

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

MAY 5, 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, Michelle Granger, Paul Lunde, Kevin Veitch, and Stefan Strakos, Alternate. Stanley Weeks is absent. Gerry McKenna, Zoning Administrator is present.

APRIL 7, 2009 MINUTES:

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of April 7, 2009 as submitted.

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

Absent: Weeks

NEW BUSINESS

GREG SLYWKA – Case#826, Area Variance

Maple Avenue

Greg Slywka and Gary Robinson are present. T. Conard reviews that this is an application for an area variance for a personal service outlet in an existing garage. The applicant will also require a special use permit from the Planning Board after the variance is granted. P. Lunde questions the amount of parking spaces needed. G. McKenna states that 14 are required and the applicant has 17.

RESOLUTION – G. Slywka, Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Greg Slywka for an area variance for property located at 462 Maple Avenue, TM#135.13-1-14 as complete and sets a public hearing for June 2, 2009 at 7:30 p.m., contingent upon the following:

- **Additional information on the adjacent properties as to where structures are located on both sides of the subject property is requested**

G. McKenna states that this is an existing building. G. Robinson provides a copy of an aerial photo for the Board to review. He states that the well on the next property dictates the location of the septic for this project. M. Granger states that she would like to see the actual distances from the property and asks that we have that information 2 weeks prior to the next meeting.

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

Absent: Weeks

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CHARLES AND DOREEN COLLINS – Case#827, Area Variance
Barney Road

Charles and Doreen Collins are present. T. Conard reviews that the applicants have a pre-existing, non-conforming lot in the LDR district and they need a left side yard variance of 15'. They would like to replace the existing mobile home with a new modular home. C. Collins provides a map with adjoining properties and distances.

RESOLUTION – C. & D. Collins, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Charles & Doreen Collins for an area variance for property located at 67 Barney Road, TM#149.-1-50 as complete and sets a public hearing for June 2, 2009 at 7:30 p.m.

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

Absent: Weeks

OLD BUSINESS

JILL CUNNINGHAM – Case #823, Area Variance

Locust Grove Road

Jill Cunningham is present. T. Conard states that this is a request for an area variance to subdivide a 10-acre lot into a 4 acre lot and a 6 acre lot, and this district requires 6 acre minimum lot sizes. Lot 2 will be a keyhole lot. A public hearing is opened at 7:37 p.m. T. Conard reads a letter from Kenneth & Wendy Stein who are opposed to the granting of this variance. There being no further public comments, this public hearing is closed at 7:39 p.m.

M. Granger states that the Board has requested an additional map. J. Cunningham states that she misunderstood the request, but that there is one house on the lot to the south which is approximately 35' to the neighbors garage and the about another 10' to the front door. She states that the area where the keyhole would be is pasture land and she could manipulate the location of the driveway. M. Granger asks if the applicant posted her public hearing sign. J. Cunningham states that she posted it on the front door. She states that the rear of the Stein property butts up to the wetlands at the rear of her parcel. T. Conard states that there appears to be a pond on the property. J. Cunningham states that it is not a big swimming pond, it is just a small, kind of grown in area. She states that it is pretty wooded to the rear. K. Veitch comments that the wetlands are going to restrict any building envelope. G. McKenna states that they will need to be 100' from the wetlands. K. Veitch questions that we will have someone coming back for additional variances. P. Lunde comments on a septic location with the pond and stream. Setbacks from property lines and the stream and pond are discussed. T. Conard states that he has a concern that we are talking about making one lot 2 acres smaller than the zoning requires and we have had concerns about this in the past. K. Veitch states that he would like to see a site plan showing a proposed building envelope. M. Granger states that she would like to point out to the Board that we are assuming that this is supposed to be a subdivision with the Zoning Board making a substandard lot in what is currently 6 acre zoning, the Board is supposed to grant the minimum variance necessary which she feels would be more 5 and 5. She feels that needs to be considered with a minimum variance if we do anything at all. K. Veitch states that doing a 5 and 5 would add a bigger restriction on the area and what can be built. That is what he is asking for – when you take into consideration the wetlands and the pond area, what he would like to see is the area in which there would be able to be a house, septic and well. He does not want to have to have the applicant come back to ask for additional variances. He would like to see this done for both the 4/6 acre and the 5/5 acre configuration with the actual

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setbacks. J. Cunningham states that she has not gotten a survey due to the expense. K. Veitch states that without additional information showing that a home can be built here, he would have to say no to the request. He feels that in all fairness to the applicant, she needs more opportunity to give the Board some better information and a better presentation. J. Cunningham states that when she bought this house 4 years ago the zoning was 5 acres and she asks why it was changed to 6 acre lots. T. Conard states that the zoning law changes took a total of 2 years, there was a new master plan and then a year later the new zoning laws and there were public hearings. J. Cunningham believes she was misinformed by the realtors.

RESOLUTION – J. Cunningham, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals tables the application of Jill Cunningham located at 525 Locust Grove Road, TM# 125.-2-40.2 to June 2, 2009 for additional information.

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

Absent: Weeks

Noes: None

BARRY & JAIME GUSTAFSON – Case # 824, Area Variance

Malloy Road

Barry Gustafson and Mark Bomba are present. T. Conard states that this is a variance to install solar panels. A public hearing is opened at 7:50 p.m. Mike Spiak, Greene Road, asks for clarification as to the location of the lot and the project. After review he states that he has no problem with this. M. Granger states that there were comments at the last meeting that Mr. Zutterling had no objections to this project. There being no further public comment, this public hearing is closed.

K. Veitch questions the existing buffer based on the photo submitted. B. Gustafson states that is the Zutterling property and trees. M. Granger states that it is a very thin stand of trees. T. Conard suggests a buffer of some sort, we have 25' behind these. K. Veitch states that he is also interested in visual impact from the road. If we are going to request a buffer, are we going to request one that wraps around. B. Gustafson states that when you look down his driveway you will see a line of "soldiers", you do not see the array from the front. K. Veitch states that it would not take much to cover it. M. Bomba states that it will depend on the season but maybe 10 feet in the winter and in the summer maybe 8 feet because of the angle. S. Strakos states that Malloy is a dead end road. M. Granger states that she visited the property and it is her understanding that the position of those panels is based upon 85% capture of the solar energy. M. Bomba states that it is 80%. NYSERDA allows 20% losses. B. Gustafson states that most of this area was cleared back when it was ok to have a horse on that property and he did have to take down a number of trees just to get to that 80% qualifying mark. The 25' line puts him at 80.25%. K. Veitch states that in considering the tests for variances, it seems like the only one that sticks out in his mind would be the undesirable change in the neighborhood, only from a visual standpoint. S. Strakos states that you would not see much. K. Veitch states that he knows it is not a lot but he would feel comfortable with some kind of buffer at least. T. Conard asks if they would want something behind because these trees are sparse. P. Lunde states that the neighbor did not have a problem. T. Conard states that he will not necessarily always be the neighbor. Discussion takes place that as this is a new type of request, we should cover all the basis. M. Granger states that the stand of trees that is there is a very thin stand of trees, so she has the same concern that K. Veitch does that right now it is not an issue, but should that individual decide to sell the property and the purchaser doesn't want to purchase because of that, then it is an issue and it is an issue after the fact. She is concerned about that and she understands that the applicant has full support of the neighbor at this time. She states that 25' is not that far and the neighbors house is not that far from the property line, he has a direct sight line to look at the whole array. B. Gustafson states that pretty soon you will not be able to see through the trees with the additional foliage. Discussion takes place as to the type of buffer that can be planted only along this area of

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the property. The applicant is asked to plant something that would be at least 3' tall with the potential to grow to 8' to 10'. B. Gustafson asks how the contingency gets codified, how does a potential buyer of his home know that he has an approved variance and that he is obliged to put in this buffer? K. Veitch states that it is recorded here, the applicant will get a letter and as the seller he would have the responsibility or obligation to disclose that information.

RESOLUTION – B. & J. Gustafson, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals grants the application of Barry and Jaime Gustafson for property located at 10 Malloy Road, TM#125.-2-13 as follows:

- **25' Right side yard variance**

This approval is based on the following criteria:

- **Benefit cannot be achieved by other means**
- **Not an undesirable change to the neighborhood**
- **Not a substantial request**
- **No physical or environmental adverse changes**
- **This is not a self-created hardship**

This approval is contingent upon:

- **A vegetative buffer to be planted of at a minimum of 3' tall to grow to maturity of 8' to 10' or a fence be installed of at least 8' in height**

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

Absent: Weeks

HABITAT FOR HUMANITY – Case #825, Area Variance

Medbury Road

Tonya Yasenchak, Engineering America, is present for the applicant. T. Conard reviews that the applicant is seeking area variances to build a single family residence. A public hearing is opened at 8:10 p.m. Mary Peyton, Coy Road, states that she owns a horse and llama farm and she has no problem with Habitat for Humanity moving in there, but there has been a lot of vandalism, a lot of trouble with the animals and she believes that it is one of the Habitat families. There being no further public comments, this public hearing is closed at 8:11 p.m.

M. Granger acknowledges what the neighbor just said, but this is not an issue that this Board can control because we have no control over who moves into the house. When she looked at the property, her impression was that it is a pre-existing, non-conforming lot, it is consistent with the other homes in the area and she does not see any other feasible alternative. T. Conard states that it doesn't matter whether it is Habitat for Humanity or anybody else as he has a few people down the road from him who he wouldn't want on his land either. T. Yasenchak provides M. Peyton with a name and phone number of someone to contact and suggests that M. Peyton discuss this with them. P. Lunde questions the 100' lines on the plans and the well locations. G. McKenna explains.

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RESOLUTION - HABITAT FOR HUMANITY, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals grants the application of Habitat For Humanity for property located at 17 Medbury Road, TM# 137.6-1-4 as follows:

- **25' Front yard setback variance**
- **8' Right side yard setback variance**
- **10' Left side yard setback variance**

This is based on the following criteria:

- **This is a pre-existing, non-conforming lot**
- **Benefit cannot be achieved by other means**
- **This is not an undesirable change to the neighborhood**
- **This is not a substantial request**
- **No adverse impact to the environment**
- **This is not self-created**

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

Noes: None

Absent: Weeks

TERI & WILLIAM CROWE – Case #814, Area Variance

Old Stone Ridge

William Crowe is present. The variance being requested is for an outdoor wood boiler and the applicants are waiting for the new legislation to be put into place. Discussion takes place that the Town Board is discussing this ordinance change in addition to others. M. Granger states that the only question she has is about the distance from the property lines of any residence and how will we determine where the residence may be on the adjoining property. R. Rowland states that this is the only lot in this area, it is surrounded by open space with no building lots on either side.

RESOLUTION – T. & W. Crowe, Area Variance

MOTION: M. Granger

SECOND: K. Veitch

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 June 2, 2009 at 7:30 p.m.

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

Absent: Weeks

Noes: None

Meeting adjourned 8:18 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary