

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

**May 7, 2019**

**REGULAR MEETING**

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by Denise Eskoff, Chair, at 7:00 p.m. On roll call the following members are present: D. Eskoff, C. Kolakowski, N. Toussaint A. Wine and K. Taub, Alternate. J. Szpak is absent. Michael Waldron, Zoning Administrator/Codes Enforcement Officer is also present. D. Eskoff states that Ken Taub, Alternate, will have full voting privileges this evening due to the absence J. Szpak.

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**Minutes**

April 2, 2019 Minutes

MOTION: K. Taub  
SECOND: A. Wine  
ABSTAIN: C. Kolakowski and N. Toussaint

RESOLVED, The Zoning Board of Appeals waives the reading of, and accepts the April 2, 2019 Minutes.

VOTE: Ayes: D. Eskoff, A. Wine and K. Taub  
Noes: None  
Abstain: C. Kolakowski, N. Toussaint  
Absent: J. Szpak

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**OLD BUSINESS & PUBLIC HEARING**

**Ovitt, G. & Berrigan, J.**  
**TM# 124.-1-38.26**

**Case #1013**  
**122 Plank Road**

G. Ovitt and J. Berrigan are present. D. Eskoff states the ZBA has one order of business and it is a Public Hearing for this case. This case is for an Area Variance on Plank Road for an in-ground pool. The Applicant has submitted photos as well as two versions of an updated plot plan. D. Eskoff opens the Public Hearing at 7:03 p.m. Gene Ellis is present for the Public Hearing and wishes to speak. G. Ellis states that he is a neighbor of the Applicant's. D. Eskoff states that the Board has also received written correspondence from G. Ellis. G. Ellis states that he is against it the project. He states that he just keeps on giving. He let them have a Variance for their house, he felt that they needed a place to live. Then all of a sudden the garage popped up. He didn't get a notice that it was going up. He feels that he was shafted and states that it seems like the Applicants are pushing all the snow on his property on his property. He also states that trees from the Applicant's property are falling on his property that the Applicant has buried and that the Applicant's fence has fallen on his property twice. He

further states that he has water issues on his property since the Applicants have built their house. D. Eskoff asks Mr. Ellis to direct his comments to the Board. G. Ellis states that he does not know how the process works and he apologizes. D. Eskoff states that as a neighbor, the ZBA is concerned about his concerns. Can he explain where his property is in relation to the Applicant's property? G. Ellis explains he is in the back of Applicants property. D. Eskoff asks if he is on Plank Road. G. Ellis states yes. D. Eskoff states that he submitted photos and a letter and asks if there is anything he wants to discuss regarding the photos that he submitted to the ZBA. G. Ellis states that he has flooding issues since the snow has been pushed onto his property and that this year was horrendous. He has had to use his tractor to move the snow. D. Eskoff states that it has been a bad year for snow. D. Eskoff states that as part of the Public Hearing they received correspondence from G. Ellis and his wife basically stating what he has expressed here in his Public Hearing comments. She states that G. Ellis also came to the office and spoke to M. Waldron regarding these concerns. D. Eskoff refers to G. Ellis' letter where he states he is concerned about the continuous pushing dumping of snow, dirt, and fill onto his property, he is concerned with the wooden fence; he is concerned with the tree. He believes a water issue is being contributed to by the snow and run off. He also submitted 8 photos from his house taken toward the subject property, backyard and showing the water issue on his property. D. Eskoff states the ZBA will keep the Public Hearing open until the ZBA determines if they need more information. No one else is present from the public. G. Ovitt is present for the Application. He states that his property is 40' above G. Ellis' property. He did not know he had to inform G. Ellis he was building his garage. D. Eskoff asks G. Ovitt when he built his house did he receive a Variance for that. G. Ovitt states yes. D. Eskoff asks if the Variance included the garage and when was the garage built. G. Ovitt states last year it is in the building envelope and G. McKenna told him that he did not need a variance. D. Eskoff asks if the garage is completely built. G. Ovitt states that he still needs his wiring inspection and insulation inspection and he had a framing inspection about a month ago. D. Eskoff states that because no Area Variance was required for the garage, as determined by the Building Department, G. Ellis would not get a notice. Mr. Ellis received a notice for the Public Hearing because G. Ovitt has now applied for an Area Variance due to a deviation from the building code and he, therefore, is required to come before the ZBA and there is a Public Hearing. She further explains that is why Mr. Ellis received the notice for the pool and did not receive a notice for the garage. She states that if G. Ovitt received an Area Variance for the house there would have had to be a Public Hearing on that matter. G. Ovitt states that was all his surveyors fault and there was a zoning change. D. Eskoff asks him to confirm again that he received an Area Variance for the house and came in front of the ZBA and there was a Public Hearing. G. Ovitt states yes. A. Wine states that this information is in his Application as well. D. Eskoff states correct, she wants to clarify that for G. Ellis' understanding. A. Wine asks where the garage is. G. Ovitt states that it is attached to the house. A. Wine asks if it is part of the one story house. G. Ovitt states yes. N. Toussaint asks if looking at the house from the front is it on the right hand side. G. Ovitt states if he comes up the driveway it's on the left. D. Eskoff states it is an attached garage. G. Ovitt states yes. N. Toussaint asks if there is a storm drain at the property. G. Ovitt states yes. N. Toussaint asks if there were water issues. G. Ovitt states it was running over the bank. D. Eskoff states that a fence is required to go around the pool and he presently has a fence that is somewhat falling down. Does he have plans to remove the existing fence? G. Ovitt states yes. K. Taub asks was fill brought onto the property by him. G. Ovitt states that they have owned the property for 8 years and there was a mound of sand there. They had building lots there and hauling sand out and that is where it went. He just went in and dozed it out. K. Taub states that he is asking if the change in elevation between a neighbor and the Applicants is a result of G. Ovitt putting in fill. G. Ovitt states that it was there he just kind of cuffed it off. A. Wine asks if it was the same elevation as Mr. Ellis'. G. Ovitt states it was actually higher. A. Wine asks if the property boundary is at the point where it starts to go down.

G. Ovitt states that the stone wall is at the bottom and it is about a foot or two back and the slope is on his property. A. Wine asks that at the bottom of the slope becomes Mr. Ellis'. G. Ovitt states yes. K. Taub states that the falling down fence is well on his property. G. Ovitt states the fence is on his property. D. Eskoff asks when the deck was put on. G. Ovitt states the year they built the house. D. Eskoff asks when the deck was built was it part of the Variance granted. G. Ovitt states no that was a different permit. D. Eskoff states the deck didn't require a Variance then. G. Ovitt states no. D. Eskoff asks if he was aware of the water issues on his neighbor's property. G. Ovitt states that it is actually swamp over there and that G. Ellis' house is probably 2000' from the Applicant's house and his property is kind of down by the wetlands. D. Eskoff states that she is asking as part of their review they will look at environmental impact. G. Ovitt states there are wetlands on the map behind his house. D. Eskoff thinks it will help the Board to have a map showing any wetland areas to help indicate if this was an existing environmental issue. D. Eskoff states she feels this is important to the ZBA there is an opposing neighbor that has raised environmental issues and physical conditions that affect the neighborhood and the Applicant is requesting a setback to the fence line only a few feet from the property line. D. Eskoff asks if there are more questions for the Applicant. She would like to table the matter in Public Hearing at 7:17 p.m for continuance pending additional information to be requested from the Board in a motion and asks what information the Board needs. C. Kolakowski states that he would like to see where the garage and the deck are. K. Taub asks given how wet the Applicant's property is and does putting in an in-ground pool have any impact on it. Is this a suitable place to put an in-ground pool? Is there potential for it to pop up? G. Ovitt states that he is not sure it is just wet in the spring. D. Eskoff asks if the Applicants have a contractor. G. Ovitt states yes. D. Eskoff states she is not requesting he do so but it might be helpful if the contractor wrote a letter or attends the next meeting to speak as it may be helpful to hear from the contractor regarding a suitable location and that he does not foresee it adding to any environmental issues such as the stability of the ground. G. Ovitt states that it is all sand where he is. D. Eskoff states that sometimes a professional/contractor can add additional supportive information. D. Eskoff asks G. Ovitt if M. Waldron, Zoning Administrator/Codes Enforcement Officer, can have permission to go on the Applicants property to take photos of the area, confirm setbacks and boundaries. G. Ovitt states sure, yes. K. Taub has a question for G. Ellis. K. Taub asks G. Ellis if the elevation of his property was that high before his house was built. G. Ellis states no. K. Taub asks how much higher was it raised and when was that done. G. Ellis states that he has lived there at least 11 years. K. Taub asks G. Ellis if he would draw a line on one of the photos of the area to show the Board where the elevation was before. D. Eskoff states that G. Ellis was here to speak for the Public Hearing now being tabled, he is not subject, and feels questions should pertain to further information needed from the Applicant. G. Ellis wishes to come forward and draws a line on the photo K. Taub was referring to in order to indicate the past elevation. K. Taub asks the Board if raising the elevation at the proper line requires any governmental permission or not. D. Eskoff feels that is beyond the ZBA. A. Wine states that was done how many years ago it probably does not pertain to this. G. Ovitt states that when he and his wife looked to purchase the property there were only two little envelopes that were set up and approved for two little houses the rest was wetlands. D. Eskoff asks if G. Ovitt knows if it is Army Corp of Engineers or DEC. G. Ovitt states that this was several years ago and he does not remember. D. Eskoff asks if the Applicant will work with M. Waldron on determining more information on the wetland area map. G. Ovitt states yes. Some ZBA members would also like to do a site visit and D. Eskoff asks G. Ovitt for permission. G. Ovitt states yes. D. Eskoff states that the time of site visit will be determined between G. Ovitt and the Building Department. The following Resolution is made:

**RESOLUTION- G. Ovitt & J. Berrigan – Area Variance**

MOTION: A. Wine  
SECOND: K. Taub

RESOLVED, that the Zoning Board of Appeals, hereby tables the Public Hearing for Case #1013, 122 Plank Road, TM# 124.-1-38.26, until June 4, 2019 contingent upon receipt of:

- Photos of the garage and deck
- Photos of the bordering areas of neighbor's property
- Extended Overview Plot Plan that includes the neighboring properties
- Wetlands map of the property (to be determined with Zoning Administrator)
- Verification of property boundaries and stone wall location(s)
- Zoning Administrator to do Site Visit of property and take requested photos (has Applicant's approval)
- Members of ZBA to do Site Visit of property (has Applicant's approval)

Requested information must be received by the close of business on Tuesday, May 21, 2019 otherwise the Public Hearing for this case will remain tabled by the Zoning Board of Appeals until after receipt of such information.

VOTE: Ayes: D. Eskoff, C. Kolakowski, N. Toussaint, A. Wine and K. Taub  
Noes: None  
Abstain: None  
Absent: J. Spzak

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Meeting adjourned at 7:29 p.m. All members in favor.

Respectfully submitted,

Kimberley McMahon  
ZBA Secretary