

**Town of Greenwich
Zoning Board of Appeals
June 5, 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, June 5, 2014 at 7:00 pm.

MEMBERS PRESENT:

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

OTHERS PRESENT: ZBA Clerk Amanda Willetts, Code Enforcement Officer Dan O'Connor, Nicholas Kostick, Joseph Dauphin, Gerald and Deborah Thomsen, Jacki and Kevin Chamberlain, Ken Charron and Jim Ball.

ZBA Clerk Amanda Willetts called roll.

CORRESPONDENCE:

The Board reviewed the monthly budget for the month of May 2014 submitted by Budget Officer Kellie Blake.

ZBA Chairman John Farndell stated that ZBA Clerk Amanda Willetts sent Mr. Ball a letter regarding AV# 2014-04. The letter was sent because Mr. Ball has not yet submitted the required paperwork to move forward with his area variance. ZBA Clerk Amanda Willetts stated that she tried to contact Mr. Ball multiple times and received no response as well as stopped by the Clear Water Pools business at which time Mr. Ball was not there. Due to the failure to submit the necessary documents the public hearing that was set for July 3, 2014 on the application must be postponed. The letter sent to Mr. Ball reads as follows:

May 23, 2013

Dear Mr. Ball:

At the May 1, 2014 meeting held by the Town of Greenwich Zoning Board of Appeals, the Board asked you to submit the Area Variance Application Fee, completed designation form as well as a copy of the proposed site plan to ZBA Clerk Amanda Willetts by May 8th, 2014. We have attempted to contact you prior to the deadline and received no response. We still to date have not received the above mentioned documents. Due to the failure to submit the necessary documents your public hearing that was set for July 3, 2014 will have be postponed.

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The Zoning Board of Appeals is requesting your presence at their next meeting that is set to take place on June 5, 2014 at 7 pm, located at the Town Office Building, 2 Academy Street, Greenwich in order to discuss moving forward with your application.

In the event that you do not attend the June 5, 2014 meeting your application for an area variance will be on hold until further notice from you.

*By Order of the Zoning Board of Appeals,
Amanda Willetts,
Zoning Board of Appeals Clerk*

At this time Mr. Ball was not present at the meeting however did show up later on, see DISCUSSION portion of the minutes.

MINUTES:

ZBA Chairman John Farndell asked the Board if they had reviewed the minutes from the January 2, 2014 and May 1, 2014 meetings. The Board stated that they did. ZBA Member Tammara Van Ryn made a motion to accept the minutes with the correction of typographical errors, no substance changes, which she showed ZBA Clerk Amanda Willetts. The following decision was made.

RESOLUTION NO. 08-2014
App. of Minutes 01/02/2014 and 05/01/2014

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

and passed by said Board,

RESOLVED, that the minutes of the January 2, 2014 and May 1, 2014 meetings be accepted and approved with the correction of typographical errors, no substance changes, found by ZBA Member Tammara Van Ryn.

RECORD OF VOTE:

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

PUBLIC HEARING:

Area Variance Application #2014-03 – Submitted by Nicholas Kostick and Joseph Dauphin (brothers). Application concerns property located at 355 Derby Road, Greenwich.

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Applicant would like to construct a single family home on an existing foundation. The existing foundation is 28 ft by 24 ft with one corner being 33 ft from the road and the other being 44 ft from the road. The Zoning Ordinance requires 50 ft setbacks. Applicant is requesting a 17 ft and a 6 ft area variance to allow the construction of the home. Property is located in a Rural Agricultural District. Parcel ID# 221.-2-8.

ZBA Chairman John Farndell opened the Public Hearing at 7:05 pm at which time he asked if any member of the public would like to speak. There was no response. ZBA Chairman John Farndell stated that this property was previously granted an area variance to Alan Dupuis on July 11, 2012. The area variance has expired due to Mr. Dupuis' failure to obtain a building permit. Mr. Kostick and Mr. Dauphin have recently purchased the property and would like to build on the existing foundation. ZBA Member Tammara Van Ryn asked ZBA Clerk Amanda Willetts if there were any conditions placed on the previously granted area variance regarding the foundation. ZBA Clerk Amanda Willetts said there was and it states *'that the 17 ft area variance is ONLY granted for the structure to be built on the existing foundation and any other structure will either need to comply with the zoning regulations or seek a separate area variance.'* ZBA Member Ralph Vecchio asked Code Enforcement Officer(CEO) Dan O'Connor if there was something that made the County aware that there are restrictions on this property. CEO Dan O'Connor stated that he could make a note on the building permit in reference to the area variance. ZBA Member Ralph Vecchio stated he did not want to see the structure extend the foundation. CEO Dan O'Connor said that they could extend off the rear of the foundation just not the front. ZBA Member Ralph Vecchio stated that he just wanted to make sure that the proper procedures are followed. ZBA Chairman John Farndell closed the public hearing at 7:10 pm. ZBA Member Tammara Van Ryn made a motion to approve the area variance as it was previously granted, 17 ft from the front yard line, with the addition of extending the area variance to expire two years from being granted, if a building permit is not obtained, rather than the current one year expiration.

RESOLUTION NO. 09-2014
Type 2 Action, SEQRA - AV# 2014-03

Motion by ZBA Member Gregory Smith,
Seconded by ZBA Member Ralph Vecchio,

and passed unanimously by said Board,

RESOLVED, that pursuant to Section 617.5 of the New York State Environmental Conservation Law the proposed area variance application AV #2014-03 is a type two action and therefore requires no further State Environmental Quality Act Review.

RECORD OF VOTE:

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

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Member Roland Mann (Alternate) N/A

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. Existing foundation.
2. *Whether benefit sought by applicant can be achieved by a feasible alternative to the variance?* No. The foundation is existing.
3. *Whether the requested variance is substantial?* No.
4. *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* No. The foundation is existing.
5. *Whether the alleged difficulty was self-created?* No. Acquired the property in 2014, the foundation was pre-existing.

RESOLUTION NO. 10-2014
Granting of AV # 2014-03

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

and passed unanimously by said Board,

RESOLVED, that the ZBA, after taking into consideration the five factors, finds that the benefit to the Applicants, Nicholas Kostick and Joseph Dauphin, does outweigh the detriment to the neighborhood or community and therefore Area Variance # 2014-03 is granted,

and be it further,

RESOLVED, that the ZBA finds that an area variance of 17 ft 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 the 17 ft area variance is ONLY granted for the structure to be built on the existing foundation and any other structure will either need to comply with the zoning regulations or seek a separate area variance,

and be it further,

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RESOLVED, that AV# 2014-03 is granted an extension of two years, therefore the applicants must obtain a building permit on or before June 4, 2016 otherwise the area variance will expire.

RECORD OF VOTE:

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

NEW BUSINESS:

Interpretation #2014-01-Submitted by Gerald Thomsen regarding CEO Dan O'Connor's decision on what is considered a 'for sale vehicle' as it pertains to parcel 228.15-1-11, that for future enforcement of the Special Use Permit conditions, granted by the Town of Greenwich Planning Board, there will be clarity on what the definition of a 'for sale vehicle' is.

ZBA Chairman John Farndell read the Interpretation Application to the Board in which Mr. Thomsen states he is seeking an appeal to *'The number of cars for sale on the above property, 1094 State Route 29, include vehicles with dealer plates and those registered with for sale signs clearly visible. The Code Enforcement Officer feels those vehicles are not for sale. Needs clarification. They disagree that all vehicles on property at State Route 29(1094) with for sale signs are for sale. For sale vehicles are required to be parked at the west end of the property. See minutes of Planning Board Meeting 11/20/2013.'* ZBA Clerk Amanda Willetts gave all the Board members copies of the Planning Board minutes, 11/30/2013 and 05/15/2014, that discuss the approval and conditions of the Site Plan Review. *Site Plan Review #2013-04 Submitted by Christopher Sass was approved on 11/30/2013 with the following conditions: 1. Maintain signs on property as follows: a) Directing Exit to the right only. b) "No Entrance" on chain running at entrance of display area. 2. All vehicles will be washed off property. 3. The number of vehicles for sale on site is limited to 12 at any given time. 4. Commercial activity on site is limited to minor repair work for cosmetic purposes to prepare vehicles for sale, and sale of vehicles. 5. This site plan does not approve the property for any auto body work or general auto repair.* Mr. Thomsen states that they had attended a recent Planning Board meeting where he explained the situation to the Board that they feel there are more than 12 vehicles for sale on Mr. Sass' property. There was a vehicle that had a dealer plate and one was registered but still had for sale signs on them, which Mr. and Mrs. Thomsen feels they are clearly for sale. At that time there were 14 cars located on the property. Code Enforcement Officer Dan O'Connor's decision was that the property owner explained to him that those cars were not for sale therefore there were only 12 vehicles for sale. Mr. Thomsen said that those two vehicles were located on the east end of the property with for sale signs on them. Mr. and Mrs. Thomsen said that Mr. Sass is

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currently in compliance with the conditions of the Site Plan Review. ZBA Chairman John Farndell said he feels that if a vehicle has dealer plates on it it's for sale. ZBA Member Tammara Van Ryn said they could clarify that any vehicle on the property that is not privately registered will be considered a for sale vehicle. The Town of Greenwich Zoning Board of Appeals' Interpretation Decision and Findings as to what constitutes a 'for sale vehicle' is as follows: *"Any vehicle that is located on the lot that has dealer plates or no plates, therefore not privately registered, regardless of whether or not there is a 'for sale' sign located on the vehicle, will be considered a 'for sale vehicle'".* ZBA Member Ralph Vecchio stated that the property owner, Christopher Sass, should be notified that the interpretation is being reviewed by the Board, therefore, the Board will send a copy of the proposed decision at which time Mr. Sass will have an opportunity to comment if he so wishes.

RESOLUTION NO. 11-2014
Interpretation Application # 2014-01

Motion by ZBA Member Ralph Vecchio,
Seconded by ZBA Member Dawn Sharts,

and passed unanimously by said Board,

Be it proposed, that the Town of Greenwich Zoning Board of Appeals' Interpretation Decision and Findings as to what constitutes a 'for sale vehicle' is as follows: *"Any vehicle that is located on the lot that has dealer plates or no plates, therefore not privately registered, regardless of whether or not there is a 'for sale' sign located on the vehicle, will be considered a 'for sale vehicle'".*

therefore be it,

RESOLVED, that the Zoning Board of Appeals will send the proposed Interpretation Decision and Findings # 2014-01, submitted by Gerald Thomsen, to property owner Christopher Sass for him to review and have an opportunity to comment if he so wishes,

be it further,

RESOLVED, that the Zoning Board of Appeals will, if not contacted by or anything received from property owner Christopher Sass, make a final decision on Interpretation # 2014-01 at the next held meeting.

RECORD OF VOTE:

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

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PUBLIC HEARING:

Area Variance #2014-02 – Submitted by Jacki and Kevin Chamberlain concerning property located at 62 Brophy Road, Greenwich. Applicant would like to construct a carriage house and a cottage residence on the property. Applicant's property has a National Grid Easement which runs through the middle of the property. Applicant is looking to construct the buildings 25 ft from either side of the easement. The Zoning Ordinance Section 190 Table 2A requires setbacks be 50 ft from property lines. Applicant is seeking two 25 ft area variance. Parcel is located in a Rural Agricultural District. Parcel ID # 230.-1-9.4

ZBA Chairman John Farndell opened the Public Hearing at 7:30 pm and stated that he had spoken with ZBA Attorney Anthony Izzo at which time Mr. Izzo advised him that the Board has the power to extend the area variance due to no significant change instead of going through the entire process. ZBA Member Tammara Van Ryn asked how the Board can issue an extension on an area variance that has expired. ZBA Chairman John Farndell said that due to no substantial change the variance could be extended for another year. ZBA Member Tammara Van Ryn said that she feels it is cleaner to issue a new area variance than to issue an extension on something that no longer exists due to it being expired. ZBA Chairman John Farndell stated the Board can grant a new variance as well. ZBA Member Tammara Van Ryn asked the applicants if there have been any changes to their plans. Mrs. Chamberlain stated that they are going to build the cottage first on the front lot and then build the second one thereafter. Mrs. Chamberlain asked the Board to consider changing the Town's current local zoning to have an area variance never expire instead of expiring in one year because she found that the Village of Fort Edward zoning laws do not place an expiration on area variances. ZBA Member Ralph Vecchio stated that the area variance only expires in one year if the applicant does not obtain a building permit. ZBA Chairman John Farndell stated that their reasoning for placing the expiration date on the area variance is because the zoning laws are constantly changing, therefore, something that was not an issue when the area variance was granted may become one due to new regulations. Mrs. Chamberlain said that she would like to share with the Board that her and her husband have been building houses for about 22 years and their cottage that they are planning to build will be the very first Department of Energy zero ready energy home in Greenwich and Washington County. ZBA Member Ralph Vecchio asked if it would be possible for the applicants to come back and ask for an extension of the area variance. ZBA Member Tammara Van Ryn stated that they can but the Board does not have a set process of how to issue an extension. ZBA Chairman John Farndell stated that he also addressed this question with the ZBA Attorney Anthony Izzo and Mr. Izzo stated that the Board can issue the extension by following the same procedure as you would to issue an area variance. A member of the public Ken Charron, an adjoining property owner to Mr. and Mrs. Chamberlain, asked if the area variance is being granted from only the National Grid easement and not from any other property lines. The Board said that is correct. Mr. Charron thanked the Board and said that was his only concern, he is fine with it. ZBA Member Tammara Van Ryn stated that she would like to grant the area variance with no time frame as long as the property owner does not change. ZBA Chairman John Farndell stated he is not comfortable with that and he feels that at most they should issue it for 2 to 3 years. ZBA Chairman John Farndell explained to Mrs. and Mr. Chamberlain that if they need more than

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three years then they need to come to the Board before the expiration of the area variance. ZBA Member Tammara Van Ryn made a motion that the area variance be granted the same as the previous variance with a time limit of three years provided there is no change in ownership or substantial change in the plans.

RESOLUTION NO. 12-2014
Type 2 Action, SEQRA - AV# 2014-02

Motion by ZBA Member Gregory Smith,
Seconded by ZBA Member Dawn Sharts,

and passed unanimously by said Board,

RESOLVED, that pursuant to Section 617.5 of the New York State Environmental Conservation Law the proposed area variance application AV #2014-02 is a type two action and therefore requires no further State Environmental Quality Act Review.

RECORD OF VOTE:

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

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.
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. 25 ft is a substantial area variance. Unique circumstance of National Grid owning property that runs through the middle of the applicant's property and the National Grid property is scarcely used.
4. *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* No.
5. *Whether the alleged difficulty was self-created?* Yes.

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RESOLUTION NO. 13-2014
Granting of AV # 2014-02

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

and passed unanimously by said Board,

RESOLVED, that the ZBA, after taking into consideration the five factors, finds that the benefit to the Applicants, Jacki and Kevin Chamberlain, does outweigh the detriment to the neighborhood or community and therefore Area Variance # 2014-02 is granted,

and be it further,

RESOLVED, that the ZBA finds that an area variance of 25 ft 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 AV# 2014-02 is granted an extension of three years, therefore the applicants must obtain a building permit on or before June 4, 2017 otherwise the area variance will expire.

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)	ABSENT

DISCUSSION:

ZBA Member Tammara Van Ryn asked if the Board could obtain something from ZBA Attorney Anthony Izzo regarding granting extensions on area variances. ZBA Chairman John Farndell said that he will request that Mr. Izzo attend the August 7, 2014 meeting and explain it to the Board at that time. The Board agreed.

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Once Mr. Ball was in attendance, ZBA Chairman John Farndell asked Mr. Ball if he had the paperwork that needed to be submitted to the Board. Mr. Ball stated that he did not. Mr. Ball said that he did get the property owner to sign the designation form and he has all the paperwork to submit to the Board however, he does not know where it is due to it being misplaced. ZBA Clerk Amanda Willetts asked Mr. Ball if he had the 12 copies of the plans to submit. Mr. Ball said he did not but he will get copies made. ZBA Chairman John Farndell explained to Mr. Ball that without the paperwork they cannot move forward with the area variance process which will prolong going before the Planning Board as well. Mr. Ball said that he is in his busy season at work and that has been taking up his time. ZBA Chairman John Farndell told Mr. Ball that he is going to start running into complications if he does not get the information needed to the Board and told him the paperwork needs to be to ZBA Clerk Amanda Willetts by 3:00 pm on June 13, 2014. ZBA Member Dawn Sharts asked what would happen if he does not submit the paperwork by then. ZBA Chairman John Farndell stated that the public hearing will be moved again into September. The public hearing will currently have to be postponed until the August 7, 2014 meeting.

RESOLUTION NO. 14-2014
Postpone Public Hearing on AV#2014-04

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

and passed by said Board,

RESOLVED, that the Public Hearing on Area Variance #2014-04, Submitted by Jim Ball, which was set to be held on July 3, 2014 at 7:05 pm be postponed to August 7, 2014 at 7:05 pm due to applicant lacking to submit the necessary paperwork.

RECORD OF VOTE:

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

DISCUSSION:

Code Enforcement Officer Dan O'Connor asked the Board if they looked up the New York State definition for a for sale vehicle. ZBA Clerk Amanda Willetts stated that she searched for one but there was no NYS definition for a for sale vehicle. ZBA Chairman John Farndell stated that he feels that if a car has a dealer plate on it then it should be consider for sale. Code Enforcement Officer Dan O'Connor said he advised Mr. Thomsen to come to the ZBA since Mr. Thomsen did not agree with his decision and seek some clarification.

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CORRESPONDENCE:

ZBA Chairman John Farndell stated that he had received a letter from the Associations of Towns 2014 Planning and Zoning Summer School. It will take place on Thursday July 31, 2014 at the Century House in Latham from 8:30 am to 3:45 pm. The Board was advised to contact ZBA Clerk Amanda Willetts if they wish to attend.

Motion by ZBA Chairman John Farndell,
Seconded by ZBA Member Gregory Smith,

and passed unanimously by said Board,

That the meeting be adjourned at 8:15 pm.

Respectfully Submitted

Amanda Willetts,
ZBA Clerk