

**TOWN OF GREENFIELD**  
**ZONING BOARD OF APPEALS**

**May 1, 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.

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**April 3, 2012 MINUTES**

MOTION: M. Granger

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of April 3, 2012, with the following change:

**O'Connor** – Correct sentence to read: “ One of which would be a **6-acre** keyhole...”

**Upling** – The Board and the applicant agreed upon tabling the application to the May 1, 2012 meeting however no official motion was made. M. Granger would like to reaffirm that this was done and to have the Resolution read: Motion made by M. Granger and Second by D. Eskoff.

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

Noes: None

Abstain: Conard

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**NEW BUSINESS**

**DENNIS & KAREN DOWEN – Area Variance, Case #888**

North Creek Road (County Route 19)

Dennis and Karen Downen are present. T. Conard reviews G. McKenna’s notes that this is a pre-existing, non-conforming lot with no road frontage. 200 feet of frontage is required and they would need a variance of 200 feet. This lot is in the MDR2 and LDR district.

**RESOLUTION – D. & K. Downen, Area Variance**

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Dennis and Karen Downen for an area variance as complete and sets a public hearing for June 5, 2012 at 7:30 p.m.

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

Noes: None

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**DONALD HARRISON – Area Variance, Case #889**

Howe Road

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D. Harrison is present. T. Conard reviews G. McKenna's notes that the applicant would like to build a garage and due to the septic system location the required front yard setback cannot be maintained. The applicant would require a setback variance of 24 feet.

**RESOLUTION – D. Harrison, Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Donald Harrison for an area variance as complete and sets a public hearing for June 5, 2012 at 7:30 p.m.

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

Noes: None

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**ROBERT & STACY COX - Area Variance, Case#890**

Allen Road

Robert Cox is present. T. Conard reviews that the applicants would like to build a garage but due to the location of the well and the lot topography, the only reasonably flat area does not comply with the front yard setbacks. The applicant would require a 3 feet variance. P. Lunde asks what setback the existing house has. R. Cox states that it is approximately 78 feet, from the rock wall.

**RESOLUTION – R. & S. Cox, Area Variance**

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals accepts the application of Robert & Stacy Cox for an area variance as complete and sets a public hearing for June 5, 2012 at 7:30 p.m.

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

Noes: None

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**SPRINGFORTH LLC – Area Variance, Case #891**

Wing Road

Antonia Shields, Springforth LLC, is present along with Rich Torkelson, Linell Lands. T. Conard reviews that the applicant would like to have an agricultural use on this property. The lot is pre-existing, non-conforming with 40-feet of road frontage and 6.1 acres. The applicant requires a variance for road frontage of 135 feet.

**RESOLUTION – Springforth LLC, Area Variance**

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Springforth LLC for an area variance as complete and sets a public hearing for June 5, 2012 at 7:30 p.m.

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

Noes: None

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## **OLD BUSINESS**

### **LEIGH O'CONNOR – Area Variance, Case #885**

Locust Grove Road

Leigh O'Connor is present. T. Conard reviews that the applicant wishes to subdivide two existing lots into two substandard lots and one conforming keyhole lot. The applicant would require two 3.55 acre area variances and 54.57-feet of frontage variance on one lot.

A public hearing is opened at 7:43 p.m. Bernie Singer, Locust Grove Road, questions that the applicant is starting out with 2 non-conforming lots and would like to re-subdivide them into 3 lots, of which 2 would be even more substandard. T. Conard states that both lots are legal lots as they stand. However it would be subdividing into two substandard lots and a third legal lot. B. Singer states that the existing lots are each less than 6 acres and one lot already has two homes on it. He questions that that is a non-conforming use. P. Lunde states that it is a pre-existing, non-conforming use. B. Singer states that then the net result would be to increase the residential use of the combined properties from 3 residences to 4. There is currently a combined 11 acres with three homes and the end result, however you subdivide the property, would be 4 homes on 11 acres. He comments that this is a 6-acre zone. He states that in view of what the existing zoning requirement is and considering the extent of the variance being requested, he would hope that the Board would determine that there is compelling reason, other than a self-imposed hardship, that would allow this to go forward. He states that he is more concerned about the non-residential use and what appears to him to be a construction storage area, which is visible to him from the front of his house. He states that he has been there over 20 years and knows that the previous owner did not have this use there, so he does not know if the current activity is pre-existing or non-conforming or an allowable use. He also does not know which of these new lots this use would be associated with. He does not know if it appears on the site plan but he is mentioning it because it should be part of the application so that the Board has all the information it needs to consider it. He is hoping that one of the outcomes from this application would be that the visual impact of this breakdown and storage area on his property would somehow be mitigated. His house is on 13 acres; he has a 600' driveway, and is behind the applicant's homes. Because his house is so far back, it is visible from the front of his house but he does not think it is visible from the road or of concern to any of the other neighbors. He states that he would appreciate if somehow the visual impact could be mitigated because it is visible from the front of his house. He is asking the Board to consider that because it is an existing activity and he thinks it should be part of the application. Jeff Collura, owns 70 acres to the north of the applicant's, and he states that he has no problem with the applicant going forward with this subdivision. There being no further public comments, this public hearing is closed at 7:50 p.m.

P. Lunde states that his biggest concern is that we would be creating two substandard lots in an area where they would definitely be the smallest lots in that neighborhood. He does not think that this fits the definition of granting a variance for this based on that in itself, even though the applicant would be creating one lot at 6 acres, he cannot see an argument for creating this. If the rest of the neighborhood were two-acre lots, even though the zoning has changed to 6 acres, in the past we have done that, but this is not that case by any stretch. M. Granger states that she would agree. J. Szpak states that it is a substantial request. T. Conard states that his other concern is that there are two trailers on the one lot, which is already a substandard 5 acres. Now we would be making it 2.5 acres with two trailers on it, which is very substantial and that concerns him. K. Veitch states that when the variance being requested is greater than what you are going to end up with, that is a very substantial variance request. T. Conard states that the idea behind the new zoning was to reduce density as you got further from Saratoga. Even though there are pockets in Greenfield that have higher density. To further increase density, even in a small area, is going against the general purpose of the zoning. He states that we have, on occasion, when someone is in the middle of a group of smaller lots surrounding it, we have actually reduced. P. Lunde states that would be because there is no dramatic change to the neighborhood. K. Veitch states that this would cause a dramatic change and this would be setting a precedent that then everyone in the neighborhood is going to want to start reducing and

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making substandard lots. L. O'Connor states that everything was fine when it was zoned 3-acre lots. He states that he owned the land then and bought it with the intention of doing this, did not realize that he had a time restriction. He could not afford to do it at the time. Now that he believes that he can afford to do this, he found out by going to G. McKenna and being told that the zoning had changed. The only reason he is asking for the 2-½ acre lots is because they are already there, they already exist, and they fit the neighborhood. You will not even know that the new home is even there because it is way out in the middle of the woods. He states that he understands the point and he does not want to clog up Greenfield either, he loves Greenfield and has lived here all his life, but he purchased the property to do this and now he can't because he does not go to all the Town meetings to know when zoning has changed. He states that it fit before and his feeling is that it should be able to fit again. K. Veitch states that he understands the applicant's frustration. He states that he also lives in Greenfield and has seen the changes on his property. Unfortunately as a property owner you do have the responsibility, just like paying taxes, to keep track of the laws because they are changing constantly. It is not just zoning, there are new laws cropping up every time you turn around. It is unfortunate that the applicant did not do this when he bought it because he would have been in good shape. He states that the Board is stuck under the law that is here now and have a responsibility to hold up that law, we have a little bit of flexibility, but like he said, this is flexing way more than the Board would be allowed to and if someone was to decide to appeal the ZBA's decision, he could see the Board losing. He absolutely does not feel confident that this could go to a higher court and feel confident that the ZBA did the right thing. He feels uncomfortable doing it and that is how he has to make his decisions. L. O'Connor asks how it would come back on the Board. K. Veitch states that if the neighbors were to decide to Article 78 this, which is basically an appeal of a decision, then this would go to a higher court. P. Lunde states that this is not to say that the applicant couldn't do something different with this property if he went back and redesigned some things. K. Veitch states that it looks like the applicant just drew a line as to what he thought would work. L. O'Connor states that he figured in placement of the house and because no matter how he worked it he would have substandard lots; he figured he should make one actual legal lot. He states that the others are already established. P. Lunde states that what has happened in the past sometimes when a homeowner wants to do something is to take something that is substandard and bring it closer to a standard lot. An example would be two trailers on one lot, the trailers are removed and then a house is built on a 4.9-acre lot and you want to create another 6-acre lot. The odds of having that approved would be greater than what the applicant is asking for. L. O'Connor asks if the odds are off because there are two trailers there. P. Lunde states because they are substandard. L. O'Connor states that they are grandfathered lots. P. Lunde states that the applicant would not be allowed to put two trailers on that lot now, but he could put a house on it, more than likely because it is very close to the 6 acres. There is nothing we can do with something that is pre-existing, non-conforming. Those two trailers can stay there forever, until the applicant decides he does not want two there. Once you take one away, the odds are slim to none to be able to put a second back. What he is saying is that if the applicant were to take this piece of property and look at it again in the future, because it sounds like he is not going to get what he is asking for tonight, to be realistic. The applicant could come back with something else that may work. L. O'Connor asks if there is a way that he could make three lots with the numbers he has. P. Lunde states that he doubts it, because he has less than 12 acres and he wants to create three lots. That is substantial. T. Conard gives an example of a previous decision giving a variance for a stable on a lot that was too small. That set a precedent for other applicants and it was difficult for the Board to deny others. He states that the Board's charge is to make the smallest variance possible. K. Veitch states that the applicant is asking for two 2.45-acre lots, for each one of those lots the applicant is asking for a 3.55-acre variance. The applicant is asking for more than he actually will end up with. That is extreme. L. O'Connor states that he is willing to move the numbers around, but he really wants the third lot. K. Veitch states that he understands that and makes a suggestion. He states that he cannot support this request. He explains that if the applicant gets denied, he could come back with a new proposal but not the same thing. K. Veitch states that the applicant could withdraw his application or he could come up with a reconfiguration. T. Conard states that one of the things that bothers him is that there are two primary dwellings on one lot, this is grandfathered, but now it is not allowed. We have two things here; it is not just the lot size from T. Conard's standpoint. We would now have two dwellings on one of the smaller lots. J. Szpak states that he was considering what could the applicant possibly do. Even if there were three equal

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size lots so that at least the size of the lots were more than half of the minimum requirement, but then only had three dwellings on it. Now you are talking a little bit more of something that would be palatable. He is not saying that would be agreed upon either. If one has a non-conforming lot we are trying to get them into a better state and not worse. L. O'Connor states that he would just like to have every bit of information that he can have so that he does not have to come back repeatedly and not have to keep paying fees. K. Veitch states that his advice would be to talk to someone involved in this kind of thing - an attorney, a surveyor, a design professional, etc. - who is familiar with zoning issues and who could design something in a manner that could be more palatable. He states that the applicant is hearing the negatives, take that list of negatives and try to figure out what he can mitigate. J. Szpak states that the applicant should look at some mitigating actions for the neighbor's concerns. T. Conard asks how the Board would feel about three equal 3.6-acre lots. It is still a fairly substantial request in a 6-acre zone. He states that he is bringing this up simply to prevent the applicant from having to spend a hundred dollars each time. T. Conard states that he wants the applicant to know how the Board feels about three equal 3.6-acre lots. J. Szpak states that he cringes at that, but he would be willing to entertain that if there was a case that would make it an overall improvement to the neighborhood. That would be subjective and he would see how that might not be palatable to some at all. P. Lunde states that in that area there are 4 lots that are smaller. L. O'Connor states that there are two 2-acre lots around the corner. D. Eskoff states that they are going to vary depending upon when they were done and the purpose of doing any type of zoning is that when you go to 6 acres you are looking for a density and open space. It kind of all has to come together and unfortunately the applicant has some extra negatives that maybe another piece of property might not have. Maybe if there were two residences on the property, but there is one small lot with two mobile homes that, as was said, if they go they are probably not going to come back. She states that she understands that the applicant is trying to make an improvement to his lot. When someone buys a piece of property their intent can be a totally different intent than someone else and zoning is there to look across the board to try to keep things even and balanced. She states that this is not a personal attack against the applicant or his situation, but if there is perhaps some way for him to talk to someone. She states that she assumes that he has every intention of keep the other three homes. L. O'Connor states that he has every intention of doing what he has shown, but he is willing to move somewhere. He does want the one lot to be larger because there is some unusable land towards the back due to wetlands. No matter what, it would have to be a little bit bigger. D. Eskoff states that it becomes difficult because the applicant is trying to make a better home for himself but we have these other issues that we have to deal with so the thing is to try to find a happy medium or to come back with the best happy medium he can present to the ZBA and see where it goes from there. She suggests someone in the building trades who does subdivisions who has to go before Zoning Boards, etc. K. Veitch states that when someone is asking for variances as great as these are, you need someone who has an understanding and understands the legality behind it. Someone who will understand what the applicant's rights are, who can argue a good case maybe better than the applicant, who will also hook the applicant up with people who can help mitigate some of the problems on the property and advise the applicant how they might want to present the case in a different way - as in the layout. K. Veitch states that the Board can table this if the applicant wants some time to think about modifying this. B. Singer asks if there will be public comment on any modification. T. Conard states that the public hearing would have to be reopened. K. Veitch states that the applicant knows that he may have to come up with a different design, minimize the impact of the variance, etc. P. Lunde suggests talking to Dan Pemrick, former Zoning Board chair, as he would give the applicant his odds of getting something through the Board. Maybe just listening to someone other than the ZBA. He may tell the applicant exactly the same thing the ZBA has.

#### **RESOLUTION – L. O'Connor – Area Variance**

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals tables the application of Leigh O'Connor for area variances for property located at 928 and 932 Locust Grove Road, TM# 112.-2-25.1 and TM#112.-2-25.2,

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

Noes: None

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**STEPHEN JAMES – Area Variance, Case #886**

Bockes Road

Stephen James is present. T. Conard reviews that the applicant would like to build a 16 x 16 shed however due to setbacks, he will need a front setback variance of 35', a right side yard setback variance of 17' and a rear yard setback variance of 44'. A public hearing is opened at 8:15 p.m. There being no public comments, this public hearing is closed at 8:16 p.m.

M. Granger questions the placement of the new shed on the right hand side of the property and there is already a shed on that side. S. James states that the existing shed is being removed on that side. K. Veitch asks if the new shed is going in the same location as the existing shed. S. James states that the existing shed is closer to the mobile home and a little closer to the rear property line. The new one will be a little farther from the property line. M. Granger states that then the new shed will be closer to the applicant's dwelling rather than the neighbor's. T. Conard states that this is a pre-existing, substandard lot from prior to zoning. M. Granger questions that the gray shed on the other side of the neighbor's driveway is the applicant's. S. James states that shed belongs to the property owner. S. James is the tenant and he does not have use of that shed. M. Granger states that since the other shed is being removed; the new shed will be farther from the neighbor's property line and the other shed on the property is not one that the applicant owns and does not have control over, therefore, there does not seem to be another option for locating a shed on the property. She states that she is more comfortable feeling that this is acceptable. S. James states that he plans to reside the mobile home this summer and he would like to make the shed match the siding. It will improve the looks for the property.

**RESOLUTION – S. James, Area Variance**

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals approves the application of Stephen James for area variances for property located at 192 Bockes Road, TM# 137.-2-23.2, as follows:

- **Front yard setback variance of 35'**
- **Right side yard setback variance of 17'**
- **Rear yard setback variance of 44'**

This approval is contingent upon:

- **Dismantling and Removal of existing shed on right side of the property**

This approval is based on the following criteria:

- **Benefit cannot be achieved by any other feasible means because of the size of the lot**
- **No undesirable change to the neighborhood**
- **Not a substantial request**
- **Not a self-created hardship**

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

Noes: None

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**LAURA FARRAR & PAUL PILECKAS – Area Variance, Case#887**

Sand Hill Road

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Paul Pileckas is present. T. Conard states that the applicants wish to install an inground pool and require a right side yard variance. A public hearing is opened at 8:23 p.m. There being for public comments, this public hearing is closed at 8:24 p.m.

M. Granger questions a fence and a stand of trees along the property line. P. Pileckas states that there is a fence and that some of the trees belong to him, some to his neighbor. He has just planted about 70 arborvitaes.

**RESOLUTION – L. Farrar & P. Pileckas, Area Variance**

MOTION: M. Granger

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals approves the application of Laura Farrar and Paul Pileckas for an area variance for property located at 482 Sand Hill Road, TM# 137.-1-42.122, as follows:

- **Right side yard variance of 16'**

This approval is based on the following criteria:

- **Benefit cannot be achieved by other means feasible**
- **No undesirable change to the neighborhood character or to nearby properties**
- **The request is not substantial**
- **There is no adverse physical or environmental effects**

Discussion takes place that there is an existing vegetative buffer.

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

Noes: None

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**CYNTHIA UPPLING – Use Variance, Case#884**

Coy Road

Cynthia Uppling is present. T. Conard reviews that the applicant had stated that there would be a change presented to the Board regarding the business plan, but we have not received anything. Currently the application states that they want to use the property for an auto repair and almost salvage business. The public hearing was adjourned at the last meeting. The public hearing is reopened at 8:28 p.m. Verne Dejnozka, Coy Road, states that the business that they are requesting the use variance for is continuing and he provides the Board with photos. He states that they continue to go in and out of the premises. A couple of the pictures show a total of ten vehicles there at one time. He states that they don't have license plates on them so they are salvage vehicles. The business goes on daily including Sunday after noon when there were trucks going up and down the road. Their truck now says "DAB Towing, Greenfield Center". He states that they are not happy about that the applicants are going ahead and continuing their business despite not having the use variance, which the resident's don't want them to have because it is not the way they want the neighborhood to grow towards. He states that his father mentioned that he was outside, and he is hard of hearing, he could hear a man on a cell phone talking using very foul language. He states that they really don't want to hear that so it is another concern that they have.

K. Veitch recuses himself based on his relationship with the applicants.

Henry Dejnozka, Coy Road, reiterates that he is a life long resident watching this area grow from a dirt road to a macadam road. He states that he has seen a lot of improvements because it used to be a lot of May 1, 2012

agricultural land. He planted thousands of White Spruce, a thousand Douglas Fir, a thousand Japanese Larch, and 3000 Red Pine. They wanted it to be a peaceful, quiet place, a residential place. He states that his well is 65' deep, he gets 35 gallons of water per minute and wanted to put a trailer park in there but his neighbors objected. He could put in 5 trailers with the amount of water he had. He states that he is not concerned about himself but for future generations and the pollution of that water from the ethylene glycol. He also expresses concerns about the foul language, cursing and swearing. Cynthia Uppling states that she wants to ask for an adjournment for further amendment to the application because she has decided to seek more experienced help. T. Conard states that there is also a letter from H. and V. Dejnoska from April 23<sup>rd</sup>. This public hearing is adjourned at 8:34 p.m.

M. Granger asks if the applicant anticipates by the next meeting having some form of amended application before the Board. C. Uppling states she does.

**RESOLUTION – C. Uppling, Use Variance**

MOTION: M. Granger

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals tables the application of Cynthia Uppling for property located at 328 Coy Road, TM#149.-2-2.11 to June 5, 2012.

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

Noes: None

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Meeting adjourned 8:35 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland