

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

APRIL 1, 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 present.

MARCH 4, 2008 MINUTES:

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of March 4, 2008, as submitted.

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

Noes: None

NEW BUSINESS

MICHAEL VINCENT – Case#782, Extension of Area Variance

Allen Road

Michael Vincent and Barry Guild are present. T. Conard reviews that M. Vincent was granted area variances on June 5, 2007 with an amendment on July 3, 2007 to read two 4-acre variances for two lots. The applicant was before the Planning Board on December 11, 2007 discussing his subdivision and the need to meet sight distance. B. Guild states that he and M. Vincent have gone out with a transit and measured, after having had two traffic studies that did not meet. They are continuing to work on cutting back the banks in an effort to meet the sight distance.

RESOLUTION – M. Vincent, Extension of Area Variance

MOTION: K. Veitch

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals grants Michael Vincent an Extension of his Area Variance approvals for property located at 430 Allen Road, TM#124.-2-1, as follows, with the same contingencies and based on the same criteria as approval of June 5, 2007:

- **One (1) year extension of Area Variance to June 5, 2009**

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

Noes: None

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OLD BUSINESS

JAMES GLOCKNER – Case#806, Area Variance

Ormsbee Road

James Glockner is present. T. Conard reviews that this is a request to build a 24 x 28 garage with a left side yard variance of 25'. A public hearing is opened at 7:35 p.m. There is one phone call from Fran Lambert in favor of granting the request. There being no further public comments, this public hearing is closed at 7:36 p.m.

M. Granger asks if the request is for 25'. J. Glockner states that he may be 25 to 30 feet from the sideline and is requesting a 25' variance. His septic tank and leach field are to the rear of the house. S. Weeks asks why the applicant is not attaching the garage to the house. J. Glockner states in case of a fire and he doesn't like garages attached to houses. It is also a ranch style house and he doesn't think it would look right. The garage will match the house, color wise, and will be hidden by the woods from the road. His neighbor is approximately 900' behind this. S. Weeks states that when he looked for this property he could not find the public hearing sign and asks if the applicant knows anything about it. G. McKenna states that he did put one up, near the mailbox.

RESOLUTION – J. Glockner, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals grants the request of James Glockner for an area variance for property located at 395 Ormsbee Road, TM#111.-1-56 as follows:

- **25' left side yard variance**

This is based on the following criteria:

- **No negative impact to the neighborhood**
- **No negative impact to the environment**
- **Septic tank creates a problem**
- **No change to the neighborhood**

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. A public hearing is opened at 7:42 p.m. K. Veitch states that he did have a business relationship with P. Zimmer 11 years ago when P. Zimmer built K. Veitch's home. They no longer have a financial or business relationship. There being no further public comment, this public hearing is closed at 7:43 p.m.

The information required of the applicant was received. T. Conard reiterates that this is a pre-existing, non-conforming lot. K. Veitch states that a lot of the property in this area is in the same situation – small lots with small houses. He does not see a negative impact from this request. S. Weeks asks the

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applicant about a public hearing notice sign. P. Zimmer states that he does not know if the sign was there. G. McKenna states that he did put up the signs about 1-½ weeks ago. M. Granger states that she did have one in front of her house and it stayed with no problem. G. McKenna states that they are pretty durable. M. Granger states that she does not see any issue with what is being requested. She agrees that it conforms with the surrounding neighborhood.

RESOLUTION –Peter Zimmer, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals grants the request of Peter Zimmer for area variances for property located at 40 Locust Grove Road, TM#164.-1-46 as follows:

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

This approval is based on the following criteria:

- **No impact to the surrounding neighboring properties**
- **The property being substandard, the applicant is staying within the character by keeping the house to a minimum size**
- **No other means to build a house on that property**
- **No environmental impacts**

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 the applicant is looking to build a new home on a pre-existing, non-forming lot. An 11' right side yard variance was granted September 4, 2007 and she now needs a 10' right side yard variance. This property has wetlands and is difficult to build on. A public hearing is opened at 7:46 p.m. A letter from Eleanor Mullaney representing Lee and Kathy Peyser expressing concerns is read into the record. There being no further public comment, this public hearing is closed at 7:48 p.m.

M. Granger states that the DEC letter referred the applicant to the Army Corp of Engineers, as she also needs approval from them. T. Conard states that we can make that a contingency of an approval. M. Granger states that as to the existing structures, she agrees that they look rather tenuous at best. T. Conard asks if the other structures are coming down. K. Hurley states that initially they were going to try to use part of the existing foundation and there is an old barn. She states that the structures will come down. She has started working with the ACOE. M. Granger asks if the applicant feels that the latest drawing is an accurate representation of where the house is going to go. K. Hurley states that it is. S. Weeks asks K. Hurley if her public hearing sign was up. K. Hurley states that she is actually in Vermont and has not been by the property but indicates that they have had a problem with Locust Grove Road and signs being stolen such as realtor signs, political signs, etc. S. Weeks asks why the Army Corp would be involved. It is explained that there are both ACOE and DEC wetlands. The DEC had no problem with this.

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RESOLUTION – Kelly Hurley, Area Variance

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals grants the request of Kelly Hurley for an area variance for property located at 428 Locust Grove Road, TM#138.-2-53.2 as follows:

- **10' Left side yard variance**

This approval is contingent upon:

- **ACOE approval**
- **Removal of existing structures**

This is based on the following criteria:

- **No other feasible means possible due to the lot configuration**
- **No undesirable change to the neighborhood or surrounding properties**
- **The request is not substantial**

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 the applicants are requesting a 250' frontage variance on an easement with no frontage on a maintained Town road. T. Conard reconvenes the public hearing that was left open for any new information. David Jacques states that he would like to give the Board further information on the archaeological site that he brought to the Board's attention. T. Conrad states that the Board did receive the other information that was left off. D. Jacques provides a copy of a letter dated April 2, 2008 and a letter from the NYS Office of Parks, Recreation and Historic Preservation dated 4/6/01. K. Veitch states that the easement itself is not something that is of concern to this Board. The easement has already been put into place by legal means between the property owners. He states that he understands D. Jacques concerns about the archaeological site, but the Board is asking how the archaeological site has an impact on that when there has already been a right-of-way easement put into place. D. Jacques indicates that the archaeological site is listed in the Greenfield Resource Inventory; it is listed in County information, and indicated on his survey. He indicates a survey before the driveway was put in and indicates where it is going to cross with no significant impact. According to his information and he also has a letter from the State, which gives it a site number, this is what he is concerned with. He indicates the old roadbed that once was considered a road, County Road 870. He indicates that the old roadbed according to Donald Carpenter on the survey recorded in 1992, with the curb cut and indicating access. The surveyor identified it as a known archaeological site; there is not a question whether this is actually the original roadbed that was used. He states that his concern is where the archaeological site crosses onto the other property, he would recommend a set back from that site so that it could be, later on, dealt with, preservation applied later. M. Granger asks if this is an issue for D. Jacques, why was it not addressed prior to a legal document being filed with the Saratoga County Clerk's office. If the easement was granted, it is on file, the language is defined, and this is not within the jurisdiction of the ZBA at this time. The ZBA has been handed a legal document that is filed and signed between the property owners. The ZBA has been asked to rule on a certain specific area. The letter from Parks and Rec is dated 2001 and does not indicate that a certain site

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should not be disturbed. It basically compliments D. Jacques on the information he provided to them and encourages him to delve further into it, but there is no documentation to indicate that that site should not be disturbed for any reason. She states that she believes that D. Jacques' position is that he wants a certain portion of that preserved so that it is not disturbed, yet that portion is covered within the easement language of the legal document that is on file. D. Jacques states that the easement that is on file does not specify anything about the dug way. He states that he discussed it with Parks and Recreation and they said that the best-case scenario would be to cross it at a right angle. K. Veitch asks D. Jacques to indicate where the easement is now that was granted. D. Jacques indicates this on the map. He states that this may be beyond this Board, which is fine, but his case is that we are at a point in history where people told him that the best way to protect an archaeological site is not to talk about it. Well now we are at the point that it is going to change. Already there is a deed filed in records requiring a 60' right-of-way over the nearest public thoroughfare. It is just a step away before it becomes a major road. His point being any portion of that roadbed could be subject to the right-of-way and impacting 6 different landowners along the way. M. Granger states that the ZBA does not have the jurisdiction to protect that piece of property. D. Jacques questions that the ZBA does not have the jurisdiction to have that included in the application. M. Granger questions what the distance is between where that right angle comes across, which is what he said that Parks and Rec recommended, versus the yellow line on his survey. D. Jacques states that he is not applying for the variance. M. Granger states that it seems to her that D. Jacques is asking the Board to take a very broad scope of an application for restrictions for a piece of property that is not actually before the Board. Maybe she is misunderstanding him; she is trying to understand what D. Jacques is asking the Board to do. K. Veitch states that if the easement was not granted to the applicants, they could not even come before the ZBA. An easement has been granted and now the applicant is asking for the variance that will allow them to build because they do not have road frontage. That is all they are asking for. K. Veitch states that D. Jacques is asking for restrictions that the ZBA cannot grant. D. Jacques states that he is asking that on the application there is a spot to site the archaeological site on the property. K. Veitch states that this Board does not have the authority to determine what is an archaeological site. He states that D. Jacques has good records here, who made it an archaeological site? D. Jacques states that the Greenfield Resource Inventory certainly did, 'significant historic, archaeological and natural features of the town, ... should be preserved.' He states that it may not be relevant here but he feels that it is because it is relevant to him. T. Conard asks if this land has to have a site plan review. G. McKenna states that it will if the applicant builds a house over 1199 square feet because it is in the KROD. K. Veitch states that you have to look at this like you look at wetlands. DEC protects wetlands, ACOE protects wetlands, D. Jacques needs to find the correct organization, whether Federal or State, that will protect an archaeological site. D. Jacques states that he did that and they work with the Town and it depends what the Town wants to do. D. Jacques states that Parks and Rec has a project file going on it at present. The material that he looked at states that they are very interested in the site. M. Granger states that there is nothing in the letter that says that they prohibit anything being disturbed. There are other construction sites within the Capital District where construction has been stopped because of the importance of an archaeological dig or whatever. D. Jacques states that they don't prohibit, they work with developing, registering the site, etc. If it doesn't come into the record somewhere along the line it just slips out or people can claim other rights-of-way on that particular road. In his opinion this is a make or break. He indicates other parcels owned by the same person claiming a 60' right-of-way along a public thoroughfare. It in fact could be a public thoroughfare and if the Town is interested in preserving this as an archaeological site, it continues up the mountain. There are other property owners who are affected. K. Veitch asks G. McKenna what the setbacks are in this area. G. McKenna states 50 and 75'. D. Jacques is asked how far the site is from the property boundary lines. He states 30 to 35'. K. Veitch states that it is then within the setbacks and would be protected in that way. T. Conard reads a letter from Sandra Kanar in support of the variance. There is a letter and information from J. Jacques which is a compilation of information given at the last meeting. There being no further public comments, this public hearing is closed at 8:10 p.m.

P. Lunde asks about the violation. G. McKenna states that he did visit the site today and the campers have been removed. One remains but that is allowed. S. Weeks states that a major issue with him is the

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driveway and what type of driveway should be required to enter into this lot for public safety, for fire trucks, etc. Should we have the same requirement as a keyhole lot where it has to hold a 50,000 pound, 30' long vehicle with a turnaround available within 100' of any structure? This is from Section 105-137-c, Keyhole Lots. T. Conard states that he believes that this is a long enough driveway to have this as a contingency. M. Granger questions that that provision covers everything that the fire department would be looking for.

RESOLUTION – G. & R. Mahay, Area Variance

MOTION: K. Veitch

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals grants the request of Gerald and Rhonda Mahay for property located at 300 Lake Desolation Road, TM#149.-1-1, as follows:

- **250' Road Frontage Variance**

This approval is contingent upon:

- **Meeting Section 105-137-C, Keyhole Lots, of the Town of Greenfield Town Code which will direct the applicant to meeting the standards for the Fire Department**

This approval is based on the following criteria:

- **No negative impact to the neighborhood**
- **No other means to access the property**

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

Noes: None

G. McKenna asks the applicant if their public hearing notice is posted. R. Mahay states that it was there for about 3 days and then it came up missing.

DISCUSSION

Regarding public hearing signs, S. Weeks states that he thinks that the property owners need to understand that this is part of the legal requirement. He states that he personally will not vote on another case unless the sign is there. He states that the owner needs to understand that if G. McKenna puts the sign out and then it is missing, they need to contact G. McKenna to put up another sign. He states that a lot of the Board members and neighbors look at it, it is the law and he thinks we need to make it very clear in the future that it is the law. G. McKenna states that he does not know what more he can do about it. M. Granger states that the onus needs to be on the applicant and they need to understand that no vote will be held. S. Weeks states that it seems to him that the onus needs to be on the property owner, they are the one looking for the variance. It needs to be made clear that it needs to be up, people are going by looking for the sign, including people on this Board, and we want to know exactly where that property is. G. McKenna states that the Town Code will have to be changed because we cannot just say that something is going to be a certain way. T. Conard states that we can make a recommendation to the Town Board to tighten up the language. He states that there are times that the signs may disappear and if someone is not on that property regularly, they may not know. He states that there are situations where we cannot just say that we are not going to rule on a case. We have kids going by, he states that he does not know how many political signs were taken from his road this past election, but a lot of them. T. Conard states that he has had the reflective markers taken from his driveway every year. S. Weeks states that personally, if he cannot find the sign so that he cannot find the property, he is not voting on any property if he does not know where it is. T. Conard states that is

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the reason for the signs but there are reasons why the signs could disappear to. K. Veitch states that vacant properties are going to be a problem because there is no one right there to monitor it. If someone is living on the property at the time that the sign is posted, maybe we should be putting something on their door letting them know that the sign has been posted and needs to remain there until the public hearing. M. Granger questions that G. McKenna needs 10 more things to do. G. McKenna states that he was against this from the start. M. Granger states that she would prefer that our recommendation be to the Town Board that it is the applicant's responsibility to post that sign and that ideally it would be posted from 2 weeks prior to the public hearing on that property. The responsibility is on the applicant to make sure that it is posted. If the sign is stolen they should contact G. McKenna for another one. The signs should be posted and the neighbors should be able to find the property. She states that G. McKenna has way too much to do and should not be the one doing it. She states that she would like to see a recommendation that it is the applicant's responsibility to post the sign, to keep it posted for two weeks prior to the public hearing and to obtain another copy of the sign should it come up missing.

T. Conard states, another thing that we have discussed briefly in passing, we are getting more requests for wind generators, personal, private wind generators. He is against going above the 35' height restriction simply because, while he is in favor of the ecological side of it, his concern is that if someone right over here wants to put one up and we grant it, then someone else wants to put one up and we grant it, we are going to be granting wind generators all over Town in a hodge-podge manner. There has to be some form if we are going to do it, some direction as to how or where we might do it. It might be in the LDR zone, etc. He states that he has been approached by Skidmore who wants to put one up behind the stable where it is probably not going to be seen by too many people, but he does not want to set that precedent. G. Mahay asks about solar panels. T. Conard states that he is not worried about solar panels, the ZBA would only deal with an application that was going over the height restriction. G. McKenna states that G. Mahay's property is in the KROD and there is a restriction on percentage of shiny area on a building. M. Granger states that our referral to the Town Board would be that we would like the Town Board to formulate what the policy is going to be for the Town of Greenfield regarding windmills. T. Conard states that they should give us guidance regarding windmills and where to site them, because there are tax benefits for them now and we are getting more requests. S. Strakos asks how you would restrict them. T. Conard states that is the point, that is why we need some guidance, they could be restricted to certain areas, there could be an overlay area where they would be allowed, and they could be only in one district such as the LDR. S. Weeks states that we did discuss this previously. T. Conard states that we need to formally ask the Town Board to make a decision. He states that he did speak about this previously but no one seemed to want to make a decision. K. Veitch discusses that there is new technology coming out where the blades are not used but a cylinder shaped device.

Fred McNeary, Jr. states that regarding the pink (public hearing) signs, that a distance from the road should also be specified. The Board discusses this and would like to recommend that they be placed no more than 15' from the road. P. Lunde suggests maybe putting up two signs – one at each side property line. K. Veitch states that he thinks that the one sign is enough to indicate the property where the variance is being requested.

Meeting adjourned 8:30 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary