

ZONING BOARD OF APPEALS MEETING MINUTES - FINAL  
WEDNESDAY, MARCH 23, 2016

MEMBERS PRESENT:

Rocco Mancini, Chairman  
Stephanie Fitzpatrick  
Ingrid Kulick  
Martin Otter  
Phillip Zemke

MEMBERS ABSENT:

None

ALSO PRESENT:

Chairman Mancini opened the meeting at 7:00 p.m.

**Public Hearings:**

- 1. Fraina Special Use Permit** – Diane Fraina appeared for the continuation of her special use permit application for an existing accessory apartment on her property located at 17 Molland Drive, tax grid number 6470-0-420487. The property is 3.7 acres located in the A3A zoning district. Mr. Zemke said there were concerns raised at the last meeting by a neighbor regarding the stability of the septic system. Chairman Mancini and Mr. Zemke visited the site, observed the leaching field and the drain pipes connected to the roof drains. They did not see any evidence of leakage; the septic appears to be a working system. Ms. Fraina said since the septic repair, there was a couple living downstairs taking care of her mother, her son was living there for a while with his girlfriend and her mother lived in the garage apartment with an aide. There are less people now than ever before, just her and a student who attends college. The garage apartment is a one bedroom so could, at the most, house two people and Ms. Fraina said she dismantled the basement apartment and removed the kitchen. Chairman Mancini said he spoke to Mr. Vonderleith who did the septic repairs and Mr. Vonderleith told him it was fixed. Joseph Varlaro, the neighbor who expressed concern, said he spoke to Vonderleith who told him the fix he did was a band aid. Mr. Varlaro does not believe the septic was repaired the way it should be and he does not believe it can handle the extra load of an apartment. He had this issue with the previous owners and there are still exposed pipes, but he acknowledged there have not been any problems since 2006 when the repairs were done. Ms. Fraina said she was under the impression Mr. Vonderleith fixed the system permanently. Mr. Zemke asked Mr. Varlaro if there have been any problems in the past 10 years. Mr. Varlaro said he has not noticed any problems but it was an ongoing issue for many years before Ms. Fraina bought the house. It really seemed to act up when there were a lot of people in the house. Chairman Mancini said Mr. Vonderleith told him he put in two 1,000 gallon diffusers. He and Mr. Zemke checked the two roof drains and no leakage was spotted and there was no bacterial smell. Mr. Varlaro said when Mr. Vonderleith did the repairs, he re-routed the pipes coming from the washing machine so that problem was taken care of. Mr. Varlaro said normally, when a person applies for a special use permit for an accessory apartment, they have to provide adequate proof that the septic can handle the additional load. He said he does not want the problem to come back.

If Ms. Fraina sells the house and there is an existing apartment and three bedrooms, if the house is full to capacity, the problem could come back. Ms. Fraina said if she sold the house, someone would have to come in and inspect. That’s what happened when she bought the house and a problem was discovered and that’s when she put in the new septic tank. The original septic pre-dates Board of Health approval. Mr. Otter said the apartment presently is not occupied. How do we know the septic will work once someone is living there? Mr. Zemke said the apartment was occupied from 2004 to a year ago. Repairs were done to the septic in 2006 because Mr. Varlaro noticed sewage coming out of a pipe. Mr. Vonderleith seems to have fixed the problem. There have been various people living in the house since then and there have been no problems. Now there are just two people living in the house. Mr. Varlaro said he just wants to make sure there is enough leach field to handle a three bedroom house plus the apartment.

Hearing no additional public comment, Ms. Fitzpatrick motioned to close the public hearing. Mr. Zemke seconded.

Rocco Mancini, Chairman	Aye	Martin Otter	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 5-0	

Chairman Mancini and the Board completed the findings which state that the use is in harmony with the purposes of this provision as an accessory apartment will provide additional places to live in town, it will not have a detrimental effect on the surrounding neighborhood and property values as the apartment is existing so there is no change to the property, the use will foster the most appropriate use of the land as it is a residential area, and the lot area is adequate being 3.7 acres in the A3A zoning district. With respect to the septic and water requirements, the lot area is adequate. No engineering report was submitted as the Board of Health does not have records on this pre-existing home. However, the applicant took steps to repair any specific problems as they arose. Since the repairs were made 10 years ago, there have not been any problems with the septic and the house has been fully occupied. Future occupancy will not exceed that. Special use permits are issued to the applicant, not the land, so if the house is sold in the future, the apartment will be inspected by the Building Inspector before the new owner can use it. The application is consistent with the Master Plan which encourages affordable and alternative housing.

Mr. Zemke motioned that the Zoning Board of Appeals grant the Special Use Permit for an accessory apartment. Ms. Fitzpatrick seconded.

Rocco Mancini, Chairman	Aye	Martin Otter	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 5-0	

- 2. Cole Area Variance** – Deborah Reynolds appeared as the authorized representative for Kenneth Cole for his area variance application to decrease his pre-existing, non-conforming lot area from 0.14 acres to 0.8 acres to allow a lot line adjustment to move forward with the Planning Board. Stephen Schreiber was also present. The property is located at 2 Old Mill Road, tax grid number 6371-

08-962814 in the Hamlet zoning district. The Planning Board sent a positive recommendation for approval dated February 8, 2016 to the ZBA. Chairman Mancini read the legal notice that was posted in the paper and sent to neighboring landowners and opened the public hearing. Ms. Reynolds said the property is bisected by Route 199 with a vacant 0.06 acres on one side and the house on the 0.08 acres on the other side. Mr. Cole is conveying the vacant 0.06 acres to Stephen Schreiber which Mr. Schreiber will add to his existing property through a lot line adjustment with the Planning Board. The 0.06 acres is not useful as a stand-alone lot.

Hearing no public comment, Ms. Kulick motioned that the ZBA close the public hearing for the Cole area variance application. Mr. Zemke seconded.

Rocco Mancini, Chairman	Aye	Martin Otter	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried	5-0

The Board completed the Findings and Decision which stated that an undesirable change will not be produced in the character of the neighborhood, the benefit sought by the applicant cannot be achieved by a feasible alternative to the variance, the requested variance is substantial in terms of the non-conformity of the lot but is not substantial in that the lot is pre-existing, non-conforming and was divided at the time Route 199 was constructed, the variance will not have an adverse impact on the physical or environmental conditions in the neighborhood, the alleged difficulty is not self-created since the property was divided at the time Route 199 was constructed. The benefit to the applicant does outweigh the detriment to the neighborhood or community. There were no conditions.

Mr. Zemke motioned that the Zoning Board of Appeals approve the Findings and Decision for the Cole area variance. Ms. Fitzpatrick seconded.

Rocco Mancini, Chairman	Aye	Martin Otter	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried	5-0

**Applications:**

- Ahlin Area Variance** - Edward Russell appeared as the authorized representative for Linda Ahlin’s area variance application to keep horses on 6.197 acres where the law required 10 contiguous acres on property located at 437 Field Road, tax grid number 6570-00-036782 in the Z5A zoning district. Mr. Russell said Ms. Ahlin’s property is right in the middle of the Jacoby farm which has been sold to the Meyers. She has three horses that have been there all their lives. Mr. Russell said he used to lease the Jacoby farm until the Meyers purchased it. He said Ms. Ahlin tried to purchase additional acreage from the Meyers to meet the 10 acre criteria but has been unsuccessful; that is why she is moving forward with the variance so she can keep the three horses. She has applied for the variance for a public stable in case she wants to breed her horses or possible train horses. There is a run in shed on the property now and they are showing on the site plan a proposed riding arena. The horses are on the property now. In the past, Ms.

Ahlin has always allowed the farm to use part of the field but since the property has been sold and the new owners are, according to Mr. Russell, reluctant to work with Ms. Ahlin, there is a barbed wire fence on each side of the road. Part of the lot is also fenced in for the horses. The Board agreed there is enough information to set the public hearing for the April 27<sup>th</sup> meeting and the Board members will have a site visit at some point. Chairman Mancini will set that up with the applicant.

Mr. Zemke motioned that the Zoning Board of Appeals set the date for the public hearing for the Ahlin area variance application for the Wednesday, April 27<sup>th</sup> ZBA meeting. Mr. Otter seconded.

Rocco Mancini, Chairman	Aye	Martin Otter	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 5-0.	

2. **Eiffert Area Variance** – Rhianna and Edward Eiffert appeared as the authorized representatives for the property owner, Scott Jones, seeking an area variance to place a swimming pool in the side yard in front of the front building line of the dwelling located at 96 North Road, tax grid number 6571-00-934671. Mr. Eiffert said the property is owned by Scott Jones and they are leasing it at the present time. He submitted some pictures and said North Road is all rock which makes it tough to put in an in ground pool. The area they are proposing is the best place on the lot. Behind the house is all wooded and rock so you would have to blast and the septic is in the space between the house and pool. Mr. Eiffert said you won't be able to see the pool from the road. They are planning to level the grade, no blasting or hammering, because it is like a valley now. The pool will be going in the valley and they will add some fill around it. Mr. Zemke said the site plan needs to show the driveways, the location of the septic field, the outcroppings, existing conditions, the dimensions from the fencing around the pool to the road and added that the proposed garage seems to be dictating where the pool is placed. Mr. Eiffert said they have dug some test pits and there is rock everywhere. There is a right of way that goes up and leads right to the garage. The design of the garage also incorporates a pool house which will consist of changing rooms but no plumbing is planned at this time. When asked about the stairs going to a second floor in the garage, Mr. Eiffert said at this time, there will only be storage above the garage. He said the house and leach field predate zoning; he does not know how big the leach field is. The Board would like to do a site visit some evening around 5:30. Chairman Mancini will set that up.

Mr. Zemke motioned that the Zoning Board of Appeals set the date for the public hearing for the Eiffert area variance application for the Wednesday, April 27<sup>th</sup> ZBA meeting. Ms. Fitzpatrick seconded.

Rocco Mancini, Chairman	Aye	Martin Otter	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 5-0	

**Discussion Items:** None

**Administrative Items:**

- **Approval of Minutes:** Ms. Fitzpatrick motioned that the Zoning Board of Appeals accept the minutes of the February 24, 2016 meeting as presented. Ms. Kulick seconded.

Rocco Mancini, Chairman	Aye	Martin Otter	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 5-0.	

Ms. Fitzpatrick motioned to adjourn the meeting at 8:00 p.m. Ms. Kulick seconded.

Rocco Mancini, Chairman	Aye	Martin Otter	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 5-0.	

The next regular meeting will be held on Wednesday, April 27, 2016 at 7:00 p.m. at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Catherine Gill, Town Clerk  
Town Board