

Great Barrington Zoning Board of Appeals

Minutes of Oct. 19, 2010, meeting. Attending were members Ron Majdalany, Carolyn Ivory, David Thorne, Kathy Kotleski, Madonna Bachman Meagher and Don Hagberg. Town Planner Chris Rembold also attended.

On a motion by Ivory, seconded by Kotleski, the board approved the minutes of June 8, 2010, and Sept. 21, 2010, as issued. Members received copies of a Summary of the Conflict of Interest Law for Municipal Employees and signed appropriate forms for Town Clerk's office. Members received copies of the latest zoning map. Members set a date of Nov. 30, 2010, for the Pamela D'Allesandro appeal hearing, with a site visit to 355 State Road at 5:30 p.m. The secretary is to ask the building inspector to attend.

Mr. Rembold prepared a memorandum regarding **Nonconforming Uses and Structures: Findings Required to Award Special Permits**. He told the board that in its first hearing under the new bylaw, it had taken the right steps and made the right decision in finding the proposed change was not substantially more detrimental. He said the town's consultant removed language in the previous bylaw that appears in state law, but the ZBA retains all of its powers and jurisdictions. He outlined five sections that apply to ZBA SPs. Under 5.2.1, he said the board could vote or it could work out a consensus and offer conditions as warranted. The board could also in its findings refer to conditions or notes on the submitted plans.

In answer to a question, Mr. Rembold said the board should write a letter to the building inspector if it feels a decision is not being adequately carried out or enforced. In answer to another question, he said special permits carry with a property, regardless of new owners, and paperwork is filed with the Registry of Deeds. Conditions on an SP can be written to go with only the applicant-owner, but that might unnecessarily encumber the property for future owners. Special permits need to be carried out within two years. Mr. Rembold discussed SPs that would change one nonconforming use to another non-conforming use, something of a "backdoor variance," as the town does not give variances to establish nonconforming uses.

The Variance section is much shorter as it is governed by state law. Mr. Rembold said he would write a new memo for the board to checklist things the board should look for in granting a variance. This is for 10.4.2. Mr. Rembold also said the state has revised agriculture restrictions, and one may now keep animals on a parcel of more than 2 acres if \$1,000 is generated in income annually.

In answer to a question, the secretary said that Daniel Bell/Claudia Shapiro have received all requested materials they have asked for under the Freedom of Information act through the Town Clerk's and Selectmen/Town Manager's offices.

Respectfully submitted,

Bernard A. Drew, secretary