

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

October 4, 2016

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by Kevin Veitch at 7:30 p.m. On roll call the following members are present: Kevin Veitch, Denise Eskoff, Curt Kolakowski, Laura Sanda, and Joseph Szpak. Andrew Wine, Alternate is absent.

September 6, 2016 MINUTES

MOTION: D. Eskoff

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of September 6, 2016, as submitted.

VOTE: Ayes: Eskoff, Sanda, Szpak

Noes: None

Abstain Kolakowski, Veitch

OLD BUSINESS

PAUL & DIANE HLADIK – Area Variance

Case#968, Ormsbee Road

K. Veitch states that there is an issue with the foundation being in the wrong place. They are required to have a 75' front setback and it is at 63' so they require a 12' variance.

A public hearing is opened at 7:32 p.m. Letters were received from 3 neighbors with no issues. There being no further public comments, this public hearing is closed at 7:33 p.m.

Dave Barrass, Surveyor, is present for the application. J. Szpak states that we had a pretty detailed discussion on this at the last meeting as the Board was trying to understand the application. He states that he took a look at this for any potential mitigating actions that would be appropriate and he does not believe that there are any. It is pretty consistent with the neighborhood and the neighbors are fine with it. D. Eskoff states that the contractor made the error. K. Veitch states through no fault of the owners.

RESOLUTION – P. & D. Hladik, Area Variance

MOTION: J. Szpak

SECOND: D. Eskoff

RESOLVED, that the Zoning Board of Appeals approves the application of Paul and Diane Hladik for an area variance for property located at 255 Ormsbee Road, TM#111.-1-21.14, as follows:

- **12-foot front setback variance**

This is based on the following criteria:

- **Benefit cannot be achieved by other means feasible to the applicant**
- **No undesirable change in the neighborhood character or to nearby properties. Three neighbors have no issues with the variance.**
- **The variance is not substantial**

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- **There will be no adverse physical or environmental effects**
- **The difficulty was self-created by the applicant's contractor but is not significant**

VOTE: Ayes: Eskoff, Kolakowski, Sanda, Szpak, Veitch
Noes: None

DAVID KWIAT – Area Variance

Case#969, Hovey Road

Bill Thompson, Thompson and Fleming Land Surveyors, is present for the application. K. Veitch reviews that the applicant is seeking to subdivide a parcel of land. One lot would be a keyhole and the other would need a frontage variance. D. Eskoff reads from the Planning Board minutes regarding sight distance.

A public hearing is opened at 7:38 p.m. Pauline Levo, Hovey Road, states, on behalf of herself and her husband, that they purchased their property 20 years ago and built their home. Witt Construction purchased the entire east side and was approved for a major subdivision of 12 lots in the manner of keeping the rural look, under the old zoning regulations. This property fronts directly across the street from her property and the proposal is for 2 driveways on a lot with 225' of frontage, which is less than today's zoning. There is an additional lot directly to the south which is undeveloped. If this variance is approved, there would be 3 driveways in a row within less than 100'. She states that their concern is how this would fit in with the character of the neighborhood, in keeping with the rural look, and for sight distance as well. She states that they would like to see the subdivision remain as initially approved. P. Levo provides a copy of her notes for the record. K. Veitch states that these 2 lots were subdivided under the old zoning code so they are considered pre-existing. William Tucker, Hovey Road, states that he and his wife own the lot just to the north of the subject parcel. They bought their lot because they were retiring, they wanted total seclusion, they didn't want to be able to see their neighbors, etc. They asked about where the proposed housing would be on either side of them. The one to the north, they couldn't tell them. The one to the south, the one in question, it was pretty obvious because if you look at the topo map, they wanted it right on top. That is quite a way away from where the possible house site for the lot right next to them is going to be now. It is going to be closer, there will be trees taken out, they will be able to see the house, the extra traffic going by is going to not be good. It is a dead end road so there is no other egress. It is going to be something that they didn't expect – more traffic, less seclusion and he is very disappointed. Elaine Kinsella, Hovey Road, states that when she and her husband moved here this was a dirt road and with one other family member who lived at the end of the road. It was safe, protected and quiet. She discusses the traffic and states that more houses will bring less privacy, more traffic and make the road less safe. She states that when they subdivided a small piece of property (8 acres), they were bound by zoning laws and the variances that were in place. There is no reason to adjust these guidelines due to preferences. Many of the neighbors moved here to escape suburbia and congested living situations. She provides a copy of her written comments. Eric Hermans, Brigham Road, states that his property adjoins the subject parcel along his rear property line. They bought the house in 2015 with the full expectations that they would be moving into a place where they could retire. They are a young couple with a small child and are really excited to find their permanent footprint in Greenfield. Part of the expectation was to live in a rural area. With the way that this proposed map is suggesting, they would lose a significant amount of privacy with that potential driveway butting up only feet from their property behind their home. They bought their home knowing that that property was for sale, knowing that it was for one home and that it was a fairly large piece of property and they wouldn't lose a lot of their woods, the nature and animal life. He states that he recognizes that D. Kwiat has an investment here and his proposal is such that he does not lose money, however, a bad investment doesn't necessarily mean that the rest of the neighborhood should suffer. He provides a copy of a letter. Stephanie Picozzi, Hovey Road, states that she is the newest neighbor to Hovey Road. They purchased their home in November, with a tremendous amount of time and effort being put into the research of which community they wanted to move to. They ultimately decided on Greenfield Center due to the serenity of the community. They left Long Island and picked Greenfield because they just love the serenity, the peacefulness and the general nature of the neighborhood. That was one of the most important criteria for them. They thought that Hovey had little

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chance of the character changing and they are upset to think that where they thought there would be one house, there could possibly be 2. We all make questionable decisions from time to time and are responsible for those consequences, but if the landowner made a questionable business decision, it is not for the ZBA to make him whole or profitable. Michael Getz, Hovey Road, submits a letter, states that he and his wife have lived here for 11 years with their 3 children. Everyone else has addressed the effects of what they feel. He would like to address what is happening here and why it is inappropriate. His understanding is that D. Kwiat is seeking this change because he is not able to sell the lot as it currently exists. That is a self-created difficulty and the applicant bought property that has a full market assessment of \$118,700 and he paid \$215,000, knowing the zoning limitations on the property. It has pre-existing sub-standard frontage so we would be making it even smaller with 2 substandard lots. The applicant wants the variance to subdivide this because of a self-created problem because he made a bad business decision. The neighbors have been speaking to one another and he knows that one of the neighbors made a fair market value offer on the property. There was no negotiation. The asking price is \$275,000, a \$60,000 profit. The applicant wouldn't take the offer. There is an empty lot next door and as far as M. Getz knows, the applicant has not tried to work with that, he hasn't tried to sell a piece of the property to anyone. There are ways to fix this without coming to the ZBA first. That is the applicant's lack of creativity, lack of business judgement, etc. Because of what the applicant wants, trees are going to be removed, privacy is going to be lost by some of the neighbors, and their property values will then go down. Neighbors are going to lose money because the houses on the street will be worthless. Everyone who actually lives there, who wants to live there for the rest of their lives potentially, will be the ones who take the hit on this because the applicant is making a business decision and never intends to live there. Robert Harran, Hovey Road, states that he was one of the first residents with Witt. He walked all of the lots with Witt and was shown pretty much where the houses were going to be. That property already has electricity to it because they were planning on one building. When he moved here there was the old county road that went through and he researched to see if there would be another road because he wanted the privacy. He states that because the applicant made this deal, the Town is not the Federal government to bail out the person who is not even planning on living there. Chris Hansen, states that his parents live on Hovey Road, and they bought here early. He walked that land when it wasn't even Cutajar's, hunted there, it is a great piece of property. What he is here to tell the Board is that this is a generational street. People buy there to live forever. His parents bought the property when he was 16, his kids ride horses there, they walk the woods there. The people want to be there forever. Hovey is one of the most special streets in Greenfield. He suggests the Board be careful what they do there because they are changing things. Michael and Jennifer Casavant, Hovey Road, state that they border the subject parcel in the back. J. Casavant states that the proposed driveway on lot 2, right now they have complete forest and they are going to have to excavate a hill and it is going to go 100' by her bedroom window. She is going to have to buy all kinds of blinds, which is one of the reasons they wanted to live there in the first place. They have a .2 mile long driveway, just like everyone else, they live there for privacy. M. Casavant states that when they were positioning their house, they looked at the property and they didn't want to be on top of their neighbors. They knew about the possibility of someone else building a house on top of the hill. It is a beautiful property. They put their house where there wouldn't be a driveway 100' from their bedroom window. They provide a copy of a letter. Matt Ragel, Hovey Road, states he and his wife, Jill, will be directly impacted by the keyhole lot. When they bought the house he did a lot of research with the real estate agent asking them what was the potential for building around their property. Keyhole lot came up – this town would never allow that. That is not what we are here talking about tonight. They bought their dream home which is 1000' off the road. He states that his house sits 40' from the line, so J. Witt, he guesses, went out and got a variance to get that taken care of. There would be a house right behind their living room windows. He states that when the Board goes and walks around, they will see how intrusive a keyhole lot next to them is going to be. He suggests that the Board think about the people who bought on this street for the way it was laid out and by what they were told would not change in such a fashion. Martin Pozefsky, attorney for M. Ragel, states that he is the attorney for 3 different Zoning Boards in towns in Saratoga County and has been practicing Zoning and Planning law for 30 years. He provides a submission for the Board. He states that this is an area variance and we all know area variances and the criteria. We sometimes look at them as a routine grant. The Board has heard all the compelling arguments from the neighbors. He wants to raise some of the legal arguments as to why this variance should not be granted. The frontage per lot on this street is 250'; this lot is 225' which was substandard when it was purchased. It was purchased by a corporate

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developer who also own 266 acres in Warren County in a commercial area to be developed. This is purely an investment, it was never purchased to be anyone's home, and he paid way over the market value. The law presumes that when a sophisticated, seasoned buyer purchases a substandard lot in a development, they are charged with knowing the limitations on it. They cannot come here and say that they did not realize that they could not subdivide this for development purposes. The law says that you are presumed to know those limitations. This developer then received a fair market offer from M. Pozefskys clients to purchase the property. This is an alternative to a variance and is critical. The applicant had an opportunity to sell it for \$10,000 an acre. There are submissions in the packet for current listings around the area where the average per acre is \$4,700. Not even a response or a counter offer. For that reason they feel that this is not only a self-created hardship and a bad business decision, but it is an extreme request. You are talking about going from 225' of frontage to 54' for lot 2 which is the keyhole lot and 225' to 174' for the other lot. M. Pozefsky asks the Board to table the decision for tonight, leave the public hearing open and if they haven't had a chance, take a drive out there and take a look at the properties, and review all of the submissions that were provided with counsel as well as each other, and have an opportunity to digest this. Hopefully the Board will conclude, as the neighbors believe, that the detriment to the neighborhood outweighs the benefit to the applicant. K. Veitch asks if the applicant is present. Bill Thompson states that he is present representing the applicant. D. Eskoff asks if B. Thompson is familiar with the offer for sale on the property. B. Thompson states that he was not familiar with that. D. Eskoff states that she really would like to hear from the applicant on that, because he is claiming that he cannot sell the property, it states on the zoning application "unable to sell lot as it currently exists" and apparently he potentially could so it is very critical to the Board. The applicant has made a claim in a zoning application that may or may not be accurate and we need to have that verified. K. Veitch states that he thinks it is in the best interest of everyone that this gets tabled leaving the public hearing opened. J. Szpak asks what exactly is being asked for. R. Rowland states that a keyhole lot is something that the Planning Board, under subdivision regulations, can approve - it does not require a variance. The only variance is for the frontage for lot 1, 76'. J. Szpak asks if any mitigating conditions have been considered by the applicant. B. Thompson states that as far as the driveways, they are considering having a shared driveway entrance where the existing driveway is, on lot 2, eliminating one driveway access. He states that he has checked the sight distances and they exceed the AASHTO recommendations. There is the vacant lot to the south and they considered whether they could incorporate that somehow, but it is already a substandard lot, acreage wise, and if they took away frontage from that lot, it wouldn't meet the zoning and a variance would be required there. D. Eskoff states that she would like to see the original subdivision plans. B. Thompson states that he has a copy and it was all proposed housing at the time. Right now it is a lot where someone could go in and build one house. With granting the variance, the Board would only be adding one more house to this area. He states that the 2 lots that would be created, one is 7 acres and one is 9 acres, those two lots are larger than the 12 lots in the immediate neighborhood. There are 11 lots in the immediate area that don't meet the current zoning. D. Eskoff states that they are pre-existing. B. Thompson states that it is a great residential area; there are large lots, many long driveways leading into private areas where houses are and that is really what they are proposing. D. Eskoff states that she still has an issue and needs an answer from the applicant to her question. K. Veitch states that if the reconfiguration is contingent upon the ZBA approval, then it could have an adverse effect. D. Eskoff states that the Town is trying to stay away from shared driveways. K. Veitch states that there is legal documentation that he would like to pass by our attorney. J. Szpak questions that there would be anything that we would find out from that additional research that would change the weighing of the judgment of this case. D. Eskoff states yes, because if the applicant is not giving proper and truthful information on a zoning application, it is a big issue to her. We have conflicting information and to her it goes directly to whether the benefit can be achieved by any other means feasible to the applicant. J. Szpak asks what happens if the answer comes back that there is no other beneficial means, that would change D. Eskoff's opinion. D. Eskoff states that we would have to take each step individually. Some are more detrimental than others. In an area variance, whether it is self-created is not determinative of whether or not we grant the variance. We have to look at all the criteria and the other 4 weigh a little bit heavier in the grand scheme. We have an indication that the benefit can be achieved by other means and she does not see how the ZBA could, in good conscience, not hold this case off for another month, do our research and get some answers, as well as run the legal material passed our Town Attorney. K. Veitch states in all fairness to both sides.

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RESOLUTION – D. Kwiat, Area Variance

MOTION: D. Eskoff

SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals tables the application of David Kwiat for an area variance for property located at 19 Hovey Road, TM#125.-2-56 to the November 1, 2016 meeting and adjourns the public hearing to that date.

VOTE: Ayes: Veitch, Eskoff, Kolakowski, Sanda, Szpak

Noes: None

K. Veitch reiterates that this is being held open to next month to review the information that has been presented and discuss this with our town attorney. This is not an easy case, and we want to make sure we do everything in the right way, regardless of which way it turns out. L. Sanda asks if the owner would be alright with the Board going out and walking part of this lot. B. Thompson states that he will ask the owner. Neighbors offer the Board to walk on their property. L. Sanda states that she would like to walk the subject lot to see where the driveways will be, etc. Question is asked that it was eluded to that a shared driveway presents legal issues, the gentleman states that shared driveways in the winter time would present problems also with who does what. D. Eskoff states that the Town's Comprehensive Plan did look at shared driveways and leaned away from them because of problems between neighbors. The Town tries very hard not to have a lot of shared driveways. At least the Planning Board takes that into consideration and unless they are really critical, it is not always the best way to go. M. Ragel states that he made the offer to Carol Rake who was representing the owner of the land so if he has to subpoena her, he will certainly do that. That was a cash offer and if anyone is in business, typically what happens when you make a cash offer it is typically not your best. D. Eskoff states that we have no control over a sale and everything that transpires as personal business. It is troubling to her that she has an application, which it is very common to have an application that states that a lot cannot be sold, but when we have an offer on the table and the applicant is stating that there is no other way to do this. M. Casavant states that given the cost to build a house and building one house on that lot, the people there could still build 1 house on that lot, resell it and make some money. They may not make the kind of money they would like to make, but they could still make some and move on. W. Tucker states that this gentleman made the statement that they are not changing the character of the neighborhood because there are all these other lots that are smaller, but what he didn't mention is that there are hardly any lots that have house that close on the entire street.

ERIK RODRIGUEZ – Area Variance

Case#970, Daniels Road

Erik and Agnes Rodriguez are present.

A public hearing is opened. Jim Van Dyk, Daniels Road, states that he would like this public hearing rescheduled to resend new notifications as he did not receive a notice and neither did his neighbor. R. Rowland states that she did check her list and the property is still listed to Marianne Wadsworth with the Daniels Road address, and apologizes for missing J. Van Dyk. J. Van Dyk states that he heard about this late last night and did not have the opportunity to speak with any of the neighbors. A. Rodriguez states that she did speak to J. Van Dyk about the project. J. Van Dyk states that he did not know when the hearing would be at the time of that conversation and would like to speak to the other neighbors. K. Veitch states that since J. Van Dyk is here, is there anything he would like to say about it. Alan Van Dyk, Daniels Road, states that he spoke to E. Rodriguez about the plans for the property and plans for staying in the area. E. Rodriguez has a beautiful view from his house because 3 of his neighbors – the Gailors, the Wadsworths and the Van Dyks – have chosen beauty and land conservation over monetization of their properties. This correlates to A. Van Dyk to a good neighbor. He states that E. Rodriguez has stated that he would like to build a small 2-bedroom house on his property for his in-laws which he supports – with a few caveats. He would like to see: these two properties forever linked together meaning that they cannot be sold separately; the home size stays within the in-law parameters of 1000 square feet or less; that this home have a graywater system installed in

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it, we in Greenfield are all dependent upon our well water, which needs to be conserved and used wisely; a composting toilet be used because of the close proximity to the neighbors and their wells; driveway access is not the best as far as sight distance is concerned, this concern would be greatly reduced if the Town would lower the speed limit to 30 mph on this section of road which is narrow and populated, as they have been asked to do in the past. A. Van Dyk states that with some work he is sure that the applicant can make that sight distance much better. Jim Van Dyk states that he still objects to not receiving a notice and the Board not rescheduling the meeting. He didn't have time to get an attorney to represent him. D. Eskoff asks if he feels he needs an attorney. J. Van Dyk states that he does not know. He is here to support the applicant and his request for a variance, but he is also here to support their little neighborhood. The applicant has stated that he wants to provide a house for his in-laws and that is a great and commendable goal, but to prevent problems down the road in the event that E. Rodriguez decides to sell and move on, there are a couple of things that he thinks should be addressed. The driveway proposed going to the house is only 20' wide, very near E. Rodriguez's house and dead against the rock wall that is the property line. This leaves very little room for snow plows and snow removal. It is a substandard lot, approximately 1 acre in an area that requires 3 acres to develop. As the applicant's goal is to have an in-law house, J. Van Dyk would request that the Board impose the size restriction for an in-law house, that being under 1000 square feet. He would also request that the Board require a deed restriction so that neither piece could be sold independently of the other. This will prevent friction from owners in very close proximity to each other. J. Van Dyk states that he is not a proponent of building on every piece of available land in Greenfield. Green space is important to us all. It also seems to him that if this was not available for Mr. Tallman, and he did try to get it developed years ago, it should not be for anyone else. He does support the use of the property as an in-law house as long as steps are taken to insure that is the goal as opposed to monetizing a substandard lot and then that it remains so down the road. He reiterates that he did not receive a notice and that he does not feel this hearing is legitimate for that reason. K. Veitch states that he understands that this is on a separate lot. D. Eskoff states that this is not an 'in-law' because it is not within the same structure and it is not a garage apartment, although she believes that was an option for the applicant if this did not work out. E. Rodriguez states that it had been mentioned to him. D. Eskoff states that if for some reason the lot turned out to not be buildable, the applicant could combine the lots. "In-law" is within the same structure so that you do not leave the house, there is no front entrance, if someone looked at the home they wouldn't know that you had an in-law apartment, it doesn't look like a rental. We don't really have cottage-type housing for in-law situations, in Greenfield that we address, which she thinks are quite nice and certainly nicer than a garage apartment. K. Veitch states that we are looking at this as a structure that the applicant wants to build on a separate lot and is owned by the applicant. He states that some of the requests made by the first gentleman are understandable, but unfortunately the ZBA can't put restrictions on some of those things, some of which are governed by the State code. The Building Department would be the one to determine whether those things are necessary. E. Rodriguez states that all of the lots in this area are substandard lots. J. Van Dyk states that this property was originally cut off of "Pop" Tallman's property, who originally thought that he could develop it, was not able to and it should have been under the same deed. He does support the applicant but it is a very tiny lot, it is shoe-horned right behind another house and he really does not know what the end goal is. He really hopes that the end goal is to have the in-laws there, that is great and the applicant is a great neighbor. He suggests putting requirements on it that limit the size of the house, the transfer of the property, etc. D. Eskoff states that we cannot limit the transfer of the property. K. Veitch states that when this goes back to the Planning Board, that is where these comments should be addressed because those are things that they can address. K. Veitch states that all the ZBA is being asked right now is to allow the applicant to have a minimized amount of frontage that would allow them to have a driveway back to that lot. Discussion takes place as to what the Planning Board reviews versus the ZBA, and regarding other options possible to the applicant such as combining the lots. E. Rodriguez states that the driveway already exists, there is a barn there and it already is a separate lot. K. Veitch states that the applicant would need an open development if this were to be an easement. R. Rowland states that the applicant is asking to create frontage so that would not apply. D. Eskoff states that it is a matter of what the applicant wants for the future and how he wants to hold that property for the future. She is assuming they want something on the first level and not an apartment in a garage. E. Rodriguez states that no stairs is really the goal. K. Veitch states that this still needs to go to the Planning Board and he would hope that the applicant has done their homework, knows what they want, and have spoken to G. McKenna about options. D. Eskoff explains that if a public hearing is held at the Planning

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Board, the neighbors will get notice and the opportunity to speak at the next meeting. J. Szpak questions that the benefit can be achieved by other feasible means. C. Kolakowski states that his question was that if the applicant goes through what the notes say from the Planning Board, no variance is required for anything here. J. Szpak states that we talked about 3 different options – the one before us, one that this be an easement with an open development permit and the other is to actually combine the lots and change the arrangement that would minimize the variance request – any way you need a variance. L. Sanda states that if they combine the lots, what would the structure be considered. D. Eskoff states that is the problem, they don't want an in-law apartment. R. Rowland states that it could only be a garage apartment. D. Eskoff states that they have a need for a first floor and at some point the Town needs to look at that. K. Veitch states that we have no public opposition. A. Van Dyk questions that if the ZBA cannot address his concerns, he should go to the Planning Board. D. Eskoff explains what the ZBA can look at. L. Sanda states that the Planning Board would be looking at well and septic locations. J. Szpak states we should review the criteria. Whether the benefit can be achieved by other means - D. Eskoff states that we have looked at the alternatives and this is the most beneficial to the applicant to go this route. It does not require the open development permit; it won't require a shared driveway which the Town wouldn't prefer, etc. C. Kolakowski states that combining the parcels would still require variances. D. Eskoff states that it benefits the applicant by having a home that would be able to be built on a separate lot, if the parameters can be met, which meets their needs and perhaps the needs of future inhabitants. Undesirable change in the neighborhood..... – D. Eskoff states that 2 neighbors are here and are in favor as long as the Planning Board criteria can be met and their concerns addressed. There are a lot of substandard lots on that road. Whether the request is substantial – J. Szpak states that it is but they are already pre-existing, non-conforming lots. Adverse physical or environmental effects – J. Szpak states that there are none foreseen. We would assume that the septic system is going to be compliant. R. Rowland states that it has to be. Alleged difficulty is self-created – D. Eskoff states that the parcel as it exists is not self-created, it is a pre-existing non-conforming lot that others have tried to build on and it couldn't be done.

RESOLUTION – E. Rodriguez, Area Variance

MOTION: J. Szpak

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals approves the application of Erik Rodriguez for an area variance for property located at 329 Daniels Road, TM#151.-3-67, as follows for lot 1:

- **Lot size variance of 1.74-acres**
- **Frontage variance of 62.1'**

This approval is based on the following criteria:

- **The applicant has reviewed other methods and this method is most feasible in that it prevents open area development and it prevents a shared driveway situation**
- **There is no undesirable change to the neighborhood or character of the nearby properties, although he would say that the applicant should consider mitigation for the driveway with the one neighbor not knowing what is there**
- **The request is substantial but this is a pre-existing, non-conforming lot and it is not an unreasonable scaled driveway and structure**
- **The request has no adverse physical or environmental effects**
- **The alleged difficulty was not self-created in that it was 2 pre-existing, substandard, non-conforming lots**

Alan Van Dyk states that the properties were sold as one lot. D. Eskoff states that they were 2 lots that were sold together, but technically the applicant could sell one off tomorrow. J. Szpak states that he covered that in the first item in that other options were reviewed. A. Van Dyk states that he and his brother both suggested that the parcels be linked together so that they could not be sold separately. D. Eskoff states that we cannot control what the applicant does with his property unless the Town asked that they be combined.

VOTE: Ayes: Veitch, Eskoff, Kolakowski, Sanda, Szpak
Noes: None

ANDREW SHANNON – Area Variance

Case#971, Old State Road

Andrew Shannon and Pat Hammond are present.

A public hearing is opened at 9:05 p.m. K. Veitch reviews that the applicant is seeking a 37' rear yard setback; this is a pre-existing, non-conforming lot and a pre-existing, non-conforming mobile home. D. Eskoff states that the photos requested were received. P. Hammond explains that they want to add on to an existing room on the mobile home. D. Eskoff asks if there are other mobile homes in the area. A. Shannon states that there are and he has spoken to neighbors. There being no public comments, this public hearing is closed at 9:07 p.m.

D. Eskoff asks how far the house is that is directly behind the porch. A. Shannon states that there is nothing behind the house. J. Szpak states that he has walked by there and you can see it from the road behind it, there is somewhat of a screened buffer but it is not in open view of the other properties.

RESOLUTION – A. Shannon, Area Variance

MOTION: J. Szpak

SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals approves the application of Andrew Shannon for an area variance for property located at 12 Old State Road, TM#164.8-2-8, as follows:

- **Rear yard setback of 37'**

This approval is based on the following criteria:

- **Benefit cannot be achieved by another feasible means, it is a pre-existing, non-conforming lot**
- **There is no undesirable change to the neighborhood or character of the nearby properties, in fact there is already a porch on there that is non-compliant so this will be an improvement**
- **The request is not substantial**
- **The request will have no adverse physical or environmental effects**
- **The applicant did not create the pre-existing, non-conforming lot so it is not self-created**

VOTE: Ayes: Veitch, Eskoff, Kolakowski, Sanda, Szpak
Noes: None

DISCUSSION

Jim Van Dyk asks how he can learn more about what the Board does. J. Szpak states that they are not really requirements but it is a balancing test, they are criteria. R. Rowland states that if he would like to stop in the office we have some material that explains the difference in the variances and the minutes for the meetings are on-line. D. Eskoff states that the criteria comes from different case law through the courts. K. Veitch states that zoning is a law that is given some flexibility and the Board is the instrument that takes into consideration each case and is allowed to have flexibility in bending that law a little bit. J. Szpak states that the one woman who spoke said she did not have the option when she subdivided her property – she did. Anyone has the opportunity to ask for a variance from a certain zoning condition because of a specific

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reason. Then the ZBA weighs their needs versus the community needs versus the Town of Greenfield versus what will happen after they no longer own that property, etc.

Meeting adjourned at 9:12 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary