

**Town of Greenwich
Zoning Board of Appeals
May 1, 2014**

The Town of Greenwich Zoning Board of Appeals held a meeting at the Town Office Building, 2 Academy Street, Greenwich, New York on Thursday, May 1, 2014 at 7:00 pm.

MEMBERS PRESENT:

John Farndell	ZBA Chairman
Gregory Smith	ZBA Member
Dawn Sharts	ZBA Member
Tammara Van Ryn	ZBA Member
Roland Mann	ZBA Member (Alternate)

MEMBERS ABSENT:

Ralph Vecchio	ZBA Member
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OTHERS PRESENT: ZBA Clerk Amanda Willetts, David Peek, Nicholas Kostick, Joseph Dauphin, Jim Ball, Jacki and Kevin Chamberlain.

ZBA Clerk Amanda Willetts called roll.

CORRESPONDENCE:

ZBA Chairman John Farndell stated that a letter was received from Real Estate Agent Melanie Whitehouse-Casey regarding previous Area Variance #2012-02. John read the letter to the Board and it reads as follows:

April 30, 2014

*Re: 355 Derby Road, AKA 321 Derby Road, Greenwich, NY 12834
Parcel ID 533489; 221.-2-8*

Attached please find a signed and notarized designation form for the property referenced above.

The current owner, Alan P. Dupuis, has accepted an offer on the property which was listed for sale with my company, Leon H Barkley Real Estate. The buyers, Nicholas Kostick and Joseph Dauphin (brothers) are requesting an extension of the current variance that was issued to Mr. Dupuis, which expires on May 1, 2014.

They intend to build a single family home on the property, which they will reside in. The closing is tentatively scheduled for the first week in May 2014, provided all

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conditions are met. Attached are rough sketches of the home, which will be placed on the existing foundation at the property, just as the current owner had intended.

Please contact me if you have any additional questions.

*Sincerely,
Melanie Whitehouse-Casey, Licensed Agent
518-321-7194 cell
Leon H Barkley Real Estate
1 East Main Street, Suite 2
Cambridge, NY 12816*

ZBA Chairman John Farndell asked if there was anyone present represent the letter that was submitted. Two members of the public, Nicholas Kostick and Joseph Dauphin stated that they are in the process of purchasing the property, 355 Derby Road, from Mr. Dupis and the closing is scheduled for the end of the month. ZBA Chairman John Farndell asked when they planned on building. Mr. Kostick stated that they want to start within the next couple months. ZBA Chairman John Farndell stated that the Zoning Ordinance does not have a process for extending an area variance. ZBA Member Tammara Van Ryn asked what section of the Zoning Ordinance states that the area variance expires. ZBA Member Dawn Sharts stated it is Section 190-85. ZBA Chairman John Farndell read Section 190-85 to the Board: *Section 190-85. Expiration of decision. Unless otherwise specified by the ZBA, a decision of any appeal or request for a variance shall expire if the applicant fails to obtain any necessary building permit or comply with the conditions of said authorized permit within one year from the date of authorization.* ZBA Chairman John Farndell stated that since there is no process for an extension of an area variance the applicant will have to reapply. ZBA Clerk Amanda Willetts stated that Area Variance #2012-02 has already expired on July 12, 2013 therefore a new application will need to be filed. No County Referral is needed for this application. ZBA Member Tammara Van Ryn made a motion that the letter received by the Board from Melanie Whitehouse-Casey be considered an initiation of an area variance application, Area Variance #2014-03, therefore the Board decided to set the public hearing for Area Variance #2014-03 for June 5, 2014 at 7:05 pm, pending all the necessary paperwork is submitted.

RESOLUTION NO. 04-2014
Public Hearing on AV #2014-03

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

and passed unanimously by said Board,

RESOLVED, that the letter received by the Zoning Board of Appeals from Melanie Whitehouse-Casey be considered an initiation of an area variance application, Area Variance #2014-03,

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and therefore be it,

RESOLVED, that the Zoning Board of Appeals grant the Public Hearing for Area Variance Application # 2014-02, submitted by Nicholas Kostick and Joseph Dauphin, concerning property located at 355 Derby Road, that will take place on June 5, 2014 at 7:05 pm at the Town Office Building, 2 Academy Street, Greenwich, pending all the necessary paperwork is submitted.

RECORD OF VOTE:

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

ZBA Member Tammara Van Ryn explained the building permit and area variance process to the applicants.

NEW BUSINESS:

Area Variance # 2014-01- Submitted by Battenkill Motors. Applicant would like to replace the current free standing sign with a new sign of the same dimensions. The current sign does not comply with the current zoning regulations, however, the sign was placed prior to the adoption of the Zoning Ordinance. Applicant is seeking an area variance in order to replace the sign. Property is located in a Commercial District. Parcel ID# 228.-3-12.1.

ZBA Chairman John Farndell asked if anyone was present to represent Area Variance #2014-01. A Member of the public David Peek stated that he was there representing the area variance application. ZBA Chairman John Farndell asked Mr. Peek to explain his need for an area variance. Mr. Peek stated that he would like to replace the current freestanding sign in kind. The current sign is 12 ft high and the Zoning Ordinance only allows a maximum free standing sign height of 10 ft. Mr. Peek stated that if he lowers the sign by 2 ft then the sign will not be visible when the bigger vehicles are parked near it. ZBA Chairman John Farndell stated that he could park smaller cars there. Mr. Peek stated that he could but not everyone likes the smaller cars. ZBA Member Tammara Van Ryn stated that one of the test questions that will be asked during the variance process is whether or not the hardship is self-created and she feels in this instance it would be. ZBA Chairman John Farndell said the Zoning Ordinance states that within 10 years all nonconforming signs in the Town of Greenwich must come into compliance. *Section 190-61, J. Nonconforming signs. A nonconforming sign is a sign which is in conflict with the provisions of this article. Except for any sign for which a variance was previously granted and except for any off-site commercial sign with a sign face greater than 65 square feet, any sign in existence on the effective date of this article and made nonconforming by the provisions of this article shall be brought into conformity in all respects with the provisions of this article or shall be removed within 10 years of its effective*

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date. No alterations to any off-site commercial sign in excess of 65 square feet shall be allowed other than normal maintenance, and should such sign be removed then no sign prohibited by this article shall be permitted at that site. ZBA Member Tammara Van Ryn stated that when they were reviewing signs within the Town they realized that there were a lot of nonconforming signs and the only way to bring them into compliance was to give them a time frame to comply by. Mr. Peek asked if they were going to go around to everyone in the Town and enforce the sign regulation. ZBA Chairman John Farndell stated that the Code Enforcement Officer has already taken an inventory of all the nonconforming signs and will be enforcing the law. Mr. Peek asked how the Town will be able to make all the businesses comply with the regulation. ZBA Chairman John Farndell stated that he was unsure what the process was to make them come into compliance because that is handled by the Greenwich Town Board and this Board only deals with appeal cases not enforcement. Mr. Peek stated that his sign is 2 ft taller than it should be and is also located under power lines, therefore in 10 years will he be able to have a sign in front of the building. ZBA Chairman John Farndell stated that there is nothing in the Zoning Ordinance in reference to a sign being placed under power lines. Mr. Peek stated that he remembered reading something that didn't allow sign to be placed under the power lines. ZBA Chairman John Farndell stated that to his knowledge there is no regulation that states a freestanding sign cannot be placed under a power line. ZBA Member Dawn Sharts stated that the regulation was placed to make the Town look more uniform and less hodgepodge. ZBA Chairman John Farndell stated that the current sign at Battenkill Motors is only 40 sq ft. The Zoning Ordinance allows a freestanding sign to be up to 65 sq ft. Mr. Peek stated that he would have to drop the sign down 2 ft but be able to make the sign wider. ZBA Member Gregory Smith said that is correct he could redesign the sign so that it is bigger. Mr. Peek stated that he cannot just replace the sign with the exact same sign but new. ZBA Member Tammara Van Ryn stated that you could replace the face of the sign however you cannot change the structure of a nonconforming sign unless it is to make it conforming. Mr. Peek said that he could change the sign now but then have to change it again, if nonconforming in 8 years. ZBA Chairman John Farndell stated that according to the current zoning regulations that is correct. Mr. Peek asked if there was anything regarding a sign being placed under power lines. The Board stated that as far as they are concerned there are no regulations in the Zoning Ordinance regarding a sign under power lines. If it is a regulation it may be with either the Town local laws or possibly a regulation with National Grid. Mr. Peek stated that since the sign would have to come into compliance within the next 8 years he said it doesn't make sense to take up everyone's time to go any further. ZBA Chairman John Farndell stated that was Mr. Peek's choice to decide to go further with the application or withdraw the application. Mr. Peek stated that he would like to withdraw the application and thanked the Board for their time.

NEW BUSINESS:

ZBA Chairman John Farndell stated that the order of business was Clear Water Pools. Jim Ball was present representing Clear Water Pools. Mr. Ball stated that he has an issue with setbacks as well as square footage. Mr. Ball reviewed his site plans with the Board. Mr. Ball stated that he had a letter that is signed by adjoining property owners that state they support

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the addition and improvements that Mr. Ball is doing to the property however he forgot to bring it. Mr. Ball stated that he is 12 sq ft over for the square footage requirements. ZBA Member Tammara Van Ryn stated that she needs clarification as to what is being requested from Mr. Ball. Code Enforcement Officer Dan O'Connor stated that there are two issues. First issue is a setback issue with the front yard setback, which is a 35 ft requirement due to being located on County Route 29. The applicant only has 31 ft therefore he will need to obtain a 4 ft area variance to allow for the addition. Code Enforcement Office Dan O'Connor stated that he signed the building permit for 476 sq ft to allow for the applicant to start building. Dan continued that Mr. Ball has to appear before the ZBA and obtain an area variance as well as before the Planning Board for approval due to the building exceeding 500 sq ft. Discussion ensued regarding the site plan and the nonconformity of the structure. ZBA Chairman John Farndell stated that the application will have to be referred to the Washington County Planning Board due to the property being located on County Route 29. John continued that the referral could be submitted for the June meeting therefore the Board could set the Public Hearing on the application for the July 3, 2014 meeting. John asked Mr. Ball if he had an area variance application. Mr. Ball stated that he did and submitted it. ZBA Chairman John Farndell stated that the Board will need the designation form giving Mr. Ball permission to represent the property owner, the application and mailing fees as well as a copy of the site plan submitted to ZBA Clerk Amanda Willetts by May 8th, 2014. If the required paperwork is not submitted by May 8th, 2014 then the application will be unable to be submitted to the Washington County Planning Board for their June 2014 meeting. Mr. Ball stated that he will be seeing the property owner the next day therefore he will have no problem submitting the paperwork by the May 8th date. The Board decided to set the public hearing for the July 3, 2014 meeting at 7:05 pm to allow for the return of the Washington County Planning Board referral.

RESOLUTION NO. 05-2014
Public Hearing on AV#2014-04

Motion by ZBA Member Tammara Van Ryn,
Seconded by ZBA Member Gregory Smith,

and passed unanimously by said Board,

RESOLVED, that the Zoning Board of Appeals grant the Public Hearing for Area Variance Application # 2014-04, submitted by Jim Ball, concerning property located at 1100 State Route 29, that will take place on July 3, 2014 at 7:05 pm at the Town Office Building, 2 Academy Street, Greenwich, pending all the necessary paperwork is submitted.

RECORD OF VOTE:

Chairman John Farndell	AYE
Member Gregory Smith	AYE
Member Ralph Vecchio	ABSENT
Member Dawn Sharts	AYE
Member Tammara Van Ryn	AYE

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Member Roland Mann (Alternate) AYE

NEW BUSINESS:

ZBA Chairman John Farndell stated that Jacki and Kevin Chamberlain were present and wanted to address the Board. Jacki Chamberlain stated that they were granted an area variance in February 2012 to build on their property, AV #2011-05. They finally received a loan, which is closing in three weeks, and were recently completing the building permit application when it came about that their area variance was only good for one year, if they didn't obtain a building permit within that time then the area variance expires. Mrs. Chamberlain stated that she knew nothing of the expiration date and she assumed that once the area variance was granted it was granted forever. ZBA Chairman John Farndell stated that it is as long as a building permit is obtained. Mrs. Chamberlain stated that is wasn't therefore she has completed a new area variance application and submitted it. The application and mailing fees were discussed and Mrs. Chamberlain stated that she would submit them the following week. Mrs. Chamberlain also asked if she could make a recommendation to the Board. The Board replied yes. Mrs. Chamberlain stated that she would recommend placing the information somewhere on the area variance decision form that the area variance will expire within one year if a building permit is not obtained. The Board agreed with her recommendation. ZBA Member Tammara Van Ryn stated that she would like to set the public hearing on the area variance application for June 5th, 2014 at 7:30 pm.

RESOLUTION NO. 06-2014
Public Hearing on AV#2014-02

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

and passed unanimously by said Board,

RESOLVED, that the Zoning Board of Appeals grant the Public Hearing for Area Variance Application # 2014-02, submitted by Jacki and Kevin Chamberlain, concerning property located at 62 Brophy Road, that will take place on June 5, 2014 at 7:30 pm at the Town Office Building, 2 Academy Street, Greenwich, pending all the necessary fees are submitted.

RECORD OF VOTE:

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

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CORRESPONDENCE:

The Board reviewed the monthly budget for the months of February, March and April 2014 submitted by Budget Officer Kellie Blake.

A letter was received from Chris DeBolt regarding his position as part time Planner for the Washington County Planning Department.

MINUTES:

ZBA Chairman John Farndell asked the Board if they had reviewed the minutes from the January 2, 2014 meeting. The Board stated that they did not. Therefore the Board decided to defer the minutes for the June 5, 2014 meeting.

DISCUSSION:

ZBA Chairman John Farndell stated that he will be unable to attend the July 3, 2014 meeting therefore ZBA Member Gregory Smith will be acting Chairman.

ZBA Chairman John Farndell stated that he feels that the time frame should be added to the area variance decision form. The Board agreed and the following decision was made.

RESOLUTION NO. 07-2014
Addendum to the Area Variance Findings and Decisions Form

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

and passed unanimously by said Board,

RESOLVED, that the Zoning Board of Appeals finds that the Area Variance Findings and Decisions Form be amended to add that in reference to Zoning Ordinance Section 190-85, Expiration of decision, which states *Unless otherwise specified by the ZBA, a decision of any appeal or request for a variance shall expire if the applicant fails to obtain any necessary building permit or comply with the conditions of said authorized permit within one year from the date of authorization.*

RECORD OF VOTE:

Chairman John Farndell	AYE
Member Gregory Smith	AYE

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

ZBA Chairman John Farndell stated that he would like to discuss with Tony Izzo, the ZBA Attorney, the fact that there is no process for extending an area variance in the Zoning Ordinance. The Board agreed. ZBA Member Tammara Van Ryn stated that it would be easy similar language such as *“one or more extensions of time not to exceed a year can be granted by the ZBA to extend the effect of life of the area variance if the facts supporting in the granting of the approval have not materially changed”*.

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

and passed unanimously by said Board,

That the meeting be adjourned at 8:27 pm.

Respectfully Submitted

Amanda Willetts,
ZBA Clerk