

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

JUNE 2, 2009

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, Paul Lunde, Kevin Veitch, Stanley Weeks and Joseph Szpak, Alternate. Michelle Granger is absent. Gerry McKenna, Zoning Administrator is present.

T. Conard welcomes Joe Szpak as the new Zoning Board of Appeals alternate.

MAY 5, 2009 MINUTES:

MOTION: P. Lunde

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of May 5, 2009 with minor corrections.

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

Noes: None

Absent: Granger

NEW BUSINESS

JAMES & ELIZABETH SAMENFELD-SPECHT – Case#828, Use Variance

Lester Lane

James Samenfeld-Specht and Bill Morrow are present. T. Conard reviews that the applicant is seeking a Use Variance for a garage apartment. He states that it is coming in as a request for a use variance, which is very hard to grant. However, he was on the zoning committee and he thought that they had tried to take care of that situation with an in-law apartment and having a separate garage apartment, but the way it is worded doesn't really talk anything about a garage apartment. He was wondering if we could bring this up as an interpretation as opposed to a use variance. It was his understanding that this would be taken care of as there was a situation on South Greenfield Road with a desire to put an apartment over an existing garage that was separated from the main structure and it was not allowed because it would be a use variance. He is questioning, on this application, whether the Board should be treating it as a use variance or an interpretation. S. Weeks asks where the handouts came from with the "existing" and "proposed" language. G. McKenna provided the language. The proposed language is before the Town's committee, which is reviewing some of the zoning changes and the existing language is confusing because it can go either way. It mentions a garage apartment but then does not discuss specifics. Dan Cochran, Councilman, is present and states that this might be an application that the Board should table pending the resolution of the code changes. The committee is going to present a report to the Town Board next week and then if the language is accepted the Town can proceed with the public hearings and approval process. T. Conard asks the applicant if he would like to table. He explains that if the applicant withdraws the application, and the Board has not accepted it, he can submit it again immediately, if necessary. He states that he will warn the applicant that a use variance, if the Board has to review that, is very hard to grant. The applicant has to prove very specific

June 2, 2009

things under the law and the Board really looks at that carefully. For example, is it a self-created hardship; can the land be used and get a financial return for anything for which it is zoned. So it is very hard to prove or grant a use variance. New York State Law is very strict on that, whereas with area variances the Board has more leeway in granting. T. Conard states that he would suggest that the applicant withdraw the application and see what happens with the proposed law. From his recollection of what they thought they were doing when they wrote the original law, was allowing this type of a use, and therefore an applicant would not have to come before the Zoning Board. The way it is currently written, it doesn't really differentiate between a garage and in-law apartment. His understanding was that a garage apartment did not have to be attached to the dwelling. D. Cochran states that the report will be presented next week and then once it is accepted by the Board it could take 2-3 months for the public hearing and possibly be 4-5 months away. J. Samenfeld-Specht states that calling it an apartment might be a grandiose description. It will be one space with a bathroom and be for visiting kids, and only occasionally at that. K. Veitch states that once you have made it habitable, once you have add the bathroom, kitchen, water and sewer, you have crossed the line. He asks the applicant if he is under a time frame and states that the way he looks at it, if the applicant goes for the use variance, he does not see it being approved with the current restrictions. One of the regulations is whether you can realize a reasonable return – that kind of situation occurs when you have a structure that has been sitting there, no one wants it and no one wants to use it for what it was there for. Then you come in and claim that as a hardship. Having a building, living on a lot and saying that you want to build an in-law apartment, and the hardship is that the kids don't have a place to live – it is not a hardship because you want to have a place for them. If the law changes, the applicant won't even be here. J. Samenfeld-Specht states that at the moment there isn't even a house there and their thinking was that if they had access to something like this they could live there. Right now they are renting, and it is going to be month to month. If they could get something like this built, they could stay there temporarily while the main part of the house is being built. T. Conard states that he believes that the applicant may have been planning on using the same septic system for the two buildings and the proposed law for a garage apartment would require a separate system. If they had an in-law apartment built into the house, they could use the same septic as long as it is large enough to carry the number of people who are using it. K. Veitch states that if the applicant wants to move forward with this use variance, and risk getting denied, their only option would be that if the law changes in their favor they could come back and reapply. T. Conard states it would be a permitted use if the law changes. J. Samenfeld-Specht questions what constitutes a connection, connecting walls? G. McKenna states that the Board has been burned on breezeways before on these things. B. Morrow states that it would be on the order of 15 to 20'. K. Veitch states that the regulations state that the in-law or garage apartment 'shall not be clearly identifiable from the exterior as a result of the design' and that it shall not have a separate front entrance. T. Conard states that the regulation does not say anything about a garage apartment. G. McKenna suggests that the applicant could try to do it as a temporary use variance which would be good for one year and by then this law might be in place, but if it is not they would have to take all the stuff out of the garage apartment. He states that this could be 6 months into the building process and he does not know where they are with the house plans. B. Morrow states that in some ways they are actually ahead of the game because the foundation and septic are already there. G. McKenna reiterates that if this law passes as it is drafted, it will require a separate septic for a garage apartment. J. Samenfeld-Specht questions that it will require a separate well. G. McKenna states that it will not. K. Veitch states that one thing that could be an option if the applicant wants to be on the property while the house is being built, would be to get a temporary variance to allow them to have a mobile home on the site while construction is going on. G. McKenna states that he does not know if there are deed restrictions against mobile homes in that development. Further discussion takes place about withdrawing the application and thinking about the options. If the applicant withdraws the application and the law does not change in their favor, they can reapply at any time. If they are denied, they must wait one year to reapply. T. Conard recommends that the applicant go to the Town Board meeting to see what they are doing if they are reading the report next Thursday. D. Cochran reiterates that there are a number of things that the Town Board is reviewing and that the Board wants to make the Code right and clear. T. Conard reiterates that in the past the Town pretty much ruled out any kind of garage apartment if it was separated from the primary structure, but it was penalizing people who had a separate garage and they wanted their mother to move in. The Committee had anticipated

June 2, 2009

that the law would be more clearly written and allow that as a use. Evidentially it has not been, because when he read it over again after receiving this application, it was very confusing to him and they spent a lot of time on that. D. Cochran reiterates that there still needs to be public hearings so he cannot say that the applicant is good to go, he cannot say that it will pass. J. Samenfeld-Specht withdraws his application.

OLD BUSINESS

TERI & WILLIAM CROWE – Case #814, Area Variance

Old Stone Ridge

No one is present for the application. T. Conard states that they have been awaiting a decision on the outdoor wood boiler regulations. The public hearing has been opened and closed and they would like to continue to table this pending the outcome. If the Town approves the new language, they will likely be able to put in the wood boiler without coming to the ZBA.

RESOLUTION – T. & W. Crowe, Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals tables the application of Teri and William Crowe for an area variance for property located at 10 Old Stone Ridge Road, TM#164.6-1-7, to July 7, 2009 at 7:30 p.m.

P. Lunde asks D. Cochran about the fact that the regulation reads that one cannot be used between Memorial Day and Labor day, and he points out that many people use the outdoor boilers to heat their water. D. Cochran states that in the final language that may be changed. T. Conard states that there are laws across the State that do prevent the burning between those dates. P. Lunde states that these are pre-existing and were there before any changes. K. Veitch states that there may be regulations coming down from the State involving DEC and that the Town can be stricter but not more lenient.

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

Noes: None

Absent: Granger

JILL CUNNINGHAM – Case #823, Area Variance

Locust Grove Road

Jill Cunningham is not present. Discussion takes place that the public hearing was held at the last meeting. T. Conard states that the applicant was asked to provide the distance to the neighbors. R. Rowland states that she did not provide a map, but that it was discussed at the last meeting. T. Conard states that she was also to provide the maps with the subdivision at 5 acres each and one at 6/4 acres and the buildable areas.

RESOLUTION – J. Cunningham, Area Variance

MOTION: K. Veitch

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals tables the application of Jill Cunningham located at 525 Locust Grove Road, TM# 125.-2-40.2 to July 7, 2009 as the applicant is not present and she has not submitted all the information the Board needs to make an informed decision.

June 2, 2009

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

GREG SLYWKA – Case#826, Area Variance

Maple Avenue

Greg Slywka and Ryan Talbot are present. T. Conard reviews that the applicant is seeking an area variance for a personal service outlet. A copy of the Town Engineer's letter to the Planning Board requesting additional information has been distributed to the Zoning Board. A public hearing is opened at 7:50 p.m. There being no public comment, this public hearing is closed at 8:00 p.m.

R. Talbot states that they are seeking an area variance, they have the Town Engineer's letter and have not had a chance to address the issues. He states that if the ZBA's decision is based on those issues, they would like to ask that this application be tabled. T. Conard states that the ZBA had also requested the distances to the neighboring structures. R. Talbot states that was done, but they were not able to get a map to the Board in time.

RESOLUTION – G. Slywka, Area Variance

MOTION: P. Lunde

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals tables the application of Greg Slywka for an area variance for property located at 462 Maple Avenue, TM#135.13-1-14 to July 7, 2009 at 7:30 p.m., contingent upon the following:

- **Addressing the concerns of the Town Engineer**
- **Providing distances to the structures on the adjacent lots**

S. Weeks questions that the public hearing notice was posted on site. G. Slywka states that he was not aware of that. R. Rowland states that she will mail him another.

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

CHARLES AND DOREEN COLLINS – Case#827, Area Variance

Barney Road

Charles and Doreen Collins are present. T. Conard reviews that the applicants are seeking an area variance due to the location of the existing well, septic and driveway to replace the existing mobile home with a modular home. C. Collins states that he provided a copy of the survey and there was a discrepancy in the distance he had given to the property line. The new home will also be a foot shorter than the existing home. A public hearing is opened at 8:07 p.m. There being no public comment, the public hearing is closed at 8:08 p.m.

The Board's consensus is that there is no problem with this and that it will be an improvement.

June 2, 2009

RESOLUTION – C. & D. Collins, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals grants the application of Charles & Doreen Collins for an area variance for property located at 67 Barney Road, TM#149.-1-50 as follows:

- **20' Left Side Yard Variance**

This is based on the following criteria:

- **No undesirable change to the neighborhood or character of the nearby properties**
- **This is not a substantial request**
- **No adverse physical or environmental impacts**
- **Benefit cannot be achieved by other means**

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

Noes: None

Absent: Granger

Meeting adjourned 8:18 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary