

**Zoning Board of Adjustment
October 1, 2007**

**Members Present: Elizabeth Ashworth, Chair; Katheryn Holmes, Vice-Chair;
Barbara Richmond; Steve Russell; Helen Wright**

Ms. Ashworth called the meeting to order at 7:15 p.m.

The Board reviewed the minutes of August 27, 2007 and made corrections.

Ms. Holmes made a motion to accept the minutes of August 27, 2007 as corrected. Ms. Richmond seconded the motion. All in favor.

Ms. Ashworth asked the Board members to review the RULES OF PROCEDURE and be prepared to make comments for changes and updates at a future meeting and advised the Board members that some of the rules are based on the RSA's and cannot be changed.

Ms. Wright commented that the issue of whether or not alternates should participate in discussion has had differing opinions and should be clarified and put in the RULES OF PROCEDURE.

Ms. Ashworth commented that the fees for an application need to be updated to reflect the current postage rates charged by the post office. She stated that she will email Barbara Freeman, Planning Board Chair and recommend having the charge for abutters reflect "current postal rates" instead of a set dollar amount.

Ms. Holmes asked the Board if it is legal for a property owner to obtain a variance when it is their intention only to sell the property with the variance and permits acquired.

Ms. Ashworth commented that a variance is granted based on the conditions of the property and therefore is transferable. She stated that Ms. Freeman, Planning Board Chair commented that the Zoning Board should not be granting any variances and if it the Board seems to be giving lots of variances, then the Town needs to look at changing its regulations.

Ms. Holmes offered to email the Board members an article that describes what a Town can do to strengthen its regulations.

Mr. Russell informed the Board that after the Snelling property sold only two months after coming to the Zoning Board. It is a little bit disingenuous when someone comes to the Board seeking a variance for a property owner and then the owner sells the property with permits. He commented that there are stipulations in the regulations regarding "option holders".

Ms. Ashworth commented that it would be a very involved process to differentiate between buildable and non-buildable lots. Aside from the zoning changes, the tax

structure would also have to change reflect the revised values of the non-buildable properties.

Ms. Holmes re-iterated that all building activities in the shoreland buffer zone should come to the Zoning Board of Adjustment with or without State permits. She emphasized that it is important to maintain consistency among the Boards and the Building Inspector/Code Enforcement Officer. The building activities need oversight and follow through to verify that conditions of approval are being met. She stated that the Newbury Building Inspector needs to be allotted more time for code enforcement.

Ms. Ashworth agreed to initiate a Joint Board meeting in an effort to resolve some of these issues.

Request for re-hearing

Ms. Ashworth informed the Board that the Lapp's abutter, Ann Ryan within the 30-day appeal period, has made a request for a rehearing on the Lapp case. In Ms. Ryan's request for rehearing, she explained that when the original hearing was continued, she was informed by the applicant that the hearing was cancelled; therefore, she assumed she would be re-notified by certified mail of the next hearing. As a result of this misunderstanding and miscommunication, she did not attend the continued hearing to voice her safety concerns for the setback variance and close proximity of the Lapp's proposed new house to her existing home.

Ms. Ashworth informed the Board that a letter was also received from a neighbor of the Lapp's, Richard Mozzetta, expressing his opinion that the Board should inform the abutters in the certified notices of hearing that it is the abutter's responsibility to stay on top of the meeting dates in the case of a continuance and they will not be re-notified by certified mail of future continued hearing dates.

Ms. Holmes suggested that the fire chief should be consulted regarding the fire safety issue of the 15' setback before the Board makes a decision.

Mr. Russell commented that the Board should ascertain whether or not the 15' setback is for fire safety.

Ms. Ashworth asked the Board to consider if this appeal has enough merit to grant a re-hearing.

Ms. Holmes made a motion to vote either to hear or not hear Ms. Ryan's appeal to the setback variance granted to the Lapp's. Ms. Wright seconded the motion.

Mr. Russell voted to Hear the appeal because the safety concern has merit.

Ms. Richmond voted to not hear the appeal because the safety concern does not have merit in light of current building codes and the degree of change in proximity.

Ms. Wright voted to Hear the appeal because the safety concern has merit.

Ms. Holmes voted to Hear the appeal because the safety concern has merit.

Ms. Ashworth voted to hear the appeal because the safety concern has merit.

Ms. Ashworth announced that Ms. Ryan's appeal will be heard at a property noticed public hearing on Monday, October 15, 2007 at 7:15 p.m.

Mr. Russell asked if it is in the purview of the Board to ask the Fire Chief to come to the hearing for advice.

Ms. Ashworth stated no, but the applicant may ask for the Fire Chief for testimony. It is the applicant's responsibility to present their case with supporting testimony and/or documentation.

Mr. Russell made a motion to adjourn. Ms. Richmond seconded the motion. All in favor. Meeting adjourned at 8:10 p.m.

Respectfully submitted,

Linda Plunkett