

**Town of Greenwich
Zoning Board of Appeals
September 5, 2013**

The Town of Greenwich Zoning Board of Appeals held a meeting at the Town Office Building, 2 Academy Street, Greenwich, New York on Thursday, September 5, 2013 at 7:00 pm.

MEMBERS PRESENT:

John Farndell	ZBA Chairman
Dawn Sharts	ZBA Member
Ralph Vecchio	ZBA Member
Tammara Van Ryn	ZBA Member
Roland Mann	ZBA Member (Alternate)

ABSENT: Gregory Smith ZBA Member

OTHERS PRESENT: Kellie Blake – Clerking for ZBA Clerk Amanda Willetts, William LaPan, George and Tami Whalen, and Code Enforcement Officer Dan O'Connor.

Acting Clerk Kellie Blake called roll.

PUBLIC HEARING:

Area Variance Application #2013-03 – Submitted by William LaPan representing Stephen and Kathleen Coffin. Property located at 379 Anthony Road, Greenwich. Applicant is seeking an area variance to allow for a minor subdivision. Lot 1 is seeking a 28.7 ft area variance and Lot 2 is seeking a 36.8 ft area variance. The Zoning Ordinance requires 50 ft setbacks. Property located in a Rural Agricultural District. Parcel ID # 212.-1-4.

ZBA Chairman John Farndell opened the public hearing at 7:05 pm and asked if there was any member of the public that would like to speak. There was no response. All certified letters were received by the adjoining property owners and property owners within 500 ft. There were no comments received nor was anything submitted from the public regarding the application. The Washington County Planning Board referral was received and they had deemed the application a matter of local concern. ZBA Member Ralph Vecchio stated that he would like it noted for the record where the nearest structure is on the adjoining property. Mr. LaPan stated that the nearest structure is about a half of a mile from the Coffin's property. Mr. LaPan reviewed the map with the Board. Mr. LaPan stated there is an existing shed between the houses that will be taken down due to the new property line going through the middle of the shed. ZBA Member Tammara Van Ryn asked what the timeline was for the planned removal of the shed. Mr. LaPan stated that there wasn't a timeline but he thinks it would be soon after approval. ZBA Member Tammara Van Ryn said that she dislikes putting conditions on area variances, however, in previous applications the Board has taken the applicants word and the applicant hasn't always followed through. Mr. Lapan stated that it will be removed, however, they cannot remove it prior to the subdivision approval because they are in the middle of the SEQRA process. ZBA Member Ralph Vecchio asked if the area variance can be delayed or set upon the removal of the shed. ZBA Chairman John Farndell stated that the Board can make it a condition that the shed be removed within a short time frame after the approval of the subdivision. Mr. LaPan stated that he would be able to have the shed removed within 90 days of the granting of the subdivision. The Board agreed that 90 days from the subdivision approval was enough time for the applicant to have the shed removed. ZBA Chairman John Farndell closed the public hearing at 7:16 pm.

**Town of Greenwich
Zoning Board of Appeals
September 5, 2013**

The Board reviewed the following 5 factors:

1. *Whether an undesirable change would be produced in character of the neighborhood or a detriment to nearby properties?* No. The houses were built in the 1900's.
2. *Whether benefit sought by applicant can be achieved by a feasible alternative to the variance?* No.
3. *Whether the requested variance is substantial?* Yes.
4. *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* No. Existing houses.
5. *Whether the alleged difficulty was self-created?* Yes. Due to the applicant wanting to subdivide the property.

Mr. LaPan asked, for the record, that the difficulty not be considered self-created due to the houses being built prior to the adoption of the Zoning Ordinance. When the houses were built they had a valid building permit and were allowed to be constructed that close together. ZBA Chairman John Farndell stated that was a different way to look at it. ZBA Member Tammara Van Ryn stated that this is self-created due to the fact that the applicant would now like to subdivide the property. Mr. LaPan stated that he would like it on record that he disagrees with the difficulty being self-created.

After the consideration and review of the above five factors the Board made the following decision.

RESOLUTION NO. 15-2013
Granting of AV #2013-03

Motion by ZBA Member Tammara Van Ryn,
Seconded by ZBA Member Ralph Vecchio,

and passed unanimously by said Board,

RESOLVED, that the ZBA, after taking into consideration the five factors, finds that the benefit to the Applicant, William LaPan representing Stephen and Kathleen Coffin, does outweigh the detriment to the neighborhood or community and therefore Area Variance # 2013-03 is granted,

and be it further,

RESOLVED, that the ZBA finds that an area variance of 13.2 ft for lot one and 21.3 ft for lot two from Section 190-9 and Area Requirements Table 2 A of the Town of Greenwich Zoning Ordinance is the minimum variance granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community,

and be it further,

RESOLVED, that a condition corresponds with the granting of the area variance that the shed between the two houses must be removed within 90 days from the date of the subdivision approval.

RECORD OF VOTE:

Chairman John Farndell

AYE

**Town of Greenwich
Zoning Board of Appeals
September 5, 2013**

Member Gregory Smith	ABSENT
Member Ralph Vecchio	AYE
Member Dawn Sharts	AYE
Member Tammara Van Ryn	AYE
Member Roland Mann (Alternate)	AYE

Area Variance Application fee of \$100.00 and certified mailing fee of \$24.44 was previously submitted.

MINUTES:

ZBA Chairman John Farndell asked the Board if they had reviewed the minutes from the August 1, 2013 meeting. They stated they had. ZBA Member Tammara Van Ryn stated that she had some corrections of the minutes. On page 3 under DISCUSSION it reads *“ZBA Member Tammara Van Ryn asked the motion be amended to include that the decision was made based on the Board making a determination that a contractors yard is substantially equivalent to the current light industry use and they have the same impact as well as the same yard requirements in reference to Table 2A Area Requirements for the Rural Agricultural District. Tammara continued that she would like this added so that when a new owner purchases the property and would like to have a junkyard, kennel, hotel, motel, etc. that the same determination would be upheld.”* and should be corrected to read *“ZBA Member Tammara Van Ryn asked the motion be amended to include that the decision was made based on the Board making a determination that a contractors yard is substantially equivalent to the current light industry use and they have the same impact as well as the same **area** requirements in reference to Table 2A Area Requirements for the Rural Agricultural District Tammara continued that she would like this added so that when a new owner purchases the property and would like to have a junkyard, kennel, hotel, motel, etc. that the same determination **might not be applied.**”* Another correction is to page 4 which reads *“RESOLVED, that the decision was made by the Town of Greenwich Zoning Board of Appeals based on the determination that a contractors yard is substantially equivalent to the current light industrial use of the property, both having the same impact as well as the same yard requirements in reference to Table 2A Area Requirements for the Rural Agricultural District.”* and should be corrected to read *“RESOLVED, that the decision was made by the Town of Greenwich Zoning Board of Appeals based on the determination that a contractors yard is substantially equivalent to the current light industrial use of the property, both having the same impact as well as the same **area** requirements in reference to Table 2A Area Requirements for the Rural Agricultural District.”* The following decision was made.

RESOLUTION NO. 16-2013
App. of Minutes 08/01/2013

Motion by ZBA Member Tammara Van Ryn,
Seconded by ZBA Member Ralph Vecchio,

and passed unanimously by said Board,

RESOLVED, that the minutes of the May 2, 2013 meeting be approved and accepted with the following corrections: On page 3 under DISCUSSION it reads *“ZBA Member Tammara Van Ryn asked the motion be amended to include that the decision was made based on the Board making a determination that a contractors yard is substantially equivalent to the current light industry use and they have the same impact as well as the same yard requirements in reference to Table 2A Area*

**Town of Greenwich
Zoning Board of Appeals
September 5, 2013**

*Requirements for the Rural Agricultural District. Tammara continued that she would like this added so that when a new owner purchases the property and would like to have a junkyard, kennel, hotel, motel, etc. that the same determination would be upheld.” and should be corrected to read “ZBA Member Tammara Van Ryn asked the motion be amended to include that the decision was made based on the Board making a determination that a contractors yard is substantially equivalent to the current light industry use and they have the same impact as well as the same **area** requirements in reference to Table 2A Area Requirements for the Rural Agricultural District Tammara continued that she would like this added so that when a new owner purchases the property and would like to have a junkyard, kennel, hotel, motel, etc. that the same determination **might not be applied.**” Another correction is to page 4 which reads “RESOLVED, that the decision was made by the Town of Greenwich Zoning Board of Appeals based on the determination that a contractors yard is substantially equivalent to the current light industrial use of the property, both having the same impact as well as the same yard requirements in reference to Table 2A Area Requirements for the Rural Agricultural District.” and should be corrected to read “RESOLVED, that the decision was made by the Town of Greenwich Zoning Board of Appeals based on the determination that a contractors yard is substantially equivalent to the current light industrial use of the property, both having the same impact as well as the same **area** requirements in reference to Table 2A Area Requirements for the Rural Agricultural District.”.*

RECORD OF VOTE:

Chairman John Farndell	AYE
Member Gregory Smith	ABSENT
Member Ralph Vecchio	AYE
Member Dawn Sharts	AYE
Member Tammara Van Ryn	AYE
Member Roland Mann (Alternate)	AYE

CORRESPONDENCE:

The Board reviewed the monthly budget for the month of August 2013 submitted by Budget Officer Kellie Blake.

The Board reviewed the 2014 yearly budget. The 2013 total budget is \$2,800, broken down into the following departments:

B8010.101 – Attorney -	\$1,000.00
B8010.102 – Clerk -	\$1,200.00
B8010.4 - Contractual Expense -	\$600.00.
Totals for Departments:	\$2,800.00

The Board decided that the 2014 budget should remain the same as the 2013 budget of \$2,800.00.

RESOLUTION NO. 17-2013
Approval of 2014 Budget

Motion by ZBA Member Tammara Van Ryn,
Seconded by ZBA Member Dawn Sharts,

and passed unanimously by said Board,

RESOLVED, that the 2014 budget be as follows:

**Town of Greenwich
Zoning Board of Appeals
September 5, 2013**

B8010.101 – Attorney -	\$1,000.00
B8010.102 – Clerk -	\$1,200.00
B8010.4 - Contractual Expense -	\$600.00.
Totals for Departments:	\$2,800.00

RECORD OF VOTE:

Chairman John Farndell	AYE
Member Gregory Smith	ABSENT
Member Ralph Vecchio	AYE
Member Dawn Sharts	AYE
Member Tammara Van Ryn	AYE
Member Roland Mann (Alternate)	AYE

DISCUSSION:

ZBA Chairman John Farndell stated that George Whalen from Whalen's Chevrolet was present and would like to address the Board. Mr. Whalen stated that he would like to first thank everyone for their cooperation with the project. Throughout the course of the construction Mr. Whalen stated that they started using the new building as an entrance and his salesman started displaying cars in front of the showroom, on the curb cuts. He addressed his staff and explained to them that part of the agreement made with the Town was that cars wouldn't be parked directly in front of the showroom. Mr. Whalen submitted a photo to the Board. He continued that he agreed to that condition and if they have to stick by it then he will. However, there are two areas in front of the showroom that can fit a couple of small cars and in placing cars there could prevent people from possibly backing into the building. It still leaves about 14 ft for vehicles to drive through. Mr. Whalen asked the Board if there was any way for them to allow for two cars to be parked in front of the building. Mr. Whalen stated that he is not going to file an appeal or anything along those lines he would just like the Board to consider allowing him to park two cars, one on either side of the showroom. ZBA Member Ralph Vecchio said that he started taking notes since the last meeting and the most common cars parked out there have been in those two spots. Ralph continued that he didn't know that Mr. Whalen was going to attend this meeting but Ralph was going to present that he felt that the aesthetics of the building without any cars out front was awful. The windows and pavement are stark without the cars in the front. Therefore, Ralph said he thinks it would look better with the two cars out front. ZBA Chairman John Farndell stated that Mr. Whalen said he would present the cars there but not clutter the front of the building with them. ZBA Member Ralph Vecchio stated that the two cars help make the building look better. ZBA Member Tammara Van Ryn stated that the cars she has seen in front of the showroom have not been nicely tucked in like Mr. Whalen is suggesting. Tammara continued that she was concerned because there were verbal representations made at the time of the application that plantings were going to be done as well as no cars parked in front of the showroom. Tammara continued that the plantings have yet to be done and there have been several months in which they were not in conformance with the area variance condition and now that the Town is trying to enforce the condition, it has now come up that the ZBA should reconsider it. Tammara said that she is not inclined to want to be sympathetic to a change in the area variance condition when the other representations made to the Board have not been carried through. She feels that plantings should be done there first and then the Board can judge the visual aesthetics. Mr. Whalen stated that he spoke with Town Supervisor Sara Idleman and she told him that there is a grant that the Greenwich Economic Development Group, which his brother Tim Whalen is a member of, was working on that will help them with plantings. Mr. Whalen continued that they are far from done with the work they are doing on the dealership. They have to do blacktopping and also the curb cuts. He has to get approval from DOT in order to do plantings in the curb cuts,

**Town of Greenwich
Zoning Board of Appeals
September 5, 2013**

which he feels they won't have a problem with as long as the state does not have to pay for it. ZBA Chairman John Farndell stated that as long as Mr. Whalen is working on getting the plantings done then he is ok with that but he also wanted to see sidewalks put along front of the property. Mr. Whalen stated that the opposite side of the street took an entire lane and made a sidewalk from that, if they did that it would take up the other lane. ZBA Chairman John Farndell stated that the sidewalks could be put in and run through the curb cuts and then put plantings along the side of it. Mr. Whalen said that he doesn't feel they would do it that way because they could have done that on the opposite side of the street but instead they decided to take the entire lane. Discussion ensued regarding sidewalks. ZBA Member Ralph Vecchio stated that the Board approved the area variance with the condition that no cars be parked in front of the showroom and that was the only condition. Ralph continued that there may have been things verbally discussed but they were not put in as conditions therefore they don't have anything to enforce. He stated that the issue before the Board is whether or not to amend the condition on the area variance. His feelings are that the two cars aesthetically look better. ZBA Member Ralph Vecchio said that maybe the Board should get a sense of whether or not they want to reconsider the condition before they waste Mr. Whalen's time. Mr. Whalen said that he is not looking to cause trouble it just works better for them and it doesn't hurt anything to be able to park two cars in front of the showroom still keeping the isle way open for cars to pass through. Mr. Whalen continued that as far as the plantings, he was waiting for his brother and Sara to let him know what the status was on the grant in order to start them. ZBA Member Tammara Van Ryn asked Mr. Whalen if he had an application submitted yet to DOT. Mr. Whalen stated that he has not yet submitted one but he was previously told that as long as he resumes responsibility for them they could. ZBA Member Tammara Van Ryn asked Mr. Whalen if he had any plans to submit an application to DOT. Mr. Whalen stated that he was waiting to see what comes from the grant and apologized for the cars being parked out front because he told his employees not to park them there but when he would come back from wherever he was they would be there and he would again ask them to be moved. ZBA Member Tammara Van Ryn stated that the area variance was granted on May 3, 2012 and for the last 15 months they have been in and out of compliance with the requirements. Mr. Whalen stated that it has only been over the last 5 months because they have only been in the building for 6 months. ZBA Member Tammara Van Ryn stated that Mr. Whalen's employees are not doing what he tells them to and he is aware of it, therefore, if the Board reviews the condition how is Mr. Whalen going to enforce that only two cars will be parked there and not have seven to ten cars like it has been. Mr. Whalen said that he can't guarantee that it won't happen, because not everyone does everything that they are told but all the employees know that he is before the Board because he is in trouble for being noncompliant therefore they know they also are in trouble. ZBA Member Ralph Vecchio stated that there is a possibility that the condition be reconsidered to two cars, however, instead maybe the Board should consider removing the condition all together. ZBA Member Roland Mann stated that when the Board was first discussing the application it was Mr. Whalen who brought up the fact that they would no longer be parking cars in front of the showroom and the Board agreed to that and made it a condition. Mr. Whalen stated that if the Board prefers he will make his employees remove the cars from in front of the building until the Board reaches a final decision. ZBA Chairman John Farndell stated that this is an informal discussion and in order for the Board to formally review the area variance and reconsider the condition placed, Mr. Whalen will have to submit a letter asking the Board to do so. John continued that he will discuss the proper procedure with ZBA Attorney Anthony Izzo and have more information at the next meeting. Mr. Whalen thanked the Board for their time. Code Enforcement Officer Dan O'Connor stated that he had stopped once and saw Tim Whalen and then stopped again and saw George Whalen but he did not give Mr. Whalen a letter because he was waiting on another copy of the area variance decision form from the ZBA Clerk. Dan continued that he had asked that Mr. Whalen be placed on the agenda and told Mr. Whalen that he would be on the agenda. ZBA Member Ralph Vecchio stated that maybe the next time they condition something, the area variance will not be approved until the condition is fulfilled.

**Town of Greenwich
Zoning Board of Appeals
September 5, 2013**

DISCUSSION:

ZBA Chairman John Farndell stated that there will be a joint meeting of the ZBA, Planning Board and the Town Board to review any possible changes to the Zoning Ordinance. The meeting will possibly be sometime in October. ZBA Member Tammara Van Ryn stated that she had a few changes to the Zoning Ordinance one of them being that we have no maximum lot size coverage in the commercial district however it is 60% in the industrial district, which means the entire lot in a commercial district could be covered in pavement. She feels that this is one thing that should be addressed. ZBA Member Tammara Van Ryn also wants to address the Planning Board on the design requirements and make sure that they enforce those standards.

Motion by ZBA Chairman John Farndell,
Seconded by ZBA Member Dawn Sharts,

and passed unanimously by said Board,

That the meeting be adjourned at 8:00 pm.

Respectfully Submitted

Amanda Willetts,
ZBA Clerk