

**MINUTES OF THE ZONING BOARD OF ADJUSTMENT  
MEETING MAY 8TH 2006  
MERIDEN TOWN HALL**

**DRAFT**

Zoning Board

Members Present:

Ted Moynihan

Priscilla Eastman

Margaret Cassedy

Peter Martin

Brad Atwater

The meeting opened at 7:35pm. The March minutes were approved as amended.

**2006-02 Daniel Proulx:** Acting Chairman Ted Moynihan opened the case which is a request for Special Exception #11, Accessory Apartment to be constructed onto the applicant's residence at 111 Dodge Road. The property currently consists of a single family home on 12.6 acres in the Rural Residential Zone. Mr. Proulx explained that the single bedroom apartment will be 800 square feet and is connected to the attached garage by a heated "breezeway or mudroom" area toward the front of the existing lot. The file contains certification regarding the ability of the **existing septic system to**, if needed, be enlarged. Responding to a question from member Brad Atwater, the applicant noted that the resulting setback to the road will continue to be several times the minimum 30' that is required in the Rural Residential Zone.

proposed septic modifications

The board reviewed the process for granting a special exception found in section 5.6II of the current zoning ordinance. There being no abutters wishing to speak and no further questions from board members, Peter Martin moved to approve the application as presented finding that the proposal satisfies both the specific criteria for an accessory apartment and the general criteria for granting a special exception. Margaret Cassedy seconded the motion which was subsequently voted in the affirmative on a unanimous vote.

**Rehearing Request Case 2006-01:** Ted Moynihan explained that for tonight's business the board will review a motion by Diane McDonald on behalf of herself and some residents of Plainfield Village requesting a rehearing of this case. Public testimony will not be taken; however, if the board needs clarification or additional information over what has been presented it may ask questions of those in attendance. If the request for a rehearing is granted, a noticed public hearing will follow as part of the board's next meeting. Mark and Sandy Horne, the applicants of case 2006-01 were in attendance for this meeting.

Board members began a detailed review of each of the ten reasons outlined in the request for a rehearing. See attached copy. This review was conducted against the required test that to be granted a rehearing request must either provide some new information that was not available at the first hearing or demonstrate that the board made an error in its process that warrants correction. A summary of the main arguments discussed during the review follows:

Concerning numbers 1,2,3,4,5,7,8 in general, the board determined that the process followed for this application was reasonable and in conformance with the town's zoning ordinance, ZBA practice and state law. Further, ~~the board determined that~~ the request for the rehearing provided, ~~for these items~~, no significant new information that was not previously available to the board during its deliberations. Concerning #9, the question of whether or not the case is now moot because Serenity Power Plus has vacated the building, the board determined that a new use that strictly conformed with the approval could operate without further ZBA review. It was agreed that finding a new tenant that exactly fits the existing approval was possible, but in practice somewhat unlikely. Hence, further ZBA review would be likely for a future tenant.

The focus of the discussion on whether or not to grant a rehearing settled on the issues presented in #6 and #10 which were understood to be as follows:

Based on the clarification provided by Diane MacDonald concerning the rationale for #6 (required application form was not filed) it was determined that this issue concerns the discussion at the end of the last meeting about the outside storage spaces, which had not previously been identified in the application materials but came up as part of the ZBA's review of the case.

Concerning reason #10, as part of these deliberations board members acknowledged that in hindsight the approved decision could have been written in a format that covered hours of operation in the same manner as the case in 1999-07. However, in the format that was used the hours of trucking activity reflect what the board approved that evening.

Most of the remaining discussion on whether or not to grant the rehearing because work done at the final hearing on the case concerning the outside storage areas on the property should have been reviewed more thoroughly and involved more opportunity for abutter comment. Two board members felt that it should have been, two board members felt that this work was part of the natural evolution of the application and was covered thoroughly, particularly given that most of the discussion on the application and abutter concerns were centered on the new distribution use, not the existing storage use.

Member Brad Atwater moved to grant the request for a rehearing finding changes like the issue of outside storage that came up during the last meeting on the case procedurally should have involved more discussion and review. Member Cassidy seconded the motion. The motion was then discussed. Peter Martin explained that he felt further review of the case would only result in a repeat of the previous hearing and as there was no new information presented tonight and no material defect in the existing decision, that decision should stand. Member Atwater indicated that he felt more dialogue with abutters was needed concerning the outside storage areas and the impact that the overall use has on the surrounding neighborhood. The vote on the motion was a tie 2 to 2 (Atwater, Cassidy in favor, Martin and Eastman against). Acting Chairman Moynihan cast the deciding vote in favor of the motion to grant a rehearing noting the complexity of the case warrants every opportunity for public and board input.

If case 2006-01 is not withdrawn by the applicant, Halleran will notice a rehearing of the case for the June meeting. At this time it was disclosed to board members and the abutters that Mark and Sandy Horne filed a lawsuit against the town concerning case 05-07, notice to the town of this was on January 30<sup>th</sup>. Since case 06-01 had already commenced and potentially could resolve the entire matter the lawsuit was left active, but tabled until the current case was finalized. Halleran with discussions with counsel determined that to insure that the board could not be accused of taking the lawsuit into consideration in the current case, there was no value in discussing the lawsuit with board members or the public unless specifically asked. All this being the case, and given the fact that Serenity has vacated the building, it is possible that the applicant's will decide to withdraw case 02-01 and simply move forward with the lawsuit on the first case.

The meeting adjourned at 9:45pm. In follow up to previous procedural discussions, Halleran will set up a board session with Town Counsel Barry Schuster to discuss the board's existing rules of procedure and how they apply to things like e-mail.

Submitted,

Stephen Halleran

Ted Moynihan, Acting Chair  
ZBA