

**TOWN OF SPRINGFIELD, NH  
ZONING BOARD OF ADJUSTMENT**

**September 9, 2010**

*The following are to be considered draft minutes only until approved by the Board at their next meeting.*

**Present:** Cynthia Hayes, Chairperson, Bill Sullivan, Vice Chair, Kathy Richardson, Barbara Dunlap, Gene Hayes and John Chiarella (Selectman representative). Not present: Sara Ellis (alternate).

**Others Present:** Dan Mitchell, Michael Hansen, Susan Hankin-Birke, Richard O'Day, Bryan O'Day, Justin Hastings, Tim Julian, Steven Berkeley, Susan Chiarella, Brandt Denniston and John Trachy.

Chair Hayes called the meeting to order at 7:00 pm. Chair introduced the board members and alternate candidates Susan Chiarella and Steven Berkeley.

**Minutes:** Bill Sullivan MOVED to approve the August 3<sup>rd</sup> minutes as presented. Gene Hayes second the motion. All in favor with Kathy Richardson abstaining.

Chair Hayes stated that the prior hearing lacked proof notification and a complete application including a scaled drawing. New notifications were sent and hearing process will start fresh. A letter was sent to the applicant stating exactly what was needed to proceed.

Kathy Richardson recused herself. Because it came up at a Selectboards meeting, Mr. O'Day was asked if there is anyone on the board that he feels is not impartial to his case. Susan Hankin-Birke distributed a document which contained Mr. O'Day's perspective on past history and the issue of potential influence alleging bias. Ms. Hayes asked for specifics. Mr. Chiarella representing the Selectboard stated there appears to be no formal complaints or a paper trail indicating any bias. Ms. Hankin-Birke reminded the board the jurisdiction falls on the advice of the board, it is up to a member to step down. The decision to do so is up to the board member. Ms. Hayes stated she had no bias or conflict of interest and choose not to step down.

Chair Hayes advised all on the rules of procedure - once the public hearing is open; the applicant is called to speak. Then the chair may recognize participants to introduce themselves and speak, followed by recognized rebuttal. One other point, any person who wants the board to compel a witness may do so in writing. The decision to subpoena is a board decision.

**O'Day Public Hearing called to order at 7:20.** Tim Julian asked how long the process takes. Chair Hayes responded, unless involved, the process usually takes two meetings.

Hayes read the VII. 7.10, the ordinance the applicant requests relief from, commercial structures shall be set back 150' from normal high water mark of ponds, lakes and

permanent streams. Board was advised to treat this meeting as if building does not already exist.

Attorney Susan Hankin-Birke spoke on Mr. O'Day's behalf. A drawing was distributed along with the five variance criteria addressed in writing.

In summary, as can be seen on the plan, an existing repair shop and shed exists. Mr. O'Day has an approved preexisting nonconforming building as the existing sand shed 43' to the high water mark of Star Lake Brook. Mr. O'Day proceeded with his new sand shed believing a permit was not needed. He received a notice a permit was required, permit was denied due to the regulation requiring a commercial structure to be 150' from the high water mark. After receiving written notice, an application for a variance was submitted. Hearing proceedings started, a site visit was conducted and the hearing was re-noticed bringing the proceedings to date.

The first criterion requires the variance not be contrary to the public interest - there is ledge and steep slope, the whole lot is not usable. The previously approved shed is proposed to be replaced because the height does not allow for emptying a truck. The proposed shed will be high enough to allow the product to be emptied into the shed at the opening. The new location, which is as far from the brook as possible is 95.1' to the high water line. The variance is not contrary to public interest as this allows loading product into a building directly without putting it on the ground. This is improving the situation.

The second criterion espouses the purpose of the ordinance. This request brings the property into greater compliance with the terms of the ordinance by moving the existing sand shed as far away from the stream as possible.

The third criteria relative to substantial justice – applicant has a vested and constitutionally protected right to continue his operations. Relocation of the sand shed does not create a negative visual impact and makes reasonable and appropriate use of the land creating a win-win situation. The proposed shed is tucked into the ledge, buffered from Stryker Road with existing shrubbery and trees. Responding to a question by the board, Mr. O'Day agreed to discontinue using the existing shed as a sand shed..

The fourth criteria addresses assurance that values of surrounding properties are not diminished. This property cannot be seen and there is a green buffer area. Mr. O'Day agreed to continue to maintain an evergreen buffer along the bank.

The fifth criteria part A relative to literal enforcement of the provision, unnecessary hardship and proposed reasonable use. This proposes to move the sand shed operation from 43' to 95' further away from the water. Again, the property will be brought into greater compliance. The proposed use is reasonable, the location the best possible, buffered from the road by greenery. This proposal meets the criteria for granting this ordinance, bringing property into greater compliance, will discontinue the use of the existing sand shed.

Richard O'Day was recognized, stating the evergreen buffer has been planted 3 or 4 times.

Chair Hayes if anyone wished to speak against the request for a variance - No one spoke against.

Chair Hayes stated her understanding the property is 5.7 acres, can the sand shed be located somewhere else on the lot to comply with the ordinance. Attorney Hankin-Birke responded that the existing business is located in this area of the lot. Moving the sand shed would require a new driveway access, moving his operation to a new area on the lot. He has been approved for the business in the place that is currently used as the business on the lot. Ms. Hankin-Birke concluded it doesn't make sense to ask him to expand business to another spot on the lot.

Brandt Denniston shared his view that trucks or trailers on a residential road can be unsafe.

John Chiarella stated we have talked about the steepness of Stryker Road, opening another access to that road would be detrimental to the stream.

Bill Huntoon stated the issue is to vote on a variance, questioning Chair Hayes on the suggestion to relocate the sand shed. Chair Hayes clarified that potential relocation addresses one of the criteria.

Justin Hastings noted that the Town has sand closer to the water than the sand shed Mr. O'Day is proposing.

John Trachy asked if approval would constitute expansion of the use of this property. Chair Hayes responded that it has been approved for the existing use. Chair asked the board if the additional structure would propose an expansion. Bill Sullivan asked what value would there be in restricting the use of the existing sand shed.

Chair closed the public hearing.

Board discussed each criterion and completed a variance worksheet. Points of discussion follow: Turning it down would not benefit the applicant or the stream. Albeit less than a desirable situation it constitutes an improvement. No matter what, the property will not be in strict conformance.

Bill Sullivan MOVED to approve the application with conditions. Conditions were discussed and stated as follows:

- The variance of 73.4' to be granted subject to:
- 1) No longer use the existing sand shed as a sand shed.

- 2) Continue requirement remain to maintain a buffer in good condition.
- 3) There is a time limit of one year from the granting of the variance for a roof to be placed on the proposed new sand shed. Until a roof is in place, owner to maintain a tarped cover over structure.
- 4) Limit use as a sand shed.

Gene Hayes seconds the MOTION to grant the variance with the stated conditions. MOTION to grant the 73.4' variance from Article VII, 7.10 of the Zoning Ordinance granted by unanimous approval.

Kathy Richardson rejoined the meeting.

**Michael Hansen Properties, LLC – Public Hearing** relative to proposed change in use for property located at 131 Maple Avenue, Map 3, Lot 520,487.

Michael Hansen and Dan Mitchell presenting the request. This proposal is not to change the current special exception, but to amend it to add winter boat storage. There will be an impact on Maple Ave. by increased traffic. We are not looking to add any additional areas, or lighting, or signage. We propose using buildings in the summer for bridge construction and in the winter for the boat storage. We are looking to add usage of the buildings that are there. Pieces for bridges are manufactured in summer, built and sent to the job. Chair Hayes asked him to identify the buildings. #1 services equipment trucks & cranes to be used in the Fall (Sept and Oct), no storage of boats. Bldg #2 – 35'x80' used to park trucks and equipment, use not being changed. Bldg. #3, 100'x 300' currently under construction, for a storage warehouse, to store bridge equipment in summer, boat storage in winter. This building can fit @ 200 boats. Building #4 is the office, 30' x 30' not built yet. #5 – 50' x 100' currently under construction, proposing storage for @50 boats with about 100 outside. There will be no visual impact to highway or neighbors. Under the power line, no tree clearing, no impact. Nothing will be at the entrance to the property. Hansen proposes a cap of 500 boats for storage. They will be stored only in the designated areas. No winterization will be done in any of the other buildings. Marine antifreeze is a biodegradable, marine product. Spill kits are required. The only impact would be the traffic. Based on 500 boats the traffic impact would be adding and removing them from storage, a maximum of 1001 trips, May thru June. A daily average of @16 trips per day, about 2 trips an hour. There are two residential property on the road.

Board discussed if Maple Lane, a dirt road, can handle the traffic. The driveway is paved. Base of driveway to Springfield road is dirt. Bell excavating is around the corner. Boats are substantially lighter than the equipment currently being transported on that road. The board agreed that the Town Road Agent should be consulted.

When asked about shrink-wrap, Mr. Hansen responded that there is a recycle program for the waste. All power washing is done with biodegradable soap. The water leaches into a

stone area. Maintenance and repairs will be done in building #1. 2 -5 employees are anticipated. There are bathrooms and a break area in the office building.

Board does not feel they need to do a site visit as one was done about a year ago.

Mr. Garfield inquired through Chair Hayes if there was any impact on his property, Mr. Hansen responded, no.

Bill Sullivan made a MOTION to continue the public hearing until October 5<sup>th</sup> at 7:10. Gene Hayes second the motion, all voted in favor. Mike Hansen agreed to update the map and provide copies to be distributed.

**Miscellaneous:**

In discussing the application process, board agreed copies of the application for all board members are to be provided by applicant including adequate copies of a scale drawing. Secretary agreed to make a check list to be attached to the application folder... fees paid, date legal notice, etc. Recording Secretary agreed to mail applications to the board members.

**Alternate:** Susan Chiarella and Steven Berkeley attended the meeting tonight as potential alternates. Susan agreed to be an alternate. Chair Hayes made a motion to approve Susan Chiarella as an alternate. Barbara Dunlap seconds the motion. All voted in favor. Steve Berkeley agreed to listen in to meetings and respond at a later time.

Meeting adjourned at 9:40 p.m.

Respectfully Submitted,

Deborah McGlew, Recording Secretary

As amended and approved at October 4, 2010 meeting.