was given when she purchased the property. T. Conard states that if you look at the aerials, there are definitely wetlands back there. G. McKenna states that if it is on the Saratoga County map, it is DEC. P. Lunde asks how far away the house would be from the existing lot that is there. J. Cunningham states that it would be quite far. G. McKenna states that the setbacks are 75' front and rear and 50' on the sides. P. Lunde states that he would be more comfortable with making one a whole lot, instead of making both of them substandard. T. Conard states that the wetlands are a substantial part of the second lot no matter which way you do it. P. Lunde states that they will still have to meet the regulations. G. McKenna states that the Planning Board cannot allow a subdivision that cannot be built on. S. Weeks asks if P. Lunde is suggesting making the lot with the existing house the smaller lot. P. Lunde states that is correct. M. Granger states that she is concerned about making a non-conforming lot. M. Granger explains that it is nothing personal with

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this applicant, but with the zoning change as it went to 6 acre lots in that area, she is concerned about not supporting that zoning change. J. Cunningham states that she was told that it was 5 acre zoning when she bought the property and feels she was misinformed by the real estate agent. G. McKenna states that the zoning change did not take place until 2007 so they couldn't have known. T. Conard states that he is more in favor of keeping 1 lot larger and his problem is that it seems to be a substantial change with a 2-acre variance. P. Lunde asks what the neighborhood is like. G. McKenna gets the tax map and discussion takes place regarding adjoining lot sizes. P. Lunde states that it is not a negative change to the neighborhood. T. Conard states that based on the smaller lots around there, he is not as concerned as he was before about subdividing, but there is still the wetlands running through it and they run into Larkspur Court also. J. Szpak states that this was rezoned to be 6 acre minimum lots and this is the divide between the smaller lots and the larger lots, so you have to think that if you say yes to this one, doesn't that now lend itself to the larger lots to be subdivided into a bunch of smaller lots? The rezoning was to do the opposite. G. McKenna states that if you are talking about the actual map boundaries, all those lots are in the same zone. T. Conard states that everyone can claim the same hardship in that zone. J. Cunningham states that none of the neighbors complained during the public hearing except one and Mr. Hannafin is not going to change his horse farm into a development. M. Granger states that the concern is that if the applicant sells everything, the Town of Greenfield, the zoning and the land are still going to be here and we can't go back and change that. T. Conard states that if the horse farm is sold, a new buyer could decide to subdivide. J. Cunningham questions that then wouldn't that be a major subdivision requiring town water and sewer, with 10-acre lots. G. McKenna states that is not true in the Town of Greenfield. P. Lunde questions if the rear of the lot is wooded. J. Cunningham states that it is, it used to be pastureland and it is wooded right up to the paddock area. P. Lunde states that he does not have a problem with this. M. Granger states that her concern is that the zoning changed for a reason and we would be changing the zoning substantially in this case in making a non-conforming lot. She does not see anything here that differentiates this if someone else comes along. S. Weeks states that we can make that argument on a lot of the applications that come to the ZBA. That is why people are before the ZBA, because they want to do something that is different and are asking what kind of an adjustment the Board is willing to make. He thinks that a new 6-acre lot makes sense to him, 4 acres with an existing house – he thinks he is ok with that. P. Lunde asks about the barn on the line. J. Cunningham states that it was removed and replaced. T. Conard questions if the applicant is going to keep the trees at the back of the front lot. J. Cunningham states that she is. T. Conard states that then you will not really see the second lot. T. Conard states that he would be more comfortable with the 6-acre lot in the back particularly with the wetlands, that has been a major concern of his throughout this whole thing. He discusses the Town of Greenfield cluster regs. J. Szpak asks if there are plans for the rear lot. J. Cunningham states that there are no house plans yet, just a basic lot with a builder to come in with plans. She indicates that there are trees between the driveway and the other properties. J. Szpak questions that the hardship here is that a lot was purchased with the intent to subdivide and at that time it could have been subdivided. J. Cunningham states that she couldn't because it had just been subdivided and she had to wait 5 years. T. Conard states that is a hardship on the individual, which is not self-created. J. Cunningham asks if she could be grandfathered to go back to the 5 and 5. T. Conard states no, that it would have to have been subdivided as the two lots at that time. He states that she was between a rock and a hard place because she couldn't subdivide it before the zoning changed because of the 5-year rule.

RESOLUTION – J. Cunningham, Area Variance

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals grants the application of Jill Cunningham for property located at 525 Locust Grove Road, TM# 125.-2-40.2, as follows:

- 2 acre area variance to create a two lot subdivision with one 4 acre lot and one 6 acre lot

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This variance is contingent upon:

- Planning Board approval of subdivision

This approval is based on the following criteria:

- Benefit cannot be achieved by other means, unless the ZBA grants 2 variances
- No change to the neighborhood as there are other substandard lots
- One could argue that the request is substantial because it is a 1/3 variance
- If there are any physical or environmental adverse changes the Planning Board will not approve
- Regarding whether this was self-created or not, when the applicant bought the lot it was 5 acre zoning and she had to wait the 5 year period to subdivide, since then the zoning has changed

T. Conard states that in granting this variance, the reason we are making a 2-acre variance on the front lot as opposed to splitting this into two 5-acre lots is due to the substantial wetlands on the proposed lot, which is to become the 6-acre lot. J. Cunningham states that she did speak with the Planning Board back in January or February, and they didn't have an issue with this. They said it was getting by the ZBA first.

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

GREG SLYWKA – Case#826, Area Variance

Maple Avenue

Greg Slywka, Garry Robinson and Ryan Talbot are present. T. Conard states that this is a pre-existing, non-conforming lot and the applicant would like to put a personal service outlet in the existing garage. This also requires a Site Plan Review for which he is before the Planning Board. We have received the correspondence and map. This requires a 1.32-acre variance. M. Granger asks if the vegetative buffer behind the garage is to remain and the trees along the side of the lot. G. Slywka states that it will remain but most along the side is on the other property. G. Robinson provides an aerial photo for the Board's review. T. Conard states that these are all odd shaped lots and a lot of multi-use lots, so it is not really changing the neighborhood at all. King Enterprises across the street has several businesses. P. Lunde states that the biggest concern was the septic. T. Conard states that it looks like they have provided verification that it will fit, but that will be up to the Planning Board and Town Engineer to determine. G. Robinson states that he has forwarded this information to Charlie Baker. G. McKenna comments that the plan is to have two septic systems. T. Conard states that he does not see any major change to the neighborhood. Any septic issues will be reviewed by the Planning Board. P. Lunde states that there were no negative comments for the public hearing. T. Conard states that the proposal certainly is in keeping with the variety of businesses that are on that street.

RESOLUTION – G. Slywka, Area Variance

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals grants the application of Greg Slywka for an area variance for property located at 462 Maple Avenue, TM#135.13-1-14, as follows:

- 1.32 acre area variance

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This variance is contingent on:

- Maintaining of the vegetative buffer behind the garage and along the left side between this property and the neighbor

This approval is based on the following criteria:

- Benefit cannot be achieved by other means
- No change to the neighborhood
- Although the variance may sound substantial, in that neighborhood it is not
- The applicant has dealt with environmental issues by doubling the septic system and the Planning Board will be dealing with this

S. Weeks states that he has a concern that we already have a lot which is much smaller than what we specify we want in that area and we are adding another business to a substandard lot. If we were talking about a variance for a small lot for the same amount of business, he would not have a problem, but he does think we are really pressing to add another business in this size lot. He states that he is not sure that is what we want to do routinely down the road. P. Lunde states that he does not necessarily disagree, but in that neighborhood, he does not think that it is anything that is not being done on other pieces of property very close to this. T. Conard states that this will be a hairstylist and that uses a bit of water, but it is not as heavy traffic as some others. G. Robinson states that they have looked into water usage and it is really not that different from residential usage, and there are earth friendly systems for shampoo, etc. M. Granger states that in this instance, because Hudson Avenue is right there, in terms of traffic impact and coming on and off of Route 9, she thinks there is better traffic pattern here than turning directly off into the business. She recognizes that the businesses could change over time but she does not think that the businesses are high traffic volume and she does not think that they are creating any kind of hazard to the surrounding neighborhood. T. Conard states that he feels better having a road next to the lot as opposed to abutting another lot, because very often we run into building upon building in this section of town with the buildings only separated by a driveway's width. Here we actually have a buffer, a natural buffer, to one side, which is also a reason that he doesn't feel so badly about adding an additional business to this operation. He thinks it fits better into this lot rather than some of the others down this road which are of equal size. We are not adding a building either, it is already an existing building which is being converted. J. Szpak asks if in the live barrier between this garage and the house there are any evergreens or what is there. G. Slywka states that it is not evergreens. J. Szpak states that he would not want the applicant to cut down any of those trees to put in evergreens. S. Weeks states that he is having a challenge in trying to decide why the zoning calls for two acre lots in this area. He is wondering what the rationale is. G. McKenna states that Lake Desolation requires 8 acre lots. P. Lunde states that sometimes there is no rationale. M. Granger states that for this particular case, we have Hudson Avenue which is already there and a pre-existing building that is already there. In this particular neighborhood there is a concentration of businesses that are on similar lot sizes, if not smaller. She states that if we were looking to put in a new structure, that would make a difference to her. T. Conard states that the zoning has been smaller around town centers and this is not a town center. He states that the zoning is more of a generalized zoning. This is one section that is kind of an odd section because there are already pre-existing lots that are all undersized and all overbuilt. M. Granger states that J. Szpak could ask the applicant to put in some kind of vegetative buffer that is not just going to be there for 4 months out of the year. Discussion takes place that the Planning Board will be looking at this. T. Conard states that the ZBA can recommend to the Planning Board that they consider a buffer that would be a year round vegetative buffer as opposed to just hardwood where the leaves are gone during the winter. J. Szpak states that he wouldn't limit it to vegetative buffer because if there are already nice hardwoods in there, then maybe the right thing is not to put in evergreens. They could put in an aesthetic looking fence.

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AMENDMENT TO MOTION:

- Zoning Board recommends that the Planning Board consider some type of buffer

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

Noes: None

Absent: Veitch

Meeting adjourned 8:33 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary