**ZONING BOARD OF ADUSTMENT**

Meeting Minutes

Recorded by Janice Pack

November 15, 2017

**Members Attending**: John Gryval, Jarvis Adams, George Rainier, Gil Morris, Craig Pettigrew, Kevin O’Connell

**Public Attending:** Michael Borden, Karl Anderson, Colleen O’Connell

**Meeting opened at 8:00 PM**

JGryval called the meeting to order. Six members were present. JGryval noted that he had spoken to the Building Inspector, Michael Borden, to confirm details on the application. He advised the applicant, Karl Anderson, of the proceedings, and that we need 5 people to hear the case, and that we need 3 affirmative votes to pass the Variance. JGryval decided to step back and not vote on this case, as while he is not a neighbor of KAnderson, he does live on New Boston Road.

**A Public Hearing, ZBA Case 2017-02, for the property located at 204 New Boston Road (Map R9, Lot 25-4) for a Variance as specified in the Zoning Ordinance, Article F, Section III to permit a small shed within less than the proposed setbacks on behalf of Karl Anderson began at 8:06 PM.**

JGryval read from the Zoning Ordinance regarding setback requirements. He noted that the Zoning Board of Adjustment does have the power to grant a variance based on 5 criteria, as on the application.

The Recording Clerk confirmed that the certified mailing had been sent to all of the abutters, and that the hearing had been properly noticed and posted. The Recording Clerk confirmed that the amount of $203.19 had been paid (check #469).

KAnderson explained why he was seeking the Variance. He said that he and his wife had moved to Greenfield about a year ago, and when they purchased the house, decided that they wanted a yard. They removed some trees, excavated and brought the grade up about a foot, and put in a lawn. They built the shed to house garden tools and such. He said that he didn’t realize that there were regulations governing setbacks for a shed. He asked his builder if he needed a permit, and his builder said he did not. He said that MBorden had informed him that he did need to abide by the setbacks, and could either move the shed or apply to a variance.

JAdams asked how big the shed was. It is apparently under 200 square feet but regulations say that if the structure is over 10’ tall that it does need to comply with setbacks. CPettigrew asked if it was on blocks, and KAnderson said that it is on footings dug into the ground about a foot deep.

Going through the Application, KAnderson read the “Facts in support of granting the variance” from the application, and asked the applicant to address each:

1. Granting the variance would not be contrary to the public **interest** because: The builder did not ask about setbacks.
2. If the variance were granted, the **spirit** of the ordinance would be observed because: The property has been cleared, and will be well kept.
3. Granting the variance would do substantial **justice** because: If not, he isn’t sure where he would put it. Discussion ensued on how far the house was from the road; it was determined to be about 130’. CPettigrew asked if there were another feasible spot on the property to put the shed. KAnderson said his wife wanted it where the lawn will be, and that on the other side of the house, it would be approaching the side setback.
4. If the variance were granted, the **values** of the surrounding properties would not be diminished because: It’s a beautiful building.
5. Unnecessary Hardship – it was determined that his property was not level, and there was a lot of ledge so there weren’t a lot of options for placement.

JGryval asked for MBorden’s comments. MBorden said he had stopped by during the building process and spoke to the builder, Andrew Beck, and discussed the fact that the location of the shed didn’t meet Greenfield’s setback requirements. He also spoke to KAnderson and advised him that the structure could not be that close to the road, and that his options were to move it or to try and get a variance. It is his opinion that the structure is 34’ to 40’ from the edge of the road. JGryval asked how far along the structure was at that point, and KAnderson said it was nearly done. MBorden said it was framed, pretty far along. JGryval asked, to be clear that we were interpreting the ordinance correctly: A shed of less than 200 square feet does not need a permit? This was found to be correct. However, anything over 10’ high is a structure that would need to meet setback requirements. It was asked if the structure was less than 10’ tall, would it need to meet setback requirements? The answer was no.

**At 8:37 the Board closed the information session and began their deliberative session.** GMorris moved to move into Deliberative Session; GRainier seconded the motion. They discussed the setback criteria as specified in Article F Section III of the Zoning Ordinance. JAdams felt that because none of the abutters were in here screaming about the shed, and because the shed was a fine-looking structure that improved his property, he was inclined to approve the variance. CPettigrew said the problem was that the contractor should never have built the shed there in the first place, and it shouldn’t be the homeowner’s responsibility to move it. The Board discussed what needs a permit and what doesn’t.

GMorris maintained that it would not be contrary to the public interest to permit the shed to remain there; JGryval stated that the public had voted on the ordinances as written, including the 100’ setback. GRainier agreed that if the town wanted to allow less than 100’, they would’ve voted that way.

Discussing the spirit of the ordinance, JAdams said that the spirit of the ordinance would not be observed because 30’ was nowhere near 100’. The Board discussed whether allowing the shed would be changing the character of the neighborhood.

On the topic of substantial justice, JAdams suggested we let the “nice winged barn” stay where it is. GRainier felt that the “nice winged barn” would look just as nice sitting somewhere else. CPettigrew felt that the builder was at fault here.

In discussing the value of surrounding properties, it was felt that while the Board agreed that the shed was not going to diminish anyone’s property values, it was subjective.

On the topic of unnecessary hardship, if that were the ONLY spot you could put the shed, that would constitute an unnecessary hardship. In this case, it looks like there are options.

JAdams made a motion to go through all 5 points and vote on them; KO’Connell seconded it.

#1: Granting the Variance would not be contract to the public interest. Call the question: Yes-3, No-2

#2: The spirit of the ordinance would not be observed if the variance were granted. Call the question: Yes-0, No-5

#3: Substantial justice would be done if the variance was granted. Call the question: Yes-3, No-2

#4: If the variance were granted, the values of the surrounding properties would not be diminished. Call the question: Yes-5, No-0

#5: Denying the variance would result in unnecessary hardship. Call the question: Yes-0, No-4, Abstain-1 (JAdams)

After discussion, CPettigrew motioned that we recall the question for Item #2, which was seconded by KO’Connell. Recall the question: The variance is consistent with the spirit of the ordinance. Yes -3, No-2

JGryval asked for the Planning Board comment, and read the statement that Paul Renaud had provided. A copy of the written comment is on record. The gist of the comment is that the Planning Board does not support approving this variance.

KO’Connell made a motion to deny the Variance because it did not meet all 5 criteria. GMorris seconded, and all were in favor. Motion passed. The ZBA denied the Variance to allow a small shed within less than the proposed setbacks.

The Board advised KAnderson to speak with MBorden on how to proceed.

**Other Business:**

KO’Connell will be moving to Vermont soon, and informed the Board that this would be his last meeting. He approached the Board regarding appointing his daughter to take his place. He introduced Colleen O’Connell, who said she was very interested in becoming a part of the ZBA. This will be up to the moderator.

GMorris motioned to adjourn, and CPettigrew seconded. All were in favor, and the **meeting adjourned at 9:39 PM.**