

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

March 1, 2011

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.

February 1, 2011 MINUTES

MOTION: M. Granger

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of February 1, 2011, as submitted.

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

Noes: None

NEW BUSINESS

DAVID PRATT – Area Variance, Case #868

Lincoln Mountain Road

David Pratt is present. T. Conard reviews that the applicant would like to build a 24 x 24 garage, 20' from the property line so a 30' left side yard variance is required. P. Lunde asks if there is a home on the Martin property. D. Pratt states that there is and it is 125' from the proposed garage site. P. Lunde asks the distance that house is from the road. D. Pratt states that it is about the same distance as his house, about 150' from the road. The proposed garage will be about 75' from the road. S. Weeks asks that those dimensions be added to the plans. D. Pratt has photos and explains the placement of the two houses, that he has a circular driveway and the location of a car in the photos is where he would like to build the garage. Due to the topo sloping away from his property, the roof of the neighbor's house is visible from this site. The right side of the lot and the remainder of his 4-½ acres drops away from the house site.

RESOLUTION – D. Pratt, Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of David Pratt as complete for an area variance for property located at 60 Lincoln Mountain Road, TM#100.-1-59, and a public hearing is scheduled for April 5, 2011 at 7:30 p.m., contingent upon:

- **Receipt of map indicating distance to home on adjoining property**

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

Noes: None

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JOHN AND HETAL HERZOG – Area Variance, Case #869
Coy Road

Hetal Amin Herzog is present. T. Conard reviews that the applicant would like to build a new home, however, due to the design, the height exceeds the 35' height restriction. The height of the new house would be 52.7' and a variance of 17.7' would be required. The applicants were granted a Temporary Use Variance on July 6, 2010 to live in the existing house while constructing the new home. The existing home will then be converted to a storage building.

RESOLUTION – J. & H. Herzog, Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of John and Hetal Herzog as complete for an area variance for property located at 812 Coy Road, TM#137.-1-3, and a public hearing is scheduled for April 5, 2011 at 7:30 p.m.

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

OLD BUSINESS

ROBERT & KARAN RHOADES – Area Variance, Case # 867
North Creek Road

Robert & Karan Rhoades are present for this application. T. Conard reviews that the applicants wish to install an above ground pool and need a 72' rear yard variance. A public hearing is opened at 7:40 p.m. There being no public comment, this public hearing is closed at 7:41 p.m.

T. Conard states that the property behind the subject parcel is vacant and also has wetlands on it.

RESOLUTION - SEQRA

MOTION: S. Weeks

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals determines that the application of Robert and Karan Rhoades for property located at 528 North Creek Road, TM# 137.-1-95 is determined to be a Type II action for an area variance for a single family residence and therefore no further action is required on SEQRA.

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

RESOLUTION – R. & K. Rhoades, Area Variance

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals approves the application of Robert and Karan Rhoades for an area variance to install an above ground swimming pool on property located at 528 North Creek Road, TM#137.-1-95, as follows:

- **72' rear yard setback variance**

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This approval is based on the following criteria:

- **No other options available to the applicant**
- **No undesirable change to the neighborhood or nearby properties**

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

DISCUSSION

Dan Cochran, Town Councilman, is present to discuss some Code language changes with the ZBA and states that he would like any comments from the Board.

Mobile Home Replacement – this code change would empower the Code Enforcement Officer to be able to allow replacement of existing mobile homes without involving the Planning Board. K. Veitch asks if there are dimension requirements. D. Cochran states that there are. P. Lunde questions that if a mobile home is removed from the property does the owner lose the ability to replace it after a year. R. Rowland states that mobile homes are now allowed in all zones. T. Conard states that under the previous zoning mobile homes were only allowed in certain zones with specific acreage.

Town Vendor Carts – D. Cochran states that this is to allow vendors to park their carts and sell their wares, not necessarily just agricultural products. J. Szpak asks if this is currently allowed. D. Cochran states that there are regulations but they are vague and that is why the Board wants to re-do the law. He states that you are allowed currently to put a farm stand on your property to sell produce that you grow. P. Lunde asks if then the Lions Club would have to get a permit to sell their Christmas trees; would they need to get permits for the Town Wide Garage Sale? D. Cochran states that is an interesting question and they would have to craft the language to address those things. Those are not currently addressed and he believes that is because they are so temporary. T. Conard states that he believes it is like a public gathering, it comes under something different. D. Cochran states that he researched several other towns and their language. He states that he received a lot of language dealing with different scenarios. He states that the Town Board has no big objection to this as long as the language is crafted with specific controls. Anyone preparing food would need DOH approval. K. Veitch states that selling Christmas trees would come under agriculture, but any food prep such as the Lions do would come under that DOH approval. M. Granger questions that if the Town is going to limit the vendors, how are they going to determine how that process is going to work? D. Cochran states that he is struggling with this. Do we limit it to 5 licenses in the Town, we really don't want, as a community, to have a ton of vendors, but is that really going to happen? K. Veitch explains that at the back entrance to the racetrack they used to use the lottery system and there were 10 vendors allowed. What happened was that multiple members of one family would enter their names and you could wind up with 6 from that family. Potential traffic issues are discussed. D. Cochran states that would have to be addressed. K. Veitch states that the biggest thing is that you are not going to find a perfect language or create a perfect code for this, but if the Board does develop something they need to be prepared to make changes quickly if problems occur. There should also be a clause for revoking any license if the code is violated. J. Szpak states that the permits could expire and need to be renewed. If someone does not follow the rules, they don't get renewed. He states that he agrees with the concerns of the ZBA, but that this could be a good thing. K. Veitch states that, through experience, these things do get out of control.

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5-Year Rule

D. Cochran explains that this rule is in place to inhibit developers' creep on subdivisions. Discussion has taken place as to whether to make this less than 5 years to provide relief to individuals. T. Conard states that there are situations where people want to subdivide before the 5 years for family situations. K. Veitch suggests that it could remain at 5 years but that there be a provision for hardships. P. Lunde questions whether you could have a commercial and non-commercial rule. T. Conard states that the hardship should be one that is not self-created.

CHICKENS, etc

T. Conard describes two recent cases that the ZBA has dealt with for area variances for chickens. The question arises of when are they pets and when is it agriculture. He states that you can actually raise chickens, without the roosters, in very small areas. M. Granger states that for her, she would like to see it more clearly defined in terms of what the parameters are so that the ZBA is not put in the position of trying to determine what is ok and what is not ok. Part of it is that some people seem to have this idea that when they move into Greenfield that we are like a city, that certain things are not going to be allowed and they don't want to be inconvenienced by certain things. She thinks it would be really helpful so that if someone is going to purchase property here, if it exists and they know what the regulations are, they really can't claim after the fact that they didn't know that their neighbors could have chickens. Well, you may not have researched it, but we do have the regulation, it does exist and it is clearly defined. She thinks that makes it even for everybody. Her biggest concern from the last meeting is that she wants to make sure that everybody has the same opportunity and that it is applied equally across the board. The ones who have come before the ZBA are the ones whose neighbors had an issue. There are probably some out there that we don't know about that are not complying but everybody is getting along. J. Szpak states that is his point. His perspective is that as far as he is concerned, chickens and goats are no different than dogs. It is not the size of the property; it is how responsible you are as an animal owner. He states that if the dog is out barking in the middle of the night, all night, that is like a rooster. If the dog is running through your yard tearing things up, that is like the chickens that were going into the neighbor's yard. To him, he finds it overly restrictive that we have this square footage or acreage, because he does not see a need to have that much acreage to responsibly have a goat or chicken or dog. To him they are the same. The responsible animal owners didn't come to us, they have chickens in small places and that is fine. He does not think that should be against the law, but the people who are coming here are not being responsible with them or fighting with their neighbors and he does not know that you can ever prevent that. He does not want to penalize someone who has a pet goat or pig or whatever. T. Conard states that he thinks that the key is numbers of animals and when they become agricultural vs. pets. J. Szpak states that he grew up on a farm, they had lots of property and they had 40 – 50 chickens, which they kept contained in an area the size of the Board room; they had an indoor piece and outdoor piece; they went in at night and out during the day, no roosters. M. Granger states that having roosters needs to be addressed and if we are going to allow them in a small area, there needs to be a setback from the property line. She states that if we can add cats to this; she lives down the road from Estherville and they frequently have cats dropped off. You can't call the animal control officer in Greenfield because they don't care. K. Veitch states that we don't have an animal control officer, we have a dogcatcher. That is where this needs to change and he thinks that this needs to fall under the fact that our dog catcher needs to be an animal control officer and trained in the Ag and Market laws, because dealing with the chickens, roosters, goats, etc. are going to be things that although it is not a problem when you have them in a small area, then you are going to start getting into areas where you are going to have animals that are not being taken care of or abused. We need to have a way that someone who has the expertise would go in to determine whether it is being abused or not. D. Cochran states that he hadn't thought of that. The Code Enforcement Officer takes care of building code issues. He states that he likes the idea of an animal control officer who can issue tickets, etc. K. Veitch states that if you are going to have chickens or goats, is it going to be something that you need a permit for so that we know who has them? P. Lunde comments on getting

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permits for cats. M. Granger states that she had a rabid raccoon on her front porch, so if there are cats that are not properly vaccinated and cared for, there is nothing to stop that cat from being rabid. K. Veitch states that in Saratoga, if you have a cat hanging around your house and it has no collar and can't be identified, you call Animal Control, they set a live trap and take the cat to the shelter. S. Weeks states that he thinks that the lot size required for having chickens is way too large. T. Conard states that he thinks that the lot size was originally determined because they considered it agricultural versus personal, and he thinks that is where the error is. It wasn't considered when the code was being written to consider the use as pets. M. Granger states that if there is a way that the language can be drafted so that the owner is responsible and maybe so that we can have an animal control officer who can issue tickets. She thinks that the permit thing for a nominal fee so that at least you know where the animals are. D. Cochran states that he is not sure about the permitting because that will burden the Town Hall. He thinks it would be an administrative nightmare.

Debris Removal

This is a Town Board issue regarding unsafe buildings, which are demolished, and then the debris is not removed from the site. K. Veitch states that with the current rate of foreclosures, what they are finding in Saratoga is homes that are being abandoned and not secured. He states that there are vacant structure ordinances being put into place in various communities. D. Cochran explains that the Board would like to make the wording for unsafe buildings have more bite to it. Currently once a structure is torn down, it is no longer an unsafe building. The new wording would state that the structure needs to be torn down and the site completely cleaned, or the Town will have the right to go in, clean it up and then charge the property owner via tax lien. S. Weeks asks what timeframe the Town is working on to get this done. D. Cochran states that he would like to get it going as soon as possible which is why he is talking with the Planning and Zoning Boards. He will get everyone's e-mail and send out proposed language as soon as he has it.

P. Lunde comments that one of the issues that the ZBA sees is builders who are not measuring carefully begin structures, and then a variance is required. He states that we have no way to fine that builder or any recourse. He states that maybe if there were something in the Town Code assessing a fine, the builders would take a little more time and measure more accurately. He suggests the possibility of a bond. D. Cochran states that it is up to the landowner to make sure that it is done correctly and questions that the Town can legally sanction a builder. M. Granger states that if she were to hire a builder because she doesn't understand the process, she would like to believe that she hired a professional. K. Veitch states that it can be caught before it happens when the building inspector goes out for the footing inspection. J. Szpak states that if the ZBA does not grant the variance they are punishing the landowner. T. Conard states that a number of years ago the building inspector questioned a distance, told the builder not to pour and they did anyway. He states that the attitude was such that some people wanted him to tear down the structure. He was finally able to purchase some land. S. Weeks states that we get a significant number of these requests and in some cases the house is all done and they come and ask for a variance.

M. Granger states that one of her pet peeves is also when a new subdivision is approved and then the developer or property owner is coming in immediately afterwards seeking a variance. M. Granger states that it is not acceptable for a builder to sell someone something and say that they will go to the ZBA and get a variance, that it is not a big deal. You already know what you have to work with, you are the designer, you know what the laws are and what the setbacks are, and yet you design a house on the property that you know is already going to exceed the variance. J. Szpak states that he sees that as our issue. K. Veitch states that it is self-created. S. Weeks states that we have asked at least one developer not to come back again with the same kind of request, please.

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P. Lunde asks about Triple J Way. T. Conard states that those lots were subdivided many years ago and it was approved as a private road. M. Granger comments that the existing homeowners have complained about the unsafe conditions of the road. T. Conard states that that would be a hazardous situation and that perhaps the Town Board can do something about it. P. Lunde states that the builder must have some type of insurance and if someone went to the insurance company they might force him to put the road in. K. Veitch asks if these builders are being required to post a bond in the Planning Board process. R. Rowland explains.

D. Cochran thanks the Board for their time and will keep the Board informed.

Meeting adjourned 8:27 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary