

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

MARCH 4, 2008

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, Stanley Weeks, Kevin Veitch and Stefan Strakos, Alternate. Gerry McKenna, Zoning Administrator is absent.

FEBRUARY 5, 2008 MINUTES:

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of February 5, 2008, as submitted.

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

Noes: None

NEW BUSINESS

JAMES GLOCKNER – Case#806, Area Variance

Ormsbee Road

T. Conard reviews that this is a request for a left side yard variance of 25'.

RESOLUTION – J. Glockner, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals accepts the application of James Glockner as complete for property located at 395 Ormsbee Road, TM#111.-1-56 and sets a public hearing for April 1, 2008 at 7:30 p.m.

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

Noes: None

PETER ZIMMER – Case #807, Area Variance

Locust Grove Road

Peter Zimmer is present. T. Conard reviews that the applicant would like to build a new house on a pre-existing, non-conforming lot. The variances being requested are for an 8' right side yard variance and an 8' left side yard variance.

March 4, 2008

RESOLUTION –Peter Zimmer, Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Peter Zimmer as complete for property located at 40 Locust Grove Road, TM#164.-1-46 and sets a public hearing for April 1, 2008 at 7:30 p.m., contingent upon:

- **The location of house on the adjoining properties**
- **Completion of SEQRA form**

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

Noes: None

KELLY HURLEY – Case #808, Area Variance

Locust Grove Road

Kelly Hurley is present. T. Conard reviews that an 11' right side yard variance was granted on September 4, 2007 and now a left side yard variance of 10' is being requested. The lot has wetlands and is difficult to build on. K. Hurley states that they were trying to use the existing foundation and therefore had not requested the left side yard variance initially, but problems have been found with the foundation. She does have permits from ENCON and they want her to be as far away as possible. The current septic is to the rear but will have to be moved to the front with the well in the back. She points out that the dotted line is the old and the solid line would be the new footprint. She states that it will also be moved up to the 75' setback from the road. M. Granger states that then the diagram does not actually represent where the house will be located. K. Hurley states that it is supposed to be 75' but it doesn't look like it. She explains that the issue she is having with the modular company is that everyone is a little bit iffy about guaranteeing it because it has been there for 35 years; they are concerned about settling; there is some water damage along the front, etc. She states that she has spoken with the neighboring property owner, Mimi Zeissett, who has no problem with the plans. M. Granger states that if the location is to be changed we need an updated plan. Copies of the ENCON letters would be helpful as well as the locations of where the neighbor's are located relative to the property lines.

RESOLUTION – Kelly Hurley, Area Variance

MOTION: M. Granger

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals accepts the application of Kelly Hurley as complete for property located at 428 Locust Grove Road, TM#138.-2-53.2 and sets a public hearing for April 1, 2008 at 7:30 p.m., contingent upon:

- **Receipt of copies of ENCON letters**
- **Location of neighboring structures**

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

Noes: None

OLD BUSINESS

DANIEL & DAWN RODECKER – Case#801,Area Variance

Middle Grove Road

Daniel and Dawn Rodecker are present. T. Conard reviews that this is a request for a .38-acre area variance. T. Conard reiterates that he works at Skidmore College in IT and that Dan Rodecker works for an outside company who contracts with Facilities. He states that they have very little interaction. M. Granger reiterates that she knew Dawn Rodecker through a minor business relationship and there is no financial connection. A public hearing is opened at 7:42 p.m. Michelle Morrissey, Middle Grove Road, states that she is strongly in favor of this request and moved to the area about 18 months ago because of the rural/agricultural character and anything that continues that tradition, they are in favor of. Gaetana Reville, current property owner, states that after 3 years of trying to sell, they have found the perfect buyer for their home and this is one of the last pieces of the puzzle. T. Conard states that we do have Gaetana and Jeff Reville's letter that is part of the record along with a letter from Krista and Christopher Reville, direct neighbors, in favor of the request. There being no further public comments, this public hearing is closed at 7:44 p.m.

M. Granger asks if there is a vegetative buffer between the structure and the neighboring property. Dawn Rodecker states that there is and most of the trees belong to the neighbor. M. Granger asks if they would have a problem being required to maintain as much buffer as possible on their property. Daniel Rodecker states that they expected that a buffer would be required and maintaining that would not be a problem. K. Veitch asks how many goats they are planning on having. Dawn Rodecker states 10 to 15. M. Granger asks if there will be a lot of manure that needs to be taken care of that location would be a problem. Dawn Rodecker states that goats are similar to deer, they don't generate a lot of manure. S. Strakos asks about odors from the male goats. Dawn Rodecker states that they have some odor, but it is not more so than some other animals have. S. Weeks states that the neighbors on both sides have expressed not only approval but enthusiasm, so he would think that is a major factor, in his mind.

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RESOLUTION – D. & D. Rodecker, Area Variance

MOTION: K. Veitch

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals grants the request of Daniel and Dawn Rodecker for an area variance for property located at 194 Middle Grove Road, TM#163.-2-47.322, as follows:

- **.38 Acre total acreage variance**

This approval is contingent upon:

- **Trying to maintain any buffer on the applicant's property between the structure and the property line**

This is based on the following criteria:

- **No negative impact**
- **No negative environmental impact**
- **No change to the neighborhood**

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

Noes: None

GERALD & RHONDA MAHAY – Case#802, Area Variance

Lake Desolation Road

Gerald and Rhonda Mahay are present. T. Conard states that this application is a request for a 250' road frontage variance, as their parcel has no road frontage. He states that the Board cannot rule on this because there is a violation for a number of trailers on the property and it is not licensed as a campground. March 4, 2008

This will be tabled and we will leave the public hearing open so that people can comment when it is back up for a decision. A public hearing is opened at 7:50 p.m. Jeanne Jacques reads from a written statement. She states that the applicant failed to state the commercial timber harvesting currently going on and that this is the second commercial logging taking place. Regarding the character of the neighboring land, she states that there is only one property that is residential; the rest is managed forestland. She questions that the top priority is to get electricity for the campers. She states that G. Mahay is not responsible for maintaining her driveway and she is continually picking up their litter. They were only granted the right to ingress/egress and she is opposed to the variance on the grounds that they failed to tell the whole truth. David Jacques, part owner of the access to the Mahay property, explains his background in forestry. He states that he and his wife are folk artists who use the resources of their forest management lands. He would like the Board to see that he has some sort of protection from people going by and saying that the lands are vacant. They have had conditions where people have taken their firewood and the sheriff lets it go. He feels that the Mahay application is incomplete. They were told by G. Mahay that the issue over the use of the land was okayed by the Town for that property to be developed for rental camps. There was a visit from the State Troopers who told D. Jacques that G. Mahay now owns the driveway and that it was access to the rental camps. D. Jacques states that they were not contacted by the Planning Board and according to his information that would have to go through the Planning Board. He feels that the applicants did not read the driveway easement or the survey map that is recorded. He states that there is an archeological site on the Mahay property and on his property, he has provided a site number and states that there are apparently grant monies available for the restoration. He states that there is an easement agreement that is filed in Vol. 0175B, page 00696 and if you are not looking at that document, you are not looking at the correct one. Also, there is a survey map filed, W431. The technical description is for a driveway easement for ingress and egress over a portion of the property. According to the minutes of the meeting the applicant stated he purchased a right-of-way. D. Jacques states that this is very important because if you are a landowner and you grant a right-of-way with terms and conditions, it is the nature of the right-of-way document to supercede the terms and conditions. That is why they did not grant a right-of-way but an easement only because the terms and conditions were spelled out in the court agreement and are enforceable. He states that the county is particularly aware of the problems that existed when confusing the two documents and according to his sources, they explained that lawyers frequently interchange the terms. He states that in the Town of Greenfield Zoning Book, they have basically the same definition. He states that in practice, the grantors of an easement retain ownership of the land. One of the things he was totally aware of is that a driveway easement would be totally unusable to Mahay's because there are other codes that have to be complied with. That is why he put it in right next to an existing road. He points out a roadway on a D. Barass survey and states that when you say that there are no other rights-of-way or easements to the property, D. Barass documented that. There is a 1992 map with the same existing curb cut on Lake Desolation Road. Essentially the Mahay's never had to bother him at all. This is where D. Jacques told them the road to their property was, it goes through another property which is also landlocked which was his contention in the beginning that he does not see a reason to do one and not do the other. He states it was an existing roadbed and when he reads the Zoning, he reads that developing access to parcels has to be along an existing roadbed. He never intended the driveway to be a road and that was the reason for the easement and the fact that they have everything they need there. He states that the Town, in his opinion, was totally aware of this when they got the Bruce Hawks survey map, which was submitted last time with case #708. In 1976 the curb cut is still there, over thirty years that that has been used. He feels that instead of coming back and putting more terms and conditions on him (Jacques), which supercede the Court agreement, the applicant has everything they need right there and this is on the "S" turns of Lake Desolation Road and he does not think that is a very good spot, but in fact it was used for quite a long period of time. D. Jacques states that questions were asked regarding the easement, it is still his property so if there is anything that has to be done there, he should be sent a letter and he does the maintenance on that driveway that exists on his property. He states that they are fully capable of doing it, they work on it regularly and take great pride in the work done. If parcel, TM#149.-1-1, is subdivided, the

easement ceases to exist. When the Mahay's signed the driveway easement, they forfeited their right to claim additional rights-of-way or easements over the property. He states that if the applicant is claiming in the minutes of the meeting that they now have a right-of-way, he does not think that they can make that March 4, 2008

claim. They signed that they would not claim any more rights-of-way or easements over the property. If there is a problem with the driveway, D. Jacques is to be notified by a letter and given a reasonable time to correct it. He feels that this variance is just a way to impose additional terms and conditions on him that are beyond what the court records were. He does not know if that is what the Board wants to do here or not, but he is just pointing out that with this particular driveway easement the terms and conditions are binding. He states that the other property that was of concern was his brother in law's property, TM#149.-1-2, and essentially what happened was that County Road 870 ceased to exist leaving these two properties without road access. These were never really roads; they were horse and buggy roads. Essentially Bruce Hawks' wood road took over the service to those properties and it has an existing curb cut permit. He states that when he first looked at the situation, it cost a lot of money to build a road to the Mahay property. It is a lot cheaper to drag him into court, to hit him with a lawsuit, to come to the ZBA and ask for extra terms and conditions, than for them to do the work themselves. D. Jacques states that he and his wife built that driveway, they cut out all the trees, had the stumps pulled and raked it all down. They wanted a nice level surface so that they could enter and work the wood lot. When the applicant extended the culvert the first thing he did was destroy that common driving surface and that is why he (Jacques) got the piece of equipment so that he could keep up on his part. During the lawsuit they argued that the exit to their property was the dug wagon road and D. Jacques had the dug wagon road surveyed and the survey did show that it did not intersect Lake Desolation Road through his property. That was why they accepted the driveway easement at that location and D. Jacques explained to them that they were having the same problem that his brother-in-law was having and there is really no reason to blame them for it, but they were also named in the law suit. D. Jacques states that he would think that somebody at the Town should be concerned about this. He comments about the number of people involved in the lawsuits. It is just a big cooking area of one lawsuit after another simply because somebody somewhere overlooked something. He states that he has enough surveys and information for the Board to evaluate the situation. He is opposed to the variance because the applicant did not include the rental camps in with the house and he really feels that is a deal breaker for him. K. Veitch questions that D. Jacques is saying that if the Town grants the variance it is going to add additionally to the easement language. D. Jacques states that the Town will have to supercede the terms and conditions in some way. K. Veitch asks if by doing that is D. Jacques saying that it will cause him to have to have more responsibility to maintain it. D. Jacques states that the Town will have to change this easement agreement to do it. K. Veitch states that the easement agreement states that the applicant is allowed to drive with a car on it, they are allowed to access it to build a home, and that the maintenance shall be done at the grantees expense. D. Jacques states that the vehicles used to build and maintain a house can use the driveway. It was never promised that it would suffice as being for a building lot. He states that when he looks at the zoning, essentially it says he has to own the property in fee simple to qualify as a building lot. The easement is not a fee simple ownership, and when the easement was being drawn up, those were items that were not presented. The ZBA may very well be able to override particular points of, and he is sure the ZBA will and can, but the agreement has to be changed and there other legal things that would have to be changed also. He reiterates that he and his wife are responsible for regular and necessary driveway maintenance; the burying of the power lines can be done within the technical description but not along side it. There are grades that have to be dealt with and if you continually cut away those surfaces, you make the driveway more and more unusable to D. Jacques. He feels that the purpose of the easement was to protect his land use and the ZBA is essentially going the next step further with making it comply with codes. K. Veitch states that D. Jacques agreed to the easement granting the applicant access to their property, but to only use the property as it is now – no other additional uses. D. Jacques states that they didn't say what the applicant could and couldn't do on their property, they said what the applicant could and couldn't do on the Jacques' property. He states that traditionally there were four points of access to that property, there is additional access, but it costs money to develop. S. Weeks states that #4 of the easement specifically says that the easement 'is passable by the average car and useable by vehicles necessary to construct and maintain a home on the grantee's property.' D. Jacques states that the original agreement made in court was for

'passable by a car,' the judge wanted to amend that to include those vehicles that were big enough that they could access that property. It didn't say that the drivable surface would be built to codes and it didn't say that the applicant owns the land in fee simple ownership. There is also the avenue that we look at that when March 4, 2008

the applicant subdivides the land, they (Jacques) will be able to close it. He does not really feel that this is a permanent arrangement. M. Granger states that #2 of the easement has language where the grantee can grade and add crushed stone and gravel. D. Jacques states that the applicant did that and that is where D. Jacques lost his common driving surface with the wood lot. He states that he made the driveway; the applicant was allowed to extend the culvert pipe and do the grading. He states that the applicant was supposed to pay for those expenses and used about \$2,000 worth of D. Jacques dirt, which he never paid for to extend the culvert and to put on the applicant's property to fill in low spots. He states that they have complied with that. Whether or not that driveway will meet the codes that the Town is looking for, he does not know. M. Granger asks if it were such that the applicant could meet the codes that the Town is looking for by doing it, grading it and doing it at his own expense in terms of the crushed stone and gravel, then it would be within the terms of the easement that is filed in the County Clerk's office. D. Jacques states that the Town would be superceding his right to do regular and necessary driveway maintenance. He states that the applicant can work on his driveway on his part. If the Town wants those codes on D. Jacques driveway, he gets the letter. T. Conard states that he thinks we are getting a little buried in the minutia here. That would be settled in a court of law, not by the ZBA. He states that we may want to ask for requirements if we go ahead with this, because we are not going to do it tonight. There is a violation here and we are not going to rule on anything. The applicant is in violation by having 5 trailers on the lot without having an approved campground. T. Conard states that if we were to take action, the ZBA might be looking at the requirement that the driveway be able to handle a fire truck. D. Jacques states that it can handle a logging truck with a trailer. T. Conard states that might be the only requirement that the Board would place upon it, that it be okayed by the Fire Department that it could handle the trucks because they are concerned with getting back on any driveway over 200'. D. Jacques states that is why they made sure it was plenty wide and asks that the applicant doesn't come down and kill his wife's plants. M. Granger states that we have no control over that. K. Veitch states that the Board could certainly reinforce that he use the right-of-way as he is legally allowed to, but the protection of Jacques property is going to be his own responsibility. D. Jacques states that the police say it is civil, the civil say it is criminal and it is not zoning, so what is it? K. Veitch states that when there is a dispute between property owners that is a civil matter. D. Jacques states that he asked one of the local judges who stated that one of the things that the ZBA will be making clear on zoning is what those specific rights are. P. Lunde states that if this is approved the ZBA can add contingencies. T. Conard states that what the ZBA is ruling on is strictly a frontage variance because the applicant does not have legal frontage on a bonified road. The ZBA is just giving a variance to allow the building without the legal frontage. The ZBA is not ruling on the easement itself, merely on the property not having frontage on a road. K. Veitch states that as the grantor, D. Jacques has the right to protect his property and they may need an attorney to clarify this. D. Jacques states that there is also flood plain at the back of the property, it floods every spring and every big rainfall. The application says that they are going to build a driveway pretty much next to the boundary line and it doesn't seem realistic to him that someone would put a house there. He feels that this is a way to get electric power to the rental camps. K. Veitch says that the ZBA cannot rule until the violation is satisfied by removing the campers before the applicant would be allowed to build a house. The applicant may only be allowed to have the house, if we go that far. The property has to be brought into compliance. M. Granger states that the applicant can make an application for a special use permit and whether or not that is granted is up to the Planning Board and then that goes back to the agreement. D. Jacques asks about the archeological site on the property. S. Strakos asks what was found there. D. Jacques states that it is called the dug way, it is the way that they brought sand up to the glass factory. He states that it shows up on all the surveys and is registered in the Greenfield Resource Inventory, the County has a resource inventory and it is in there, it is also registered with the State. Apparently it is being looked at as a low impact hiking trail for historic preservation for Greenfield. It basically needs one more step recognized at the Federal level and then it could receive funding. K. Veitch asks D. Jacques if he has any documentation as that would give the Board something to at least consider. D. Jacques states that is one of the reasons that he took the care in doing the driveway easement is that because the material that the Town published told him that that was an

archeological site and it was supposed to be preserved. M. Granger asks if the driveway is over the archeological site. D. Jacques indicates on a map that it crosses it at a right angle. G. Mahay thanks the Board for hearing this case and states that the property has been in the family for 39 years. R. Mahay states March 4, 2008

that the campers belong to their children, they are not rented and are now snowed in. T. Conard states that the code does not allow for multiple dwellings on a lot. G. Mahay did bring in an application for a special use permit today. T. Conard reviews that there are letters from: Louise Okoniewski with concerns regarding the safety and sight distance on that portion of Lake Desolation Road; Paul Fetteroll, Charles Fetteroll and Natalie Akhoundova who are opposed to the variance. Letters were also previously received from Lorrell Wallace and Otto Blau opposed to the variance. There being no further public comments, this public hearing is adjourned at 8:30 p.m. to be reopened at the April 1, 2008 meeting.

RESOLUTION – G. & R. Mahay, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals tables the application of Gerald and Rhonda Mahay for property located at 300 Lake Desolation Road, TM#149.-1-1, to the April 1, 2008 meeting.

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

Noes: None

CAROL RICHMOND – Case#803, Area Variance

North Greenfield Road

T. Conard opens a public hearing on this variance case. There being no public comments this public hearing is closed at 8:31 p.m. Gil Van Guilder is present for the applicant. M. Granger asks how close the neighbor's house is on the left. G. Van Guilder shows the Board a copy of an aerial map. S. Weeks asks how large the house is going to be. G. Van Guilder states that it is approximately 1400 square feet and very similar to the homes that were built on the four lots just down the road. He provides copies of the plot plans for those four lots and indicates that variances were granted for those lots as they were approved in 1979 under previous zoning regulations. P. Lunde asks if there will be a garage. G. Van Guilder states that they are not currently planning for a garage. M. Granger asks where the driveway will be located. G. Van Guilder states that it will be towards the left hand side. North Greenfield Road drops in elevation there so it will make a better relationship with the lot to the elevation. This house will be further back away from the road so there will be a longer run to transition the difference in elevation. He states that they had to do quite a bit of work with the Building Department on those other four lots to get satisfactory grades.

RESOLUTION – C. Richmond, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals grants the application of Carol Richmond for area variances for property located at 142 North Greenfield Road, TM#125.1-1-5, as follows:

- **5' left side yard variance**
- **5' right side yard variance**

This is based on the following criteria:

- **No significant change to the neighborhood, it fits in with the surrounding properties**
- **No negative impact**
- **No negative environmental impact**

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

Noes: None

March 4, 2008

WITT CONSTRUCTION – Case#804, Area Variance

Old Stone Ridge Road

T. Conard reviews that this is a request for a rear yard setback variance. A public hearing is opened at 8:35 p.m. Teri Longobardo, owner of this lot, states that they have taken into consideration both neighbors when designing this garage – both behind them and across the street. There being no further public comments, this public hearing is closed at 8:36 p.m.

Brian Ward is present representing Witt Construction. M. Granger states that since this is a new subdivision, one of the viable options is a lot line adjustment for the property so that there is no variance requested. B. Ward states that a lot line adjustment would affect the 100' forever-wild area. This is an 80 acre parcel with 40 acres reserved for forever wild so there is a 100' buffer that goes around each home and readjusting the lot line there would affect that entire buffer rather than the 30' encroachment. S. Weeks asks if other options were looked at for the location of this garage and why it ends up where it is now. B. Ward states that they were trying to take into consideration privacy for both neighbors. If they move it up further, the neighbor in the front gets a full view of it. The neighbor to the rear gets the best of that since they are not taking down a whole lot of trees. That neighbors suggestion was to possibly turn it to the side and get it in the more pointed area, but in their assessment of the property that is going to take down quite a few more trees in that building envelope, which certainly can be done, but it makes that 32' side much more exposed to the street and requires them to disrupt more of the property. In trying to appease everyone to make as minimal impact on the property as possible, this became the best solution for everybody. S. Weeks asks if this is the only garage. B. Ward states that there is an attached two-car garage. The homeowner has some collectibles, which is requiring them to have the extra garage, and in trying to preserve the neighborhood, rather than creating a parking lot in the driveway to expose vehicles, children's toys, etc., they want to keep it as private as possible for surrounding neighbors. M. Granger states that she struggles a little bit because we talk about the 100' buffer/forever wild and when you live in a development there are certain things that people are going to see and be exposed to. We have a new development here and immediately we are being asked for a variance for it. As a ZBA member she struggles because there are other alternatives that are feasible, they may not be the most palatable for everybody, but there are other alternatives available. B. Ward agrees and states that those have been taken into consideration. Moving that and exposing it to the neighbors as an alternative really devalues the home in a sense that it is exposed, it becomes unsightly from the curb, the neighbors' properties become less valuable; the subject parcel is less valuable when they go to sell because it is unattractive from the curb. This is the first house you see when coming into the neighborhood on the right hand side and the last thing anyone wants to do is devalue that first impression of the neighborhood. K. Veitch asks for clarification of the 100' buffer zone. B. Ward explains and states that the proposed location would be 120' from the neighbors back property line. The forever wild is owned by the Home Owners' Association. K. Veitch states that he sees the buffer zone as doing what it is supposed to where you are going to have to allow for some flexibility so that in the case where you have the families growing or the structures changing, these buffer zones protect that. He asks if the buffer is treed. B. Ward states that it is not, it is a walking trail treed on either side but there is a cleared area that is the walking trail throughout the property. That is indicated by the dotted line on the plans. M. Granger states that it is pretty open right now, you can clearly see the neighbor's property. S. Weeks states that it is basically all hardwood trees, there is no screening. B. Ward states that they agreed to have the neighbor to the back have some say with clearing when the lot is cleared and if there was ever any spot of this garage that could be seen, replanting would be done with evergreens to protect his view. K. Veitch states that then the applicant would not have a problem with a condition of a vegetative buffer. P. Lunde states that a 24 x 32 building is a good size building. B. Ward states that it is a good size building, it was custom designed for some collectibles in the front and then the rear was designed with children's toys and bikes, etc. in mind. P. Lunde asks if there is a second story. B. Ward states that there is not but there will be a set of stairs for future use if they want it.

Witt Construction is not flooring or siding it, but it will be trussed so it can be used for storage. S. Weeks states that he does not want to set a precedent for other houses in this development. He feels that this particular homeowner wants to do something kind of special so we are sliding off to give this variance and he March 4, 2008

would hope that that would not be the case on lot after lot in this development. He wouldn't be real pleased with that. The vegetative buffer takes care of most of his concerns. M. Granger states that if this were to be granted she agrees with S. Weeks that it has to be noted that this is a special circumstance because she is really concerned about having a brand new development and from the beginning we have a variance application in front of us. She states that she agrees with S. Weeks and that she is concerned about setting a precedent that something like this would start coming before the ZBA more often, she would have a real problem with that. She believes there are other alternatives. T. Conard states that the ZBA is to grant the least amount of variance they can. P. Lunde asks if 5' either way would make a difference. B. Ward states that 5' forward and closer to the house would not make a huge difference. They are trying to minimize taking down too many trees; they are trying to keep that lot as private as possible. P. Lunde states that would give them a little more space for vegetative buffer behind them. He states that the reason he would do this is because there is so much open land around it – the 100' buffer and then 200-300' on the sides – it does make it kind of unique in that development that doesn't fit any other piece of property. By stating that, we are not making a precedent, this piece of property is definitely different than some of the other lots in this development. Garage placement in relation to the house is discussed. M. Granger asks if the size of the garage is an absolute. B. Ward states that it is pretty standard across the front but deeper.

RESOLUTION – Witt Construction, Area Variance

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals grants the application of Witt Construction for an area variance for property located at 10 Old Stone Ridge Road, TM#164.6-1-7, as follows:

- **25' rear setback variance as this lot is unique in this development with the open land around it**

This approval is contingent upon:

- **Continuing the vegetative buffer at all times behind the garage, between it and the 100' buffer. The buffer will be the width of the setback and 40' in length.**

This is based on the following criteria:

- **No change to the neighborhood**
- **The applicant has reduced the request by 20% by moving the garage closer to the house**

VOTE: Ayes: Conard, Lunde, Veitch, Weeks

Noes: Granger

WILLOW POND PROPERTIES – Case#805, Area Variance

Grange Road

David Shorkey is present. T. Conard states that this is a variance request in the Town Center district for .87 acres for a mixed-use structure – residence and office. A public hearing is opened at 8:55 p.m. Richard Lyman, Anna Crest Drive, states that the subject property is visible from his property. He states that he has a concern about this property being zoned as commercial. He thinks that the projected use, projected traffic is understated. He believes that for a doctor to meet the expense of overhead, paying for the property

and support staff, you would have to see quite a few patients. A survey shows that practitioners saw an increase of 7.5% in patients in a one-year period because practitioners are in tough circumstances. Medicare reimbursement hasn't changed since 2000 so they have a couple of options – see more patients or expand the March 4, 2008

practice to include another physician. Either way there would be more traffic going in and out of the property. The bigger point is safety. That is a dangerous location in terms of traffic. The projections by Northeast Survey about stopping distances, is predicated on the idea that drivers are observing the posted speed limit – they are not. He states that when he leaves Anna Crest drive to pull out onto Grange Road, he checks up the hill and gets out there in a hurry. There are cars right on his tail frequently. Traffic coming up out of the 105 Grange Road location onto Grange Road is a dangerous proposition. He thinks that would result, if the Town government approves it, of a certain level of liability for the Town. If the doctor decides to relocate, it is zoned commercial – how do we know what will go in there and whether or not whoever moves in would bring more traffic with them. Tom Sweenor, Anna Crest, states that he has a lot of concerns about the property. How can we limit having a nurse practitioner who could see another 6 or 8 patients an hour? How many treatment rooms are there going to be in this facility? How many people can they have? Will they go up to 2,000 patients? Where is the limit, how can the Town limit that? He states that it was proposed in the Planning meeting that Wing Road is rough, they proposed doing a right in/right out of the facility. All the traffic would come down Anna Crest Drive. So you would have 4 to 6 patients an hour, potentially solicitors, lab couriers, salesmen, all sorts of traffic, deliveries, trash trucks coming up and down the road. Anna Crest is narrow. He lives in the middle of the hill and he is waiting for a head-on with a car coming over the hill from Grange and the school bus. He tried to get a speed limit posted on that road a few years ago but the most he got was a “slow children at play” sign. There is really no speed limit. So that means that 2/10th of a mile road has a speed limit of 55 mph. It is a residential road, it is narrow, there are no lanes marked on it, it is getting beat up now by the regular residential traffic that is on it. Nicole Sesera, Grange Road, states that her house is close to the road and that the subject house is set back, so it is literally in her back yard. The parking in the diagram is just behind her pool on the other side of her fence. On the diagram it does show the space between the parking and her property line and that is not accurate. She states that there is to be a 10' buffer between the parking and the property line and she believes that would cut out that row of parking spaces. She states that when she was looking at the zoning laws, which are very complicated to read, she read that commercial use was providing services for a fee, which is what a doctor's office is. When she talked to G. McKenna he said the buffer would be 50' and at the Planning Board meeting he said it would be 10'. Either way there is no room for that buffer zone. She is very curious to see how that is going to play out. She states that her neighbors have expressed a lot of the same concerns she has. The potential growth of the business is a huge concern. What happens if the variance goes through and they can see patients? How many patients? How many doctors? The doctor is self-employed and every self-employed person wants to see their business grow. What if she outgrows this property? Who moves in and what do they do on the property? The sight distance is a concern. She states that she has a 17 month old and she takes it very seriously when she backs out of her driveway. There have been a lot of near misses and it is only a matter of time before something serious happens at the intersection. She states that this is a residential neighborhood and she does not feel that what they are proposing to do with this property fits into her backyard. Jim Zeigler, Grange Road, states that his property is directly across the street from the subject property. The day after the Planning Board public hearing a vehicle came down the road and stopped because the current owner was out shoveling the driveway. Another vehicle came down the road behind them and had to go into the snow bank to stop. Sight distance coming in and out are being discussed and the very next day there is nearly an accident. Fortunately no one got hurt and there was enough snow there to stop them but it still a major concern for him. He states that he has had people pass him as he has been pulling out of his driveway. He states that with the business that is there, he has witnessed outbursts by patients in the parking lot and now we are going to bring in a different type of medical practice where he does not want to be a witness to outbursts in the parking lot and having problems with having cops around. Cathy Brightman, Anna Crest, states that she would like to reiterate everything that her neighbors have already said. She lives at the top of Anna Crest and she is concerned with the traffic from Grange turning onto Anna Crest. It is very dangerous for her to back down her driveway. If someone is coming up from Grange onto Anna Crest they are on her side. She states that there have been about 3 accidents in the last 3

weeks. She states that she has lived there over 30 years and you used to be able to take walks, now you can't walk down Grange because they fly down through there. She states that she cannot even contemplate having a place that is the proposed site of a commercial doctor's office in that location. She is in favor of a boost to March 4, 2008

the community with having a Town doctor; the last place she was in was perfect. Her main consideration with this place is that it is an accident just waiting to happen. Greg Sesera, Grange Road, states that they had heard at one point that you cannot have a doctor's office and live upstairs. He asks if the ZBA knows about that. M. Granger states that is actually not before this Board. T. Conard states that would be a Planning Board issue. G. Sesera states that the application stated that the projected number of employees to increase was 3 and the projected number of patients to increase by 3. He asks if that is per hour, per month? He states that he is guessing 'not sure'. He states that his wife spoke about the buffer zone and they have heard two different stories on that. T. Conard states that he thinks that one is that it is 50 feet from the side of the building and 10' from the parking. G. Sesera asks if they are still looking for a commercial zone. T. Conard states that he believes it is going to be a multi use because someone would be living upstairs. G. Sesera states that then it is not commercially zoned. T. Conard states that it is Town Center. K. Veitch states that Town Center allows that type of use in that area. What this Board is looking at is that they do not have enough acreage for that use and they are asking this Board for a variance for that. That does not mean if it is granted tonight that it will make it through the Planning Board. G. Sesera asks why there is a 2-acre limit set on a commercial zone, does anyone know? T. Conard states that he believes it is in part because of parking and the potential wear and tear on the land because you are using that much more space. G. Sesera states that therefore he is against granting the .87-acre variance. Gwendolyn Lyman, Anna Crest Drive, states that she has a couple of concerns. She states that she has been probably nearly hit about 3 times a week. She states that there are little children, she has grandchildren, she just does not feel that that property... she moved to Greenfield on Anna Crest Drive when it was a dirt road, she moved there because there were trees, there were birds. She does not want to see a commercial property on Grange Road, especially that spot. It goes down in the hill – someone is going to get killed there. She has lived there 36 years, has enjoyed it, and has worked hard to keep her property up. There is going to be lighting – she would move to the city if she wanted lighting. She states that we just don't need this in this neighborhood. She hopes that it is taken seriously. She believes that if they go to sell their house it is going to devalue it because if she had little children she would not want that situation. Her dog was killed on the corner when someone swerved deliberately. She had nothing against a Town doctor, she would love to have a town doctor, but that is not the appropriate place. D. Shorkey, Willow Pond Properties, states that he has Creighton Manning doing a traffic study and will present that. They are going to look at all the issues – when traffic is heaviest, how fast they travel, etc. They are professionals and will make a recommendation as to what is feasible. There will be no one leaving this property backing out onto Grange Road as there is ample space. A proposal being considered is right only in/right only out and they are going to look at how this affects the number of patients, etc. Business hours will be like most doctors' offices approximately 8:30 to 5:30. If there is lighting needed during those hours, it will be provided. The doctor has her own child and if business gets very large she will most probably continue to live there and move the business to another location. T. Sweenor asks if there are any proposed Saturday hours. D. Shorkey states that he can't say. T. Conard states that would be a Planning Board issue, the ZBA cannot limit the hours. T. Sweenor states that they went to the Planning Board and they seemed very proponent to this. It didn't seem like they really cared what the neighbor's concerns were. He states that some of the neighbors are frustrated because they raised concerns. They were like we need a doctor in town. Her family is very prominent in town – he guesses in the past, which is great. He states that he is not a NY resident, he moved to the area from Vermont. No offense to anyone – to him history is history. In the present, she has her own financial issues, claiming bankruptcy and trying to write off \$100,000 worth of loans to the Town of Greenfield. He would just assume see her move back in here and try to do it here rather than trying to do it in a residential area even though it is Town Center. T. Conard states that we cannot get into the reasons for moving out of the building; there are other reasons besides payments and stuff. Darlene Peacock, South Greenfield Road, states that she is the mother of Dr. Peacock and married to a doctor who is now retired. She states that she can empathize with these people about the concerns about traffic and all the other things. They lived for 30+ years at 21 South Greenfield Road at the top of the hill; they had five children plus five others they raised. They have since

moved down to the foot of the hill. The concerns about lighting – she lives right next to the fire department and she is awful glad we have that fire department right there. That light shines right in the windows, but that is ok because she knows that they are there. Her daughter does have a practice, she would like to stay in March 4, 2008

the community, and she is not practicing at the present time because she is at her parent's house recovering from a fractured leg. Traffic is heavy everywhere. She walks her grandson out to the school bus and they come zipping over the hill. She can empathize with the neighbors about cars crashing into them because it almost happened to her. She states that she does not care what road you go on, there is traffic and you cannot control it. Maybe we can get the sheriff's out to write some more tickets for speeding. She is in favor of the practice being there. She does not think that it is going to harm anybody, we need a doctor in Greenfield, she is committed to Greenfield and D. Peacock states that she hopes this is approved. T. Conard reads a letter from Brian Bishop, Greenfield Fire District, in favor of the application. There being no further public comments, this public hearing is closed at 9:25 p.m.

T. Conard states that he travels every day up the hill and turns from Anna Crest right onto Grange Road and it is a very dangerous intersection. He also knows someone who was going to the psychologist office and was hit by a car coming over the hill. He states that it is a very dangerous intersection. The hill where the building is is right at the crest of the hill, you have a driveway on either side, there is no warning and it is a major cut through for working at Ball or Quad Graphics. It is a major thoroughfare heading on to Ballston Spa and he does not necessarily think that they go 60 or 70, although some of them may, but certainly in excess of the 45 mph speed limit. We did have it lowered a little bit, but he is still very cautious coming out of there – he stops completely, looking 3 or 4 times up the hill before pulling out and when he pulls out he pulls out quickly because you just never know who is going to come flying over. So there is a valid concern about the traffic and even up Anna Crest, he tries to make sure he does not go above 25 mph because there are a lot of houses up there. Some people drive that road pretty fast and he has had to pull out of the way even on Anna Crest. S. Strakos states that he has spent a lot of time in that area, he has relatives that live there, and that is an awful spot with the traffic and the people coming over there, it is very dangerous. He states that he does not like this at all. K. Veitch states that it is not Dr. Peacock who is applying for this variance or applying to the Planning Board, this is a property owner coming in to purchase this property to have this operation in place. He agrees we need a doctor in this community also, but that needs to be separated right there. He explains that there are some things that we have to go by as the Zoning Board to make a determination of whether this is a reasonable request. 'Whether benefits can be achieved by other means' – the applicant hasn't purchased the property. D. Shorkey states that it is conditional. K. Veitch states that there are other means feasible. 'Undesirable change to the neighborhood character or to nearby properties' – there have been some strong concerns expressed by the public and Board members. 'Whether the request is substantial' – we have a 1.13 acre lot and it requires 2 acres, .87 doesn't sound like much but it is almost half which is a significant amount. 'Whether request will have adverse physical or environmental effects' – he does not see too much of a problem with that. 'Whether the alleged difficulty is self-created' – it is only being created because the applicant is coming in with a project, this is what they want to do with it and are only going to buy it if they can do this. So it is kind of self-created by the fact that that is the only way they are willing to purchase this property for this use. K. Veitch states that to him there are too many things weighing against it. P. Lunde states that he would have to concur. His biggest concern with the whole issue is the traffic and the safety of the residents of Greenfield. He is not in favor of this variance for that reason and that reason alone. T. Conard states that even with right in/right out, there is not a lot of warning. It is a circular driveway and if you are coming out of the top, you still can't see coming up the hill. He knows that there have been a lot of near misses and he knows some people who have been hit there. He would hate to see an increased traffic load there, that is what is bothering him. S. Weeks states that he views it as making a bad situation worse. He lives on Ashlor Drive which exits out onto Middle Grove Road, and that was such a dangerous road that somebody got elected to the Town Board with his main reason for getting elected to drop the speed limit to 40 mph. He encourages the neighbors to keep fighting for the reduced speed limit. It is certainly possible. Lester Park was reduced very quickly to 30 mph so that a road could be built to a development. He thinks they should be battling to reduce the speed limit because it is an extremely dangerous portion of road. He has driven it both ways in the last couple of weeks and he

thinks that adding more traffic to that would be very dangerous. M. Granger states that she concurs with her fellow Board members.

March 4, 2008

RESOLUTION – Willow Pond Properties, Area Variance

MOTION: P. Lunde

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals denies the application of Willow Pond Properties for property located at 105 Grange Road, TM#138.-1-40.12 based on the following criteria:

- **The request is substantial. This is 2 acre minimum zoning and the applicant only has 1.13, which is almost 50%**
- **Safety of the neighborhood with the additional traffic**
- **Undesirable affect to the neighborhood**

D. Shorkey asks if the Board would be interested in seeing the traffic study.

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

Noes: None

T. Conard states that he would have like to have seen this work out.

DISCUSSION

K. Veitch asks about the Fire Department training. T. Conard states that they did a nice presentation. There is a write up in the Planning Board minutes, which is fairly complete. He spoke with them afterwards and recommended that we do keep an eye on it, particularly in Lake Desolation and on long driveways to make sure that there are contingencies.

P. Lunde asks if we should get the Town Attorney to take a look at the agreement on the case tonight for Lake Desolation Road. T. Conard states that he does not think that is our problem. He thinks that the only thing that we want to make sure of is that it can carry a proper emergency vehicle weight for fire prevention purposes. We cannot do anything until the violation is straightened out.

Meeting adjourned 9:35 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary