

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

DECEMBER 4, 2007

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.

NOVEMBER 6, 2007 MINUTES:

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of November 6, 2007, as submitted.

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

Noes: None

NEW BUSINESS

MARTIN KIRKWOOD – Case #797, Area Variance

Marion (Maple) Avenue

Martin Kirkwood and David Green are present. T. Conard opens a public hearing and reviews that the applicant is looking for a 25' frontage variance and a lot size variance of .80 acre area variance. This would be for a bumper repair shop. There being no public comments, this public hearing is closed at 7:34 p.m.

T. Conard states that this is pretty straightforward and is already commercial. S. Weeks states that he appreciates the new drawing. T. Conard states that there will be no change to the use of the lot. S. Weeks confirms that the frontage variance request is 25' as it has sewer here and he believes this fits well in the area.

RESOLUTION – M. Kirkwood, Area Variance

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals grants an Area Variance to Martin Kirkwood for property located at 3 Marion (Maple) Avenue, TM#153.17-2-13 as follows:

- **25' Frontage variance**
- **.80 acre lot size variance**

This is based on the following criteria:

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- **No change to the characteristics of the area**
- **No negative or environmental impacts**

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

DAVID DUDINETZ – Case #798, Area Variance

Brigham Road

David Dudinetz is present. T. Conard opens a public hearing at 7:36 p.m. and reviews that the property is located in the LDR District and that the applicant is seeking a 35' front yard setback variance and a 15' side yard setback variance. There being no public comment, this public hearing is closed at 7:37 p.m.

S. Weeks states that he drove by and looking at the terrain you can see why he couldn't very readily place it out back because of how fast the lot rises. It seems to be the most logical spot there. T. Conard states that the map was very helpful, he has no problem with this and it is a natural fit with the driveway.

RESOLUTION – D. Dudinetz, Area Variance

MOTION: K. Veitch

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals grants David Dudinetz an area variance for property located at 386 Brigham Road, TM#126.-1-43.4 as follows:

- **35' front yard setback variance**
- **15' left side yard setback variance**

This is based on the following criteria:

- **No change to the characteristics of the neighborhood**
- **The hardship is basically the way the land lays leaving him no other options**
- **No change to the neighborhood**

T. Conard asks if the applicant is planning on removing any trees behind this location. D. Dudinetz states that he will leave it wooded but he may have to remove one tree.

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

MICHAEL DELLA RATTA – Case #799, Area Variance

Walker Drive

Matt Many and Michael Della Ratta are present. T. Conard opens a public hearing at 7:40 p.m. and reviews that the applicant is looking to put in a garage and that there is a National Grid ROW on this property. The applicant is seeking a right side yard variance of 25' and a front setback variance of 18'. Glen Kelsey, Nat Hill Road, states that he is the person who has the ROW and has no objection to M. Della Ratta building a garage. He is just concerned with the fact that the ROW does go through there and it needs to be properly protected for the applicant's safety as well as G. Kelsey's home. There being no further public comments, this public hearing is closed at 7:42 p.m.

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T. Conard asks if the applicant is going to be driving over the ROW. M. Della Ratta explains that the garage will be primarily for storage so he can move some of the stuff out of the garage. T. Conard asks where they will be driving from – the road itself? M. Della Ratta states the driveway and he would keep his lawn tractor and that kind of stuff in there. He will drive down across the yard. He does not plan on putting any driveway access into it. He states that the area in between is one of the few spots that is level where the kids can play. The rest of the property is a hill that goes straight up the back. T. Conard asks if the electric company allows driving across the lines on a ROW like that. G. McKenna states that they don't. He spoke with Joe Kryzak who was going to get back to G. McKenna and did not. J. Kryzak stated that if there is a certain depth, then they are not too worried about it. G. McKenna points out the map on the back of the Board member's agendas. He went over and they measured out where the power line was and it is 53' from the property line. M. Della Ratta states that he drives his lawn tractor over it anyway to mow the grass so he has sort of been living on top of that line. He did not know that it was there because it wasn't on his map. S. Weeks states that they are probably not going to be uneasy unless it becomes a driveway. M. Della Ratta states that it is more like a carriage house for storage. S. Weeks states that he drove by and couldn't quite figure it out. There is a level spot where there is a trailer and asks if that is the location. M. Della Ratta states that it is. He states that he was ok having it 35' in but when he found out about the line that is when they decided to back it up. M. Many states that is what they are requesting the variance for – the back – to be 10' off the ROW and 10' off the property line. K. Veitch states that is good but the concern is also the fact that the ROW is there and Ni Mo is obviously going to have a restriction on how much material has to be over the top of that, so we want to make sure that that is going to be maintained or that the applicant is going to meet that requirement when they put this in. He states that he believes that Ni Mo also has a requirement regarding driving over it with a driveway or a paved area. G. McKenna states that he is sure there is but does not know what it is and that is why he called Joe Kryzak. M. Della Ratta states that it is going to remain grass as it has always been. K. Veitch states that is good and the Board may have to make that as part of the requirement. M. Della Ratta states that if you saw the property he has that one spot of grass there which would be in front of this building and one spot of grass on the right of the house and basically the whole back is a hill. If he did put a driveway there it would defeat the purpose. K. Veitch states it is not so much the applicant, but he could sell the property and the next person could go in and do it. We need to have some control. G. Kelsey states that his concern has nothing to do with the garage, it is the fact that when the garage is placed – and he would be happier if the garage was over the top of the power line – in order to get access to the garage they had to cut away the bank and unfortunately when Ni Mo laid the access, it's at a constant depth going up the hill. His concern is that somehow that needs to be protected and that it is now only about 6" below the surface. M. Della Ratta states that it will be a lot deeper than that. Discussion takes place regarding the grading in front of the garage and landscaping. M. Many states that it will be kind of like it always was in that area. M. Della Ratta states that it will be back to the original grade. The Board discusses the possibility of making a contingency that the applicant would need to meet the requirements of the utility. M. Granger states that there needs to be a restriction that the grass area needs to be maintained and no pavement. G. McKenna states that the utility may believe that pavement provides more protection. M. Granger questions that the applicant would have to come back if the requirements change at some time. Any contingency should state that the depth is to comply with National Grid and any other factors that National Grid determines are applicable. M. Della Ratta states that all they sent to him for requirements was that he had to be 10' off the line. M. Granger states that G. McKenna's concern is that there is a depth issue here and it is better to make sure that whatever other issues National Grid has, the applicant is in compliance with them. M. Many states that they can bring the grade up to the original depth. Discussion takes place about the placement and access to the garage if the applicant puts the grade back to the original. G. McKenna asks who is going to verify that this is correct and what happens if that power line gets damaged at some time, who is going to cover this. M. Della Ratta states that he does not understand why he is even in this situation, there is a line running through his property that no one told him about, he has no other place to put a garage, he went to put it where he thought he could and now he is over a power line. He is just trying to move it back and there is nothing over there but woods and a hill. G. McKenna states that is not the problem. M. Della Ratta states that he doesn't understand why the line is such a big problem as it has been running through the property and it has to be safe or they wouldn't run it through someone's property who

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has kids if it wasn't safe. K. Veitch states that when it was put in it was safe but how do we know what has been changed. M. Della Ratta questions why National Grid wouldn't have told him about the depth and they were not concerned about the depth, they only wanted him to be 10' away from the line. K. Veitch asks if the applicant wouldn't want to know that it is where it supposed to be – to make sure that it is properly protected. M. Della Ratta states that he would like them to tear it up and put it somewhere else. He doesn't know why he has to live with that thing. He questions why it is not on the Town's books. G. McKenna explains that generally easements or ROW's are not on file. S. Weeks states that is why whenever you dig you are supposed to contact the service that will identify all the underground lines. He states that he is fine with the variance as long as the applicant is going to meet whatever requirements National Grid may have. G. McKenna states that there actually is another place for that garage. He states that there is 87' from the line and it could come closer to the house. M. Della Ratta states that drainage runs through the side of the driveway and that is where his kids play. M. Many states that they will do whatever needs to be done. M. Della Ratta states that it is frustrating for him for the line to be there. G. McKenna states that he is surprised that the title search did not show this. G. Kelsey states that it is on his deed.

RESOLUTION – M. Della Ratta, Area Variance

MOTION: K. Veitch

SECOND: S. Weeks

RESOLVED, that the Zoning Board of Appeals grants Michael Della Ratta an area variance for property located at 43 Walker Drive, TM#125.-3-39, as follows:

- **18' front setback variance**
- **25' right side yard variance**

This is based on the following criteria:

- **No negative impact to neighborhood**
- **No characteristic changes**
- **Slight hardship because of the underground power line**
- **When the structure is built the applicant is to meet any requirements of National Grid to ensure that the underground cable meets the depth requirement for the line and any other National Grid requirements (landscaping, pavement, depth, etc.) before the building permit is issued**

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

Noes: None

STEFAN STRAKOS – Case #800, Area Variance

Greene Road

S. Strakos recuses himself. A public hearing is opened at 8:02 p.m. T. Conard reviews that this is in the LDR district and the applicant would like to subdivide this property into two lots. The minimum required is 6 acres and one of these would have to be 5.5 acres. There being no public comments, this public hearing is closed at 8:03 p.m.

S. Strakos clarifies that at the last meeting the map indicated that this was a portion of the larger lot across the street. However it is not one lot, it is two separate lots. He purchased the one piece with first refusal on the other parcel which he purchased about 5 years later. He states that the survey was finished today and he just found out that the property is actually 10.66 acres. Discussion takes place that if one lot is 6 acres, the other would need a 1.34 acre variance. P. Lunde questions the other lots in the neighborhood and

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that there would not really be a change to the area. S. Strakos indicates the lots with houses on them. T. Conard states that this would be a more sizeable variance and if the Board considered granting this, it would have to be worded in such a way as to lessen any precedent. Discussion takes place regarding giving one large variance on one lot or two smaller variances on two lots, and the requirement to grant the least variance needed. T. Conard states that there are a bunch of smaller lots here, so it is not in this instance, going to change that neighborhood at all. M. Granger states that a 1.34 acre variance is substantial out of a 6 acre lot. S. Strakos states that he is not planning on building on it. M. Granger states that the variance will run with the land. T. Conard states that it would be a .67-acre variance on each lot. P. Lunde asks if the applicant needs to reapply. R. Rowland states that the minutes will indicate that the survey was completed and therefore there is a change in the amount of variance requested. M. Granger states that it is a new piece of information that is relevant to the discussion. G. McKenna states that he sees the logic in that and does not see a problem with two smaller variances. T. Conard refers to a variance granted for a stable on a 1-acre lot and the precedent that was set by that. M. Granger questions that there are other areas in Greenfield where you have a cluster of smaller lots and then one larger chunk, and questions using that as a basis. K. Veitch states that is the impact on characteristics of a neighborhood. T. Conard states that he would not be apt to vote in favor of something over an acre variance as he would something under an acre. M. Granger states that she is uncomfortable going with a 1.34 acre variance as the percentage of 6 acres is significant, she would consider it substantial and is concerned about opening that door. S. Weeks states that the map is not correct. S. Strakos states that his surveyor does not know how the tax map came to read 11.5 acres. R. Rowland explains that the tax maps are not always based on surveys. G. McKenna asks the applicant why he wants to take it apart if he is not going to build on it. S. Strakos states that someday he may give it to his kids to build on it. M. Granger states that the Board needs to think about setting a precedent. T. Conard states that the population of Greenfield is talking about rural settings and that is what the Committee who put together the Master Plan and the new Zoning was going by. K. Veitch states that if that is what you wanted to have, you wouldn't need a Zoning Board to show some flexibility. T. Conard states that we want to make sure that if we can lessen the potential for mass changes, then we want to do that. G. McKenna states that in this area, he does not think that 5.33 acres would be a problem. P. Lunde states this would still be twice the size of the existing lots.

RESOLUTION – Stefan Strakos, Area Variance

MOTION: K. Veitch

SECOND: P. Lunde

RESOLVED, that the Zoning Board of Appeals grants Stefan Strakos an area variance for property located at 60 Greene Road, TM#125.-2-2.1, as follows:

- **Lot size variance of .67 acres on lot 1 and lot 2 for a total acreage of 5.33 acre lot size on each parcel**

This is based on the following criteria

- **This would not be an excessive variance**
- **These lots will fit in with the neighboring properties**
- **No negative impacts**

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

Noes: None

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DISCUSSION

The next scheduled meeting would fall on January 1, 2008. The Board discusses and decides to cancel this meeting. If any pressing new business comes up, the Board can call a special meeting. The next regular meeting would be February 5, 2008.

Meeting adjourned 8:20 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary