

1 **MINUTES OF THE ZONING BOARD OF ADJUSTMENT**
2 **MEETING JANUARY 13TH 2014**
3 **MERIDEN TOWN HALL**

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6 Zoning Board

7 Members Present: Richard Colburn, Chairman Brad Atwater
8 William McGonigle

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11 **KUA Preliminary Discussion:** Facilities director Douglas Plummer met with the Zoning Board
12 concerning the possibility of Kimball Union constructing a glass greenhouse to be located
13 adjacent to the wind turbine. This area of the campus has a heavy focus on teaching renewable
14 energy and sustainable agriculture. After reviewing the Zoning Board decision on the wind
15 turbine (case 12-01) and the town's zoning ordinance and based on the very limited information
16 about the greenhouse, the board could find no reason why such development could not occur. The
17 wind powered generator section of the ordinance insures that abutters are protected from a
18 problem with the turbine, but the owner is free to make their own decisions about how close they
19 would like to build to the device. The Zoning Board noted that the greenhouse would have to go
20 through the public Site Plan Review process and that this informal discussion only focused on the
21 greenhouse being located near the turbine.

22
23 **Zoning Changes:** Halleran provided board members with copies of the Planning Board proposed
24 zoning ordinance changes for the 2014 town meeting. Chairman Colburn encouraged members to
25 review the changes, and if appropriate, make comments as individuals to the Zoning Board. The
26 Zoning Board itself which has to adjudicate the zoning ordinance should not take a formal
27 position on the changes.

28
29 The meeting adjourned at 8:00pm

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34 Stephen Halleran

Richard Colburn, Chair
Zoning Board

**MINUTES OF THE ZONING BOARD OF ADJUSTMENT
MEETING February 10TH 2014
MERIDEN TOWN HALL**

Zoning Board

Members Present: Richard Colburn, Chairman Brad Atwater
Ted Moynihan

The meeting opened at 7pm.

The January 13th minutes were approved as presented.

Case 2014-01 Blow-me-down Snowriders “Warming Hut” Goodwin Road: Zoning Board Chair Richard Colburn opened the hearing by reading the posted notice and asking the applicant to make a presentation of the application. Committee Chair John Barry represented the club at the hearing. Club director Maurice Mercier, and members Gladys Barry were present. Abutter Anne Donaghy and Ken Reney also attended the meeting.

Mr. Barry explained that the club has owned this piece of land since 2002 and would like to replace its aging warming hut located about 1/8 of a mile away from the existing hut that is on land of Kimball Union Academy with a new 10x20 structure on skids to be placed on the club's own land accessed from Goodwin Road, a class VI highway. Because the road is class VI the Selectboard has been unwilling to issue a permit for the project, referring the club to the Zoning Board for a "practical difficulty review" as allowed by RSA 674:41. John went on to explain that the club encourages the public to use the warming hut, whether hikers, mountain bikers, hunters, is there for all. The hut will be very simple and have no bunks nor will it have electricity or plumbing. Its just a warm dry space for those enjoying the outdoors to get in out of the weather or to stop and have lunch at.

Zoning Administrator Steve Halleran explained that the Selectboard does not oppose the project, but given ordinance 1993-01 which prohibits development on class VI roads and the potential for the hut to generate a need for town services and the potential of liability should emergency service vehicles not be able to respond to this remote location a Zoning Board review as a “practical difficulty test” was warranted.

Abutters Anne Donaghy and Ken Reney spoke in favor of the project. Both noted that the old hut is in bad shape and that this new replacement hut is more easily accessible due to the road improvements done by KUA and the State of New Hampshire to Goodwin Road.

The board continued its review of the application making the following findings:

1. The land in question was donated to the snowmobile club whose primary purpose is outdoor recreation. Goodwin Road is used and maintained by the club in the winter as a recreational trail.
 2. The applicant currently maintains a similar warming hut, on adjacent property, whose use will be discontinued when the new structure is in place.
 3. The Zoning Board finds that denying the application creates a practical difficulty for the club in fulfilling its recreational use purpose.

- 1 4. The town's master plan encourages the use of class VI roads in Plainfield as trails
2 available for a wide range of outdoor recreational pursuits and interests. Goodwin Road is
3 one of several connected class VI roads in this portion of town.
4 5. The proposed use should not require any additional town services, as the existing
5 warming hut in the area will be discontinued. The new replacement warming hut will
6 serve essentially the same purpose and will be available to the public at large.
7 6. The Zoning Board received no testimony from abutters objecting to the proposal or any
8 testimony other than support for the project.

9

10 A motion to approve the application subject to the following conditions was made seconded and
11 voted in the affirmative.

12 Conditions:

- 13
- 14 1. The facility is to be used only as a transient warming hut. No facilities to support overnight
15 stays are allowed. No electricity, plumbing, bunks, or kitchen facilities. Any heat generating
16 appliance must be approved by the local code officials before it can be used.
17
- 18 2. The hut structure must be installed so as to minimize any alteration to the land. The structure
19 should be capable of being easily removed from the site.
20
- 21 3. The structure must be located to satisfy the setback requirements for the RC-I zone.
22
- 23 4. As provided for in RSA 674:41 I. c 3 the applicant must provide a document acceptable to
24 the Selectmen limiting municipal responsibility and liability for the structure.
25
- 26 5. When the use as a club warming hut is discontinued the structure shall be removed from the
27 property.

28

29 The board spent the rest of the meeting drafting the framework of a decision on the application.
30 The meeting adjourned at 9:00pm

31 Stephen Halloran

32 Richard Colburn, Chair
33 Zoning Board

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**MINUTES OF THE ZONING BOARD OF ADJUSTMENT/PLANNING BOARD
MEETING MARCH 10TH 2014
MERIDEN TOWN HALL**

Zoning Board

Members Present: Richard Colburn, Chairman Brad Atwater
Ted Moynihan

Planning Board Members **Jane Stephenson, Chairperson** **Mike Sutherland**
Elise Angelillo **Steve Halleran, Alt**

6pm Site Visit Robert and Pricilla Wheeler, #1097 Route 12A Project: The Planning and Zoning Board met in a dual session, in Plainfield Village, to view and begin the land use approval process for the Wheeler's redevelopment project involving the residence at #1097 Route 12A. The Wheelers received a building permit in 2012 (#53) to renovate the house as residential structure. During the course of the renovation work which was originally focused on simply saving the building, plans evolved to the operation of a small restaurant with some catering functions. The renovated building is 1900 sq ft in floor area and sits on a .46 acre lot in the Village Residential Zone. The lot is served by public water and has a private septic system that was approved in 1984 to serve the house as a two unit building.

Chairman Colburn and Chairwoman Stephenson opened the site walk by reminding the applicant and neighbors present that this was just a viewing of the property and that other than the applicant explaining the proposed use for the various spaces all presentations and questions should be deferred until 6:30pm at the Plainfield Town Hall.

Priscilla Wheeler walked the group through the house showing the location of the commercial kitchen, restaurant seating area, energy room on the first floor. The second floor is to include a personal office for her work, a guest bedroom for friends and family and a function room to be used for paid parties and drumming.

Turning to the outside, she discussed the location of the dumpster, propane tanks for the kitchen, and the parking layout that has been proposed as well as outside lighting and signage.

The group left the site at 6:20pm moving up to the Plainfield Town Hall for the public hearings on the project.

6:30pm Robert and Priscilla Wheeler public hearing for land use hearings: The Zoning Board will first work on the necessary zoning approvals and if time allows the Planning Board will focus on its site plan review. Given that only three Zoning Board members were present, the applicant was given the option of delaying the hearing. She decided to go forward. Testimony for both the Zoning and Planning Board hearings will be taken this evening and if necessary board deliberations will be continued at the next meetings.

Ms. Wheeler took the group through her entire proposal, she and her husband bought the house in March of 2012 and have been renovating it ever since. She feels she is now ready to move forward with a special exception request. Planned uses to include a 24 seat restaurant that will be open for lunch and dinner Friday, Saturday (12pm to 8pm) with a brunch on Sunday (8am to 1pm). Incidental sales of local arts and crafts will be part of the restaurant. Priscilla also wants to

1 do some private catering offer Reiki and by appointment in other rooms in the house. She feels
2 that she can accommodate these various uses with off street parking as shown on her application
3 plan. She estimates no more than 5 employees including herself and her husband. All uses will
4 be done by 9pm, the last serving of food to be 7:30pm. Deliveries will be done by small vehicle
5 during daytime hours.

6
7 Public comments were generally in support of the project and the good work of saving the
8 building that she has done. There were concerns from direct abutters that the planned uses could
9 represent a very intensive use on the lot. The adequacy of parking and noise from outside events
10 were of particular concerns.

11
12 Direct abutters Ronald Bailey & Joan Griffith (107-38) feel that the work has been mostly done in
13 a way that has preserved the residential feel of the property and they expressed appreciation for
14 this effort. The building has never looked better to them.

15
16 The Tomlinson's who purchased the adjacent house to the north (107-36) are planning to
17 renovate that home and raise their family there and are concerned about outdoor parties, and
18 general noise from the business during evening and weekend hours and being very close to the
19 dumpster. When the purchased the house, a bakery was the rumored use for the Wheeler's
20 property it was not until the certified letter for tonight's hearing arrived that they became aware
21 the use was for restaurant. Town Administrator Halleran had indicated to them that the town was
22 not aware of the restaurant use until the formal application was filed.

23 Fire Chief Frank Currier and Buildings Inspector David Lersch indicated that they need to do
24 more research on the upstairs function room and whether or not a second means of egress is
25 necessary. In their preliminary work with the Wheelers they understood private to mean
26 noncommercial, but a paid rental or private party would be commercial from a code perspective.

27
28 Given the uncertainty about the codes, the concerns about parking and concerns from neighbors
29 about noise, the applicant withdrew at this time the portion of the request that centered on the
30 private function room and catered parties outdoors. Therefore the Zoning Board was asked to
31 limit its review to a 24 seat restaurant use with the entire upstairs space to be used for the
32 personal use of the owners. The restaurant use will not include amplified music or outdoor
33 activities. Priscilla remains confident that as the neighborhood becomes comfortable with the
34 building and its use other activities could be added.

35
36 Chairman Colburn asked for any final comments. Mr. Tomlinson reiterated his family's concerns
37 about noise and traffic from the proposed use. There being no other public comments the Zoning
38 Board began its deliberations. The Planning Board having reviewed the file, heard the testimony
39 and viewed the site used the time to consult with the applicant and neighbors on various site plan
40 issues such as lighting and parking, signage. The board guided Mrs. Wheeler on what would be
41 needed to develop a measured drawing for the parking and lighting/landscape plan. Priscilla and
42 Robert will do this work and return to the Planning Board to complete the site plan review
43 process and a subsequent meeting.

44
45 From its deliberations the Zoning Board made the following findings:

46
47 A restaurant use is permitted as a special exception in the Village Residential Zone and is
48 consistent with the general purpose stated in the zoning ordinance to "serve as a nucleus of
49 community activity.

50

1 The small lot is nonconforming with the ordinance. However, the lot coverage has not been made
2 substantially worse with the renovated structure. The Zoning Board determined lot coverage to be
3 approximately 25-30%.

4
5 The board heard testimony that the relatively short distances to neighbors makes it likely that
6 noise from patrons and the kitchen as well as smells from the dumpster could be offensive unless
7 adequate controls are in place.

8
9 Application as submitted for a restaurant, 24 seats, open 12pm-8pm Fri-Sat, 8am-1pm Sunday, 3
10 employees other than the owners.

11
12 Based on its review, the zoning board found the application, with conditions, to be compatible
13 with section 5.6 of the Zoning Ordinance.

14
15 A motion to approve the small restaurant use with the following conditions was made, seconded
16 and voted in the affirmative by three members of the board.

17
18 Conditions:

19
20 The Approved application to be as amended at this meeting and to include only the indoor
21 restaurant use with personal use space for the owners upstairs.

22
23 Applicant shall provide, to the Planning Board, an improved parking plan for at least 11 spaces.
24 Appropriate measures will be taken to ensure that adjacent residents are protected from
25 obnoxious noise and odor.

26
27 Site Plan Review approval by the Planning Board is required.

28
29 A code review by the town's building inspector resulting in an issued certificate of occupancy for
30 the buildings is required.

31
32 Any expansion of the restaurant or addition of other uses shall require a Zoning Board review.

33
34
35 **Other Business:** The Zoning Board met the new owners of the former Berwick Property. Mr.
36 Farnsworth explained that he purchased the property and is unsure exactly what he will do with it.
37 He is aware of the recent environmental history of the land and will be working with the NH DES
38 to stay in compliance with the properties hazard mitigation plan. A residential use on the east
39 side (up on the hill) and perhaps some solar panels to feed into the electric grid are but two ideas
40 that are under consideration. This summer he will be logging the property and cleaning up the
41 area along the roadside. He will keep both the town and state aware of his plans for the land.

42
43 The meeting adjourned at 9:15pm

44
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46 Stephen Halloran

Richard Colburn

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Jane Stephenson

**MINUTES OF THE ZONING BOARD OF ADJUSTMENT
MEETING APRIL 14TH 2014
MERIDEN TOWN HALL**

Zoning Board

Members Present: Richard Colburn, Chairman Brad Atwater
Ted Moynihan

The meeting opened at 7pm

Resident Scott MacLeay is going to be asked to join the Zoning Board. Steve Halleran had a brief conversation with Scott last month and he seemed willing to give it a try. Scott served on the Planning Board and more recently the Finance Committee.

John Tomlinson attended the meeting to hear the discussion about the approval of the March 10th minutes. He asked that several of his comments that he made at the hearing, but not included the minutes, be added. The Zoning Board agreed that he had made those comments at the last meeting during the Wheeler hearing and therefore the comments were added to the minutes. See amended minutes from March 10th.

The March 10th minutes were approved as amended.

Mark and Sandy Horne Preliminary discussion, Approved Business Project Route at #142 Route 12A. Halleran had, at the Horne's request, scheduled them for an informal discussion concerning their desire to add an auction/flea market use to their 9 acre property that currently has three apartments in an existing farm house. Neither Mark or Sandy attended the meeting, so the discussion could not move forward.

Other Business: Halleran provided a brief update on the status of ongoing land use projects. Pricilla Wheeler is still working on code compliance issues with the Building Inspector and the Fire Chief.

The meeting adjourned at 8pm.

Stephen Halleran Richard Colburn

1 **MINUTES OF THE ZONING BOARD OF ADJUSTMENT**
2 **MEETING JULY 14TH 2014**
3 **MERIDEN TOWN HALL**

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6 Zoning Board

7 Members Present: Richard Colburn, Chairman Brad Atwater
8 Ted Moynihan Bill McGonigle
9 Scott MacLeay, Alt appointed not sworn in

10 The meeting opened at 7pm

11 The April 14th meeting minutes were approved as grammatical amended. New member Scott
12 MacLeay was welcomed to the board. Scott noted that he has been appointed to the board by
13 Moderator Paul Franklin but not yet sworn in by Town Clerk Michelle Marsh. Halleran noted that
14 Michelle will be attending the August meeting to swear in all of the ZBA members to new terms.
15 Scott will participate in tonight's case, but his vote will not be tabulated.

16 **Case 2014-03 Richard and Diane Caruso:** Request for an Approved Detached
17 Accessory Dwelling Unit (ADU #37) to establish a one bedroom apartment in an
18 existing garage/shop on the property at #5 Whitney Road. The bulk of the property is
19 located in the RC II zoning district. Chairman Colburn opened the public hearing and
20 explained that this application is the first of its kind in Plainfield. Accessory Apartments
21 have, for years, been allowed as attachments to a main dwelling. The newly adopted
22 ADU ordinance allows the apartment to be a free standing building or in a detached
23 outbuilding. The unit can now also include one or two bedrooms.

24 The board spent a few minute reviewing the language of section 4.3 C which includes all
25 the criteria for approving an ADU.

26 After completing its review of the application materials the board determined the file was
27 sufficient to move forward. Richard Caruso made a brief presentation to the board
28 explaining that the proposal is to convert a portion of their existing 32'x28' two story
29 shop building into a caretakers quarters. The unit would include one bedroom,
30 kitchen/living area and a bathroom and totals 673 sq feet. The building is served by an
31 existing 300 gallon per day septic system CA#2003054120-A that was installed in 2003.

32 The building is located hundreds of feet from any lot line and is clearly subservient to the
33 7,000 square foot main home located deeper into the property.

34 The zoning board held a variety of discussions about the new ordinance, discussing
35 several criteria to determine how to interpret the ordinance language. It was determined
36 that any building that is solely devoted to the ADU must be no higher than 25' to the
37 peak of the roof, but that for ADU's located in barns and garages the building can be
38 taller than 25', but the living quarters must be no higher than 25' to the top of the ceiling.

1 Abutter Cynthia Marx noted that she does not object to the application she wants her
2 water line that runs through the Caruso property to be left in tact. Richard Caruso
3 responded that there is no excavation for this project. The existing building has all
4 utilities including septic and a well.

5

6 There being no other questions member Moynihan made the following motion:

7

8 The Zoning Board makes the following findings relative to case 14-03:

9

10 The owner is the permanent resident on site.

11 The proposed unit is 663 sq feet, the main house is over 7,000 sq feet in size. Therefore
12 the ADU will be far less than 50% of the size of the main house.

13 The property is conforming to the ordinance and the proposed building meets or exceeds
14 all dimensional requirements of the Zoning Ordinance.

15 The septic is existing.

16 Parking is adequate.

17

18 Therefore I move that case 2014-03 be approved as presented. Occupancy not to occur
19 until the required notice of residency has been filed with the registry of deed and the
20 project has been fully reviewed and approved by the town's building inspector. The
21 motion was seconded and voted unanimously in the affirmative.

22

23 At the conclusion of the Caruso case, Jesse and Ruth Stalker shared some plans that they
24 have with the Zoning Board of an ADU to be build as part of a garage project they are
25 just now getting started with. The Stalkers will be in front of the ZBA in August.

26

27 The meeting adjourned at 8:30pm

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29

30

31 Stephen Halloran

Richard Colburn

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**MINUTES OF THE ZONING BOARD OF ADJUSTMENT
MEETING SEPTEMBER 22nd 2014**

Zoning Board

Members Present: Richard Colburn, Chairman Brad Atwater
Ted Moynihan Bill McGonigle
Steve Sheehan Scott MacLeay, Alt

The meeting opened at 6pm

The board, along with a group of about twenty Meriden Village residents, met on Bean Road to view the land proposed by Thomas Lappin for a new building to house a restaurant. Last year Tom received approval for a restaurant to be located in the colonial house on the adjacent lot, #7 Bean Road. Since that time Tom has gained control of the former Townsend property located at #19 Bean Road. This .5 acre parcel will basically serve as the parking lot for a new building. The space that was to be dedicated to the restaurant is now proposed as a two bedroom apartment. Approximately $\frac{1}{2}$ acre of land from the original property (tax map 104-03) will be annexed to the former Townsend property (tax map 104-04). This will leave the colonial house with four apartments, three one bedroom and one two bedroom on .5 acres. The restaurant lot will be approximately one acre and will include the 48 seat restaurant and the parking lot.

The group walked around viewing property line lines, proposed curb cuts, parking areas. Both lots are in the village residential zone served by public water and sewer.

The group moved up to the Meriden Town Hall for the formal public hearings.

MERIDEN TOWN HALL

Case 2014-06 Special Exception for the restaurant: Chairman Colburn established the grant rules for the evening and opened the hearing. Applicant Tom Lappin walked the group through the 48 seat restaurant application. Reviewing the site map and plans for the new restaurant Tom explained that as designed all employees and patrons will have offstreet parking. No road side parking on Bean Road is anticipated. All lighting will be dark sky compliant. A single sign is proposed for the Bean Road side. Hours of operation will be Sunday thru Thursday 3:30-10:00pm, Friday and Saturday 3:30-11:00pm. No outside seating is proposed at this time but likely some small amount of outside seating in the future. There will be no amplified music. An 8' stockade fence to be installed along the boundary line that runs along the driveway for the Duckworth Museum. This fence will be intended to absorb sound and block light. Twenty two spaces will be necessary for the restaurant use. Walkways will lead from the parking area to the restaurant. It is anticipated that many from Meriden Village including the KUA campus will walk down to the eatery.

Fire Chief Currier and Building Inspector Learch both indicated that the building plan will need approval from either a fire protection engineer or the state's Fire Marshall before a certificate of occupancy can be granted. Because of its size and one story configuration sprinklers will likely not be needed.

Grace Hardy, Trustee of the Duckworkth Museam asked for clarification on the green space planned for around the boundary line with the museum. Mr. Lappin indicated that a 30' vegetative buffer to the property line is planned for the parking area.

1
2 James Hynes: He expressed concerned about how the deliveries will take place. Mr. Lappin
3 noted that delivery trucks will pull into the empty parking lot to unload and should not block
4 Bean Road at any time.

5
6 Abutters John and Patricia McNamara, fully support the application.
7

8 Jane and Eric Witzel noted that their concerns about the use continue to be centered on mitigating
9 light and noise pollution. Jane felt that the 8' fence as opposed to a 4' fence that was discussed at
10 the preliminary meeting is an improvement. The Witzels home is the closest residence to the new
11 use.

12
13 Many Meriden Village residents spoke in favor of the application.
14

15 The board reviewed the criteria for granting special exceptions and all the details of the
16 application making the following findings:

17
18 The application generally satisfies the criteria for the granting of special exceptions found in
19 section 5.6 of the ordinance.

20
21 The proposed parking (21 spaces) meets the requirements of the ordinance.

22
23 Based on available data the application materially meets the lot coverage requirements of the
24 zoning ordinance.

25
26 As described by the applicant the use is compatible with the neighborhood which consists of
27 residential structures, a telephone company facility, a grange, a library and a museum.

28
29 A motion to approve the application subject to the following conditions was made, seconded and
30 unanimously voted in the affirmative:

- 31
- 32 1) The proposal annexation must be completed with the Planning Board and be materially as
33 represented at this meeting.
 - 34 2) The applicant must obtain an approved site plan review by the Planning Board.
 - 35 3) The restaurant will be operated as described in the application, including the stated hours
36 of operation. Any material changes, as determined by the Zoning Administrator will
37 require approval by the zoning board.
 - 38 4) This approval does not include any provisions for either amplified music or outside
39 seating or functions.

40
41 **Case 2014-05 Thomas Lappin AKA #7 Bean Road LLC:** Request to amend the
42 approval granted in case 2013-03 for map 104 lot 4. The applicant is proposing to reduce
43 the size of the lot by .5 of an acre and to replace the previously approved restaurant use
44 on the first floor with a two bedroom apartment. As amended, the property will be
45 approximately .5 of an acre with four apartments (3-one bedroom, 1-two bedroom). This
46 application utilizes the approved combination of related uses and approved alternative
47 parking plan provisions of the town's zoning ordinance. The lot is located in the Village
48 Residential Zoning District and is to be served by both public water and sewer.
49

1 Based on its the review of the first application a year ago the board quickly determined that the
2 main issue for this case is whether as the lot gets smaller and the tavern is withdrawn and is
3 replaced by a two bedroom apartment is the lot, as amended, still suitable for the proposed use.

4
5 There were no abutters or members of the public who spoke in favor of or against the application.
6

7 Based on its review of the materials the board made the following findings:

- 8 1) that the zoning ordinance strongly supports the conversion of large existing buildings to
9 new uses.
10 2) The property is served by public water and sewer.
11 3) The parking arrangement, as amended, seems an improvement.
12 4) The yard space, as amended, remains sufficient to support the likely needs of three one
13 bedroom apartments and one two bedroom apartment.
14 5) The vegetative area adjacent to the stream on the north side of the property will be
15 undisturbed.

16
17 After a review of the criteria for granting a special exception a motion to approve the application
18 was made, seconded and voted in the affirmative.

19
20 **Richard Caruso:** Mr. Caruso plans to come before the board for a special exception to use an
21 automatic hard shell pool cover as opposed to the fence requirement of section 3.14 of the Zoning
22 Ordinance. The board reviewed this section of the zoning ordinance and provided some basic
23 direction to Mr. Caruso on what would be necessary for the board to determine if this automatic
24 cover was function as good or better than a fence in this particular location. Mr. Caruso's
25 property is isolated on 300 private acres. It was noted that current building codes seem allow for
26 this type of cover in lieu of a fence.

27
28 The meeting adjourned at 8:45pm.
29

30 Stephen Halleran

31 Richard Colburn

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2 **MINUTES OF THE ZONING BOARD OF ADJUSTMENT**
3 **MEETING NOVEMBER 10th 2014**

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5 Zoning Board

6 Members Present: Richard Colburn, Chairman Brad Atwater
7 Ted Moynihan Scott MacLeay, Alt

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9 The September 22nd meeting minutes were approved as amended.

10
11 **Case 2014-07 David Langford:** Chairman Richard Colburn opened the case by reading
12 the posted notice. Chairman Colburn noted that his wife and Mrs. Drinkwater (abutter)
13 are sisters therefore he will not be sitting on this case. Given that only three members
14 remain the applicant was given the option of delaying the hearing or moving forward. To
15 be approved the application needs three affirmative votes. Mr. Langford indicated that he
16 wanted to move forward. Vice Chairman Moynihan took over the hearing asking the
17 applicant to explain the request. From the applicants explanation and the provided
18 materials the group learned the following: The applicant is seeking an area variance and
19 or any other applicable zoning relief available to be allowed to add a garage bay and
20 elevated deck to the rear of an existing garage/shop building. As proposed, the addition
21 (12'x24') would come within 9.1 feet of the property's rear line; 30' is the required
22 setback. The existing garage/shop building (32'x40') was permitted by ZBA case 09-05
23 which granted a setback encroachment for the building effectively allowing it to be
24 located 15' from the existing rear and side lot lines. The property (tax map 211 lot 13) is
25 .53 acres in size. The lot is zoned RCI and is not served by municipal water or sewer.

26
27 After reviewing the application the board determined that the application is sufficient to
28 move forward with the hearing with the notation that the 10' setback encroachment
29 shown on the Wayne McCutcheon plan should be 15' as allowed by the board in the 2009
30 case. It is mislabeled on at east and west side of the plan. The building was located as
31 allowed and in conformance with the 09-05 decision.

32
33 Attorney Rick Hughes filling in for Attorney Brad Atwood who represents the
34 Drinkwaters stated that his clients object to the application. Their home has a direct line
35 of sight to this garage and much of the activity around the garage, including an area light
36 is more intensive than they had original thought back in 2009 when they did not object to
37 the garage. Attorney Hughes noted that the building has been given special consideration
38 once already. The property is zoned RCI with the setback that go with that zone. Further
39 in his view the application may be an addition that is desired but not one that rises to the
40 level of granting a variance. The hardship in this case was created by the applicant. See
41 file letter from Harrison and Betsy Drinkwater dated 11/09/14.

42
43 Board members asked the applicant what the use is for the new addition and stair case.
44 The addition will be for storage only; the deck for a planned hot tub, the staircase is
45 designed to provide a second means of egress for the attic space. Halleran noted that the
46 attic space could be used for a residential use, but that if a free standing single family
47 home is built in the future the residence above the garage would have to be removed.

1 This property is not large enough to be granted an approval for an accessory dwelling
2 unit.

3

4 Board members viewed the property using google earth, it was noted that the Drinkwater
5 home would appear to have a better line of sight to the addition if it were located on the
6 side of the garage as opposed to the back which is proposed. The side option would not
7 require a ZBA hearing, but is not desirable for the applicant as it would encroach on the
8 area planned for the new home. Available locations for the house are limited given
9 required distances for wells and septic systems and the very small size of the lot.

10

11 In starting its deliberations the board reviewed the criteria for granting an area variance
12 found on page 46 of the 2014 Zoning Ordinance. The board discussed the application
13 materials, reviewing the applicant's written submittal for why the variance should be
14 granted. Attorney Hughes cited case Hill v. Chester to support their clients position that
15 its more difficult to be granted a variance when the applicant created the situation that
16 now requires a variance.

17

18 Board members noted that this parcel is a grandfathered lot that at .5 of acre is far smaller
19 than is required in the RCI zone where 7 acres is the minimum size for a conforming lot.
20 Returning to the logic used in the first case where the lot was compared to lots in the VR
21 zone, member Atwater noted that in the VR zone it would be possible to come within 7.5'
22 of a rear setback line. Accepting that this is a RCI property, the board felt that seeing how
23 the ordinance treats small lots in other zones is a useful exercise in judging the merits of
24 the current application. There being no other abutters wishing to comment, the board
25 reviewed written comments received. In addition to the Drinkwater's letter the file
26 contained a letter from Bruce Gordon who abuts the project on two sides. He does not
27 object to the application, but asks that any staircase get no closer to the line than the 9.1'
28 that is proposed.

29

30 Member Atwater made the following motion: To approve the application of an area
31 variance allowing an encroachment into the setback zone as shown in the application
32 documents. In accepting this motion the board has made the following findings:

33

34 I. That the application meets the general requirements of all variances in that;

- 35 1. The variance will not be contrary to the public interest and,
36 2. Special conditions exist;
37 a. The lot is a grandfathered, non-conforming small lot (.5 acres
38 in a 7 acre zone)
39 b. The lot has an existing well and septic system with two Town
40 rights-of-way constraining development on the lot.

41 II. That the application meets the specific requirements for an area variance;

- 42 1. That an area variance is required to enable the applicant's proposed
43 use of the property given the special conditions of the property in that
44 the proposed use will reach within 9' of the rear lot boundary line.
45 2. The benefit sought by the applicant cannot be achieved by some other,
46 reasonably feasible method, other than an area variance since the plans

1 for a future residence and the location of the existing septic and well
2 utilize most of the available land on the parcel.

3 III. That the variance will be consistent with the spirit of the ordinance in that it is
4 supportive of home occupations and uses accessory to established residences.

5 IV. That by approving the application substantial justice will be done, allowing the
6 applicants to use their property as proposed without negatively affecting the
7 neighborhood.

8 V. That the value of surrounding properties will not be diminished. The applicant
9 represents that the intensity of use will not increase as a result of this approval.

10 VI. That the variance, if authorized, will represent the minimum variance that will afford
11 reasonable relief.

12
13 The motion was seconded and voted in the affirmative on a vote of 3 to 0.

14
15 The meeting adjourned at 9:00pm

16
17
18
19
20 Stephen Halleran

Ted Moynihan

21