

**Zoning Board of Adjustment
October 13, 2015
Ed Scovner, Chairman
7 p.m.**

Present: Ed Scovner-Chair, Tim Lenihan, Celie Aufiero, Ken May Mike Diehn, Kurt Gotthardt-alternate, Phil Neily-Zoning Administrator, and Paula Rowe Recorder.

Guests: Nancy Scovner, Dr. Beaufait, Ed McLaughlin, Julie McLaughlin, Mark Yeager, Maurice Vanderpot, James Bonner, Richard Mullaly, Louis Russo, David Stewart, Arnold Koch

Ed Scovner, Chairman called the meeting to order at 7 p.m.

Approval of Minutes:

In regards to last months meeting minutes, the McLaughlin case, Celie would like it added that she said that the soils are poorly drained and hydric.

Mr. David Stewart raised his hand and said that the Minutes were slanderous to him and said that the minutes were done poorly by Paula. Chairman Scovner said that the minutes are not intended to be verbatim, just a summary of what's said and that the only the motions and seconds must be recorded. Mr. Stewart continued speaking and objecting.

Dr. Beaufait raised his hand and spoke to the Chairman asking if the board used the same protocol as announced at the beginning of this meeting for other minutes. Chairman Scovner said yes, we follow the RSA. Dr. Beaufait felt that the statement contained in the Minutes that Mr. Stewart was referring to occurred outside the meeting, and should not be included.

Motion to approve the Minutes came forward from Celie Aufiero noting her addition, with a second from Tim Lenihan. Motion carried.

Public Hearings:

- 1. Mark Yeager is requesting a Variance from Article IV, Section 401.1, L. of the Town of Enfield Zoning Ordinance. He is requesting to locate a garage within the required 15 foot setback area. This property is located at 55 Chosen Vale Lane, Tax Map 10A, Lot 46 in the Residential One (R1) Zoning District.*

Mark Yeager spoke to the board explaining his plans to locate a garage on his lot which was newly merged making it necessary to seek a variance from the setbacks. They are trying to position the garage staying within the aesthetics of the neighborhood, the closest that the garage will be located to the side setback is 12 ft. at the front and 8ft. 4 inches at the rear.

Chairman Scovner read the criteria to Mr. Yeager. Mr. Yeager said that he had them and added he feels he is with the spirit of the ordinance is observed. The surrounding properties are not diminished and no impact on storm drainage.

Phil Neily, Zoning Administrator, received a letter from Shaun & Francine Heelan. Chairman Scovner read the letter, opposing the variance, stating it would diminish their property value. (Entire letter read and submitted to the file). Additionally, Chairman Scovner, read the letter from the North Village Community Association indicating approval of the garage, pending the town approval and NH Shoreline Protection review.

The Russo's, who were in the audience, stated that they were not connected with the letter or feelings of the Heelan's. Mr. Russo explained their property location and felt Mr. Yeager should be able to build the garage.

Chairman Scovner closed the hearing to the public at 7:40 p.m.

Celie Aufiero said she would like this detailed on the board. Mr. Yeager proceeded to show location and explain.

Maurice Vanderpot, President of the North Village Community Association, spoke on the view being blocked. In the past, their Attorney Barry C Schuster has advised on the matter of view and that section of the letter was read.

“Unless a property owner specifically grants a “view easement” or other similar right, a property owner has no inherent right to a view. Absent such a specific conveyance or reservation in the Association documents, one does not have any rights to a specific view and the Association has no role in assuring the view of the lake to any landowner.” So stated in the covenants. Mr. Vanderpot allowed the board a copy of this decision by Atty Barry Schuster, to enter into the record for this hearing.

Tim Lenihan asked Mr. Vanderpot referring to the letter from the North Village Association, regarding the building of the garage, was this an open meeting, inviting the population. Mr. Vanderpot said yes.

Atty. Richard Mullaly, resident of Enfield in the North Village, asked to speak and informed that he does not agree with the Association's Attorney in regards to view.

Chairman Scovner closed the hearing once again at 8 p.m.

Chairman Scovner began with the criteria voting of the board as follows:

1. The Variance will not be contrary to the public Interest:

K May No

T Lenihan Yes

C Aufiero Yes

M Diehn No

E Scovner No

2. The Spirit of the ordinance is observed:

K May Yes
T. Lenihan Yes
Ed Scovner Yes
Celie Aufiero Yes
M Dien Yes

3. Substantial justice is done:

Tim Yes
Ken Yes
Ed Yes
Celie Yes
Mike Yes

4. The values of surrounding properties are not diminished:

Ken No
Ed No
Tim Yes
Celie Yes
Mike No

5. Unnecessary Hardship:

Ken Yes
Tim Yes
Celie Yes
Mike Yes
Ed Yes

Tim Lenihan made a motion to grant the variance as applied for, meeting all five criteria., Ed Scovner seconded this. Motion carried unanimously.

New Business:

Mr. Edward McLaughlin, with his Atty Richard Mullaly was present and asked for a Motion for rehearing of case Z15-09-04. Chairman Scovner stated that he feels the board should stand with the Town of Enfield's attorney opinion and grant the rehearing.

Some discussion followed.

Chairman Scovner made a motion to grant Mr. McLaughlin's request for a rehearing in Case #Z15-09-04.

Second, from Tim Lenihan. Motion carried. All in favor.

Next Meeting:

November 10, 2015 (Subject to change).

Adjournment:

Motion to adjourn came forward from Tim Lenihan at 8:20 p.m., with a second from Chairman Scovner, and carried. All in favor.