

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

November 6, 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.

October 2, 2012 MINUTES

MOTION: K. Veitch

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of October 2, 2012, as submitted.

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

Noes: None

Abstain: Conard

NEW BUSINESS

DEREK BRADLEY – Area Variance, Case#907

Young Road

Derek Bradley is present. T. Conard reviews that the applicant is seeking a 37' left side yard setback variance. P. Lunde asks if there are any structures on the adjoining lot. D. Bradley states that there is a house, which is 125 to 130 feet away from this structure. J. Szpak asks why this location was chosen. D. Bradley states that it has the lowest density of trees. D. Eskoff asks if this pavilion will be a structure without sides. D. Bradley states that it will be open-sided, just like the one recently built at the Bruchac's.

RESOLUTION – D. Bradley, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of Derek Bradley for an area variance for property located at 50 Young Road, TM#162.-1-69 as complete and sets a public hearing for December 4, 2012 at 7:30 p.m.

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

Noes: None

JOSEPH & DEBORAH RUSSO – Area Variance, Case#908

Greenfield Manor Road

Leslie McLain, Saratoga Construction, is present representing the applicants. T. Conard explains that this was a subdivision and that the zoning has changed since the approval. It is a pre-existing, non-conforming lot. The applicants would like to get the setbacks back to the 2003 zoning rules. T. Conard states that we have not ever gone back to old zoning setbacks. What we do is, we want to know where the

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house is going to be positioned and we offer them the least amount of variance from that position of the house. L. McLain states that the applicants don't own the land yet, they have a general plan for the home, but don't have final drawings of the actual house because they don't want to invest thousands of dollars until they are sure that they are going to be able to build it here. She states that it is not so much that they are asking that we return to previous setbacks, just to conform to the neighborhood and to have a building envelope that is buildable and they will certainly work within that and make sure that the house conforms. J. Szpak states that there are drawings of a house in the application and he asks if these are not necessarily going to be the dimensions of the new house. L. McLain states that it is really close but they are not the final plans. K. Veitch states that because the applicant is requesting a variance, and variances have to be pretty precise in description on where we are giving the variances, without having that plot plan, the ZBA cannot give the applicant an answer. The ZBA does not have the power to do that. The ZBA needs the commitment of some type of plot plan and where the building is actually going to sit. L. McLain asks if they take the survey showing the old and new setbacks, and add to that the footprint of the foundation, would that be adequate. P. Lunde states that they need to add the measurements from the property lines. K. Veitch states that it has to be accurate because once the ZBA gives the variance, that is how the building has to be built. P. Lunde states that if the ZBA gives them a 25' side yard variance and the applicant chooses to put it 30' from the side, then that is fine. You cannot go greater than the 25'. M. Granger states that if the Board says to an applicant that you can have the variance basically to what existed before the zoning changes, that to her sets a precedent for everyone else to come in and ask for the same. She states that she has a lot of concern about that because one of the things that the Board is faced with continually is people coming forward and saying that the zoning changed without their knowledge. She does not feel that this Board is in a position to say to one applicant this is great if it conforms to the neighborhood. She feels that the Board needs to be very careful in terms of how this is handled given the number of people who have come before this Board with the same argument. Zoning changed for a reason. She states that she is not trying to be difficult, she is just saying that as a Board member she is greatly concerned about that. Everyone needs to be treated as fairly as possible. L. McLain states that she believes that this is one of two lots that are still vacant in this subdivision and she believes that this will come up for the other lot as well. She states that for this particular neighborhood, and you might not be able to accept the argument that it conforms to the neighborhood, but this is definitely the case that all the other homes were built prior to the change. P. Lunde states that is definitely in the applicant's favor, but we need specific dimensions. T. Conard states that it is not that we would turn it down if you positioned a house in there, but we really need to know the location. J. Szpak states that if you know the approximate size of the building and work with the owners, you would be able to state specifically what variances would be needed. He states that they could not go closer to that particular boundary, but could ask for an exact variance to a particular boundary with only knowing the approximate size of the building. P. Lunde states that they should place the building and give us dimensions and then we can work on it. K. Veitch states that he is more worried about when we have had these conversations when someone has come in to do a variance and find out later after the house is built it is x-number of feet over the line. M. Granger states that she would not expect that the applicant will come back with dimensions that totally fill out what the previous zoning used to be. P. Lunde states that the Board is supposed to give the least amount of variance possible, that is what the Board is mandated to do. K. Veitch states that at this time we need a site plan from the applicant with dimensions, two weeks prior to the next meeting. L. McLain states that is possible but she does not know how willing the owners are to spend money at this stage when they do not know that they are going to be able to build there. She will attempt to get that for the Board. K. Veitch states that the Board can table the application if they cannot get this for the next meeting. L. McLain states that she believes that the owners are just trying to avoid spending a lot of money in the planning phase not knowing if they will be able to move forward with the lot. T. Conard states that generally with pre-existing, non-conforming lots we do allow buildings on them as long as they are not too excessive and they generally fit the neighborhood. We really need to give the least amount of variance possible so if we can get those sizes and setbacks down, then we can give that variance. D. Eskoff states that there are a couple of items that need to be corrected on the application.

RESOLUTION – J. & D. Russo, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals accepts the application of Joseph and Deborah Russo for an area variance for property located at 5 Greenfield Manor Road, TM#112.-1-68 and sets a public hearing for December 4, 2012 at 7:30 p.m., contingent upon:

- **Receipt of plot plan two weeks prior to the December 4, 2012 meeting**
- **Corrections to the application**

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

Noes: None

OLD BUSINESS

PETER BARBER – Area Variance, Case#902

Greene Road

Peter Barber is present. T. Conard states that this is still before the Town Board and that the public hearing is still open.

RESOLUTION – P. Barber, Area Variance

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals tables the application of Peter Barber for an area variance for property located at 481 Greene Road, TM#126.-1-20.2 to the December 4, 2012 meeting.

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

Noes: None

STEPHEN DOTY – Area Variance, Case #904

Maple Avenue

No one is present for this application. T. Conard reviews that the public hearing is still open and that the violation is still outstanding.

RESOLUTION – S. Doty, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals tables the application of Stephen Doty for Area Variances for property located at 472 Maple Avenue, TM#153.13-1-11 to the December 4, 2012 meeting

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

Noes: None

RICHARD STUTZENSTEIN – Area Variance, Case#905

Hyspot Road

Richard Stutzenstein is present. T. Conard reviews that the applicant would like to rebuild a barn, which was destroyed by fire, on the existing foundation. The foundation is 10' from the edge of the road.

A public hearing is opened at 7:50 p.m. Alan Eichorst, Hyspot Road, states that he has a similar situation, also with a barn, and that he may need a variance to rebuild a pole barn on the property. He has no issue with the applicant's request. There being no further public comments, this public hearing is closed at 7:53 p.m.

P. Lunde asks if the applicant, when he spoke with W. Barss, discussed the roof and the snow. Does what W. Barss is looking for work for the applicant so that the snow does not fall in the road? T. Conard reviews that W. Barss has submitted a letter stating that the old foundation has adequate distance from the town road, although the roofline must be such that it does not allow snow to slide into the roadway. T. Conard states that as long as it is designed to not allow the snow to get into the roadway or melt and then create ice in the roadway, then W. Barss is fine with the location. K. Veitch asks about the design and how much overhang would be on it. R. Stutzenstein states that it will be a standard roof and he does not know the overhang. He is thinking of doing a Morton building and he is sure that he can work with them. K. Veitch states that he has been to the location and looked at it. The foundation is far enough back. There is a lot of room for that roof to come out, to pitch off and the snow to still fall on his property. R. Stutzenstein states that he would not say that the snow has never been in the road, but when it has he has cleaned it up himself.

RESOLUTION – R. Stutzenstein, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals approves the application of Richard Stutzenstein for an area variance for property located at 200 Hyspot Road, TM#150.-2-53.1 as follows:

- **30' front setback variance**

This approval is based on the following criteria:

- **The barn burning down was not any fault of the applicant**
- **The impact to the area, the area around the property is pretty much farm type style**
- **The barn being in this location will not be a detriment to the community**
- **No negative environmental impact**
- **The barn was there for 150 years**
- **Discussion took place regarding the barn roof being not likely to put snow into the road**

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

Noes: None

R. Stutzenstein states that he will work with Morton regarding the roof.

DANIEL & CHRISTY LILL

Greene Road

Daniel and Christy Lill are present. T. Conard states that the applicants are seeking a right side yard variance and a rear setback variance.

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A public hearing is opened at 7:59 p.m. T. Conard reads from a letter from David and Jane Bangert, Greene Road, stating that they are opposed to the right side yard setback variance but not the rear yard variance. There being no further public comments, this public hearing is closed at 8:00 p.m.

The Board reviews the map. D. Lill states that he is not asking for a side yard variance. R. Rowland asks if on the drawing the area on the right is part of the structure. D. Lill states that he is only asking for rear yard relief because he knew that D. Bangert would not want the home closer, even though it really could be. He states that the driveway may fall within the setback. He indicates that the area in question is just the driveway, it is not part of the building. D. Bangert states that with the DEC restrictions and then the change in zoning, his lot became even more restricted. He reiterates that he is not seeking a side yard variance. M. Granger questions that he is confident that he will not be coming back for another variance. D. Lill states that a nice two-story house will fit on this footprint. He states that if the property does not sell, he will be building there. K. Veitch asks if this is the actual footprint of the house the applicant is planning on building. D. Lill states that this could be the house they build, but this is a nice home that he would market there. He states that this is a dimension footprint of the home that he could build here. M. Granger states that we just asked the other applicant for a site plan. P. Lunde states that this applicant has done that. D. Lill states that he is going to stay within the 25' realm that he is asking for, which is the same that was granted to the adjoining parcel. M. Granger states that she understands what is being said, but she feels that, like the last applicant that was just here who is coming before the Board next month, we said we need a site plan before we can actually give them the variances. She states that D. Lill is saying that this is a nice house and that he may build it, but he wants to be able to have the variance so that he can market it. D. Lill concurs. P. Lunde states that the other applicant had nothing on the property. D. Lill states that that applicant was a representative. P. Lunde states that we are asking the other applicant to do exactly what D. Lill did, that's all. D. Lill states that during the variance that was granted to D. Bangert, he said that he is a firm believer in the right to do what you want and he thought that it made sense. Knowing that his lot is more restrictive and that it would set a precedent, he had stated that he would probably be back. P. Lunde states that when someone comes before the Board, they can have a plan of what they want to build and ask for a variance. Once they get the variance, they can build something totally different, so long as they stay within that variance. K. Veitch states that to him it sounded like the other applicant didn't even know what they were putting in, to even know what to ask for. D. Lill states that this is a two-lot subdivision with a \$100,000 driveway that he and his partner put it; D. Bangert did a beautiful job, he has a custom, high-end home there; and that would be the anticipation on the other lot. D. Lill states that he expects to either sell or he will build something there. Either way the relief would be needed. M. Granger states that she understands that and that they have the wetland buffer, which is a limitation on that lot. D. Lill states that you really are only utilizing the corner of the lot. It was troublesome, the whole concept of it, but he understands why it is there. P. Lunde states that it is a gorgeous piece of property.

RESOLUTION – D. & C. Lill, Area Variance

MOTION: M. Granger

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals approves the application of Daniel and Christy Lill for an area variance for property located at 485 Greene Road, TM#126.-1-112 as follows:

- **25' rear yard setback variance**

This approval is based upon:

- **The limitations of the 100' wetland buffer that currently exists there, the information presented to the Board and the fact that the applicant can be in compliance with the right side yard setbacks**
- **The benefit cannot be achieved by other means**

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- **There is no undesirable change in the neighborhood character or to nearby properties**
- **The request is not substantial**
- **There will be no adverse physical or environmental effects as the applicant is staying out of the wetlands buffer**

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

D. Lill asks if he were to get highly ambitious and wanted to get a DEC variance, which is highly unlikely, if he does not use this variance, it is irrelevant as well. T. Conard states that is correct.

Meeting adjourned 8:13 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary