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5 **Stratham Zoning Board of Adjustment**
6 **Meeting Minutes**
7 **December 13, 2011**
8 **Municipal Center, Selectmen's Meeting Room**
9 **10 Bunker Hill Avenue**
10 **Time: 7:00 PM**
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13 **Members Present:** **Arol Charbonneau, Chairman**
14 **Jeffrey Karam, Secretary**
15 **Bruce Barker, Full Time Member**
16 **Chris Brett, Alternate**
17 **Mike Smith, Alternate**
18 **John Dold, Alternate**
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20 **Members Absent:** **Kirk Scamman, Full Time Member**
21 **Dave Short, Vice Chairman**
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23 **Staff Present:** **Terry Barnes, Building Inspector**
24 **Lincoln Daley, Town Planner**
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27 **1. Call to Order/Roll Call:**
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29 The Chairman took roll call and explained the procedure of the meeting for those present.
30

31 **2. Approval of Minutes:**

32 November 08, 2011
33

34 The Board decided to review the minutes at the end of the meeting.
35

36 **3. Public Hearing:**

37 **a.** Case # 567 Thomas and Jeannine Flachbart, 5 Robin Glen Road, Map # 21 Lot # 64
38 Residential/Agricultural Zoning District. The applicants are requesting a Special Exception
39 from Article V: Supplementary Regulations, Section 5.1.3: Expansion of Non-Conforming
40 Structures of the Stratham Zoning Ordinance to allow a 12' x 28' lean-to addition to their
41 current barn
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43 Mr. Karam read out Case # 567 for the benefit of the audience. The applicant, Thomas
44 Flachbart introduced himself and then addressed each of the statutes for a non conforming
45 structure. He explained that the barn is currently about 8 inches over the currently allowed
46 setbacks. The Chairman asked about a second structure on Mr. Flachbart's property. He

1 explained that it was a temporary structure and once the lean-to is constructed he will put the
2 items currently in the temporary structure into the lean-to. He will then take down the
3 temporary structure. Mr. Flachbart continued addressing the statutes. He talked about his
4 barn having an adverse view on any abutter. He explained that the barn is in the back and it
5 is not in anybody's view. Regarding the barn impacting surrounding property values, Mr.
6 Flachbart said that the barn will look much nicer when it is finished. He explained that the
7 structure does not impede existing rights of access or egress nor will the addition intrude into
8 the setbacks. The barn is used mainly for woodworking projects, hobbies and storage.
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10 Mr. Smith asked if the lean-to would be open on all sides. Mr. Flachbart replied that he
11 would like to enclose it. Mr. Dold asked if a driveway led up to the barn and whether it was
12 paved. Mr. Flachbart said it did and but was gravel. Mr. Smith asked if Mr. Flachbart was
13 also working on the barn. Mr. Flachbart said yes as it was sub standard; the roof and trusses
14 were hanging down and 4 feet off center. He is re roofing the whole barn. The Chairman
15 asked when the lot was subdivided. Mr. Flachbart said he wasn't sure.
16

17 Mr. Dold asked Mr. Barnes how he noticed that this was a non conforming structure. Mr.
18 Barnes explained that he got a phone call about it. Mr. Smith asked why it was considered
19 non-conforming. The Chairman explained it was because the structure didn't meet setbacks.
20 Mr. Dold asked Mr. Barnes if he had measured the setbacks or whether he asked the home
21 owner to have his land surveyed. Mr. Barnes said he paced it off and it was 19 feet and he
22 told Mr. Flachbart that he would need to get it surveyed to get an exact measurement.
23

24 The Chairman asked if anybody present wanted to speak in opposition. Mr. Arthur Grodan,
25 abutter addressed the Board. He started by saying the barn used to be a boat house and was
26 in disrepair. He realized that when Mr. Flachbart started working on the barn, he didn't have
27 a permit. One night he came home from work and saw the roof was off completely and some
28 windows cut in the side. There were footings, new flooring, exterior side walls which looked
29 brand new, and there was a new roof being put in. At that point he called Mr. Barnes to find
30 out what was going on so Mr. Barnes came out to look at it. His biggest concern is that the
31 plan shows machinery and as Mr. Flachbart is a carpenter by trade he doesn't believe Mr.
32 Flachbart when he says that is going to be his hobby. Mr. Grodan believes it will be a
33 business and he is worried about the noise that might be generated especially at night time.
34 He is concerned also about the lights that have been put on the side of the building as his
35 porch is about 65 feet away from the side of the barn so now there will be a lack of privacy
36 for him and his family. He thinks it is great that Mr. Flachbart will be getting rid of the
37 temporary structure and storing the items inside the building because on the right hand side,
38 there is a lot of building refuse Mr. Flachbart brings back from his job which is accumulating
39 and is an eyesore which needs to be put inside the storage area. Mr. Grodan continued that
40 Mr. Flachbart is now talking about the possibility of working on automobiles and he believes
41 he has a few unregistered vehicles on his property at the moment. He is concerned that his
42 property might be devalued if this continues. He would like the windows closed up, and
43 although he thinks the building is nice looking, he is very concerned about Mr. Flachbart's
44 intended use for that building. He referred to Mr. Flachbart's plans and said they are on 3
45 sides of the barn. Mr. Dold asked Mr. Grodan what he was asking for specifically and
46 confirmed that Mr. Grodan didn't mind the building being there. Mr. Grodan responded that

1 as long as it doesn't impede on his privacy, he doesn't mind. He isn't happy about the
2 windows that have been put in as it shines light onto his property. Mr. Grodan asked Mr.
3 Flachbart about heating in his barn. Mr. Flachbart said he was putting a pellet stove in there.
4 Mr. Grodan asked where the smoke was going to go and if that was going to go towards his
5 house.
6

7 Mr. Dold asked Mr. Grodan if he was requesting that no windows be put in on the side that
8 faces his yard. Mr. Grodan responded that he would like that and commented that he was
9 unhappy that Mr. Flachbart hadn't pulled any permits especially as he is in the building trade
10 and knows the regulations so he has deceived the Town. If he had shared his plans with Mr.
11 Grodan, Mr. Grodan would have been happier as it would have given him an opportunity to
12 request that no windows be put in on the side facing his yard.
13

14 Mr. Dold asked if residents are allowed to burn wood in Town. Mr. Barnes said that they
15 were. Mr. Dold commented that he didn't think pellet stoves caused much smoke. Mr.
16 Daley confirmed Mr. Dold's comment. The Chairman asked Mr. Daley, what authority the
17 Board has regarding the renovations assuming there isn't a home occupation involved. The
18 Chairman and Mr. Smith both said the meeting is about the addition of the lean-to, but there
19 seem to be other factors the Board isn't aware of.
20

21 Mr. Flachbart explained that he isn't requesting a home occupation. On occasion he might
22 build a cabinet in his house or barn for a job he is doing. That is something he has been
23 doing for years. He pointed out that the barn is being insulated against noise. Mr. Brett
24 asked if Mr. Flachbart's intended use for the barn and lean-to going to be different to what he
25 has been using it for during the last 20 years. Mr. Flachbart answered it wouldn't be
26 although his son is an intern at BMW and he had a car in there which he was working on as
27 there is no garage and it was raining. Mr. Flachbart explained that the light coming out of the
28 barn is because that part is not finished yet. The whole side is open because he was told to
29 stop working on it. Mr. Brett asked about Mr. Flachbart's machinery and if the use of that
30 machinery was going to increase once the lean-to is finished. Mr. Flachbart said that if
31 anything it would decrease as he is getting older plus he has R19 insulation in the walls and
32 R30 in the ceiling plus the boards are insulated and the windows will be thermo pane so the
33 noise will be minimized. Mr. Brett asked if he intended to put coverings in the windows.
34 Mr. Flachbart said he was happy to put shades up in the windows.
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36 Mr. Dold asked what would happen if the structure wasn't classed as non conforming. Mr.
37 Barnes said he would not be before the ZBA. Mr. Grodan said that he would still have
38 reported him for not having any permits for the work he was doing and for the electricity.
39 Mr. Flachbart explained that the electricity and wiring had always been in the barn. Mr.
40 Grodan said he didn't believe him. Mr. Barnes said that if it was a conforming structure,
41 Mr. Flachbart would have had to have pulled a permit for the new roof and for the addition of
42 the lean-to. He stressed to the Board also that they were here to make a decision about the
43 expansion of the non conforming structure. If the Board grants the Special Exception then
44 the permit issue will go away as Mr. Barnes will be able to grant the permits.
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1 The Board then discussed whether home occupation is an issue along side the expansion of
2 the barn. Mr. Dold asked for Mr. Daley's opinion. He responded that it is a multi step
3 process. Firstly the Board needed to decide whether or not to grant the Special Exception
4 and to get around the home occupation issue, the Board could include a condition in that
5 approval. Mr. Daley said they could address the issue of the light spilling over onto Mr.
6 Grodan's yard by adding a condition about that. A buffer could be added using evergreen
7 trees or a shield. The expense would need to be decided between Mr. Flachbart and Mr.
8 Grodan. Mr. Grodan said his two main concerns were who was going to monitor the use of
9 the barn and the other is lighting.

10
11 The Board discussed how they could add conditions to the final decision about windows
12 when that is not what the case before them is about.

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14 Mr. Smith commented that he felt it would help Mr. Flachbart if he applied for a home
15 occupation permit but that he would like the Board to hear that case first and then they could
16 listen to tonight's case afterwards.

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18 Mr. Daley asked Mr. Flachbart if he would be amendable to the idea of removing the
19 windows to help the issue of lighting. Mr. Flachbart explained that it wouldn't leave him
20 with many windows as that is the biggest wall. Mr. Flachbart asked if he could sign
21 something stating that he won't ever use the barn for commercial business. Mr. Dold said he
22 didn't have to put it in writing, he could just state it at the hearing tonight.

23
24 Mr. Flachbart said he wouldn't use the barn for commercial purposes, should that change he
25 will apply for a home occupation permit. Mr. Grodan complained that there was too much
26 sympathy being shown and he would like to know that the ordinance is worth something.
27 Mr. Daley asked Mr. Flachbart that if he wasn't adding an addition, would he have put
28 windows where he is now putting the addition. Mr. Flachbart answered that he could have.
29 Mr. Barnes asked if he could put in one-way windows, where the light comes in, but doesn't
30 go out. Mr. Barnes also pointed out that in today's code, exit doors have to have a light
31 outside the door. Mr. Daley reiterated that a buffer could be used to mitigate the light
32 problem be it through using a fence, or plantings. He also told Mr. Grodan that to request no
33 light on his property at all, isn't possible. Mr. Barker suggested putting shades up at the
34 window.

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36 Mr. Karam made a motion to close the public session. This was seconded by Mr. Smith. The
37 motion was carried unanimously.

38
39 The Chairman ran through the terms of Session 5.1.3; Expansion of Non-Conforming
40 Structures.

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42 The Board members all agreed that Mr. Flachbart met all of the criteria.

43
44 The Board then ran through the criteria for Special Exceptions as laid out in 17.8.2. of the
45 Zoning Ordinance.

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1 Mr. Smith made a motion to approve the special exception with the conditions that there will
2 be no commercial activity taking place in the original barn or expansion and also that the
3 applicant will provide some type of shading to minimize any light emitting from the
4 windows. Mr. Daley mentioned that shading is almost impossible to enforce and he could
5 envisage a situation that Mr. Grodan might raise concerns if the shades are up after dusk.
6 Mr. Daley suggested natural buffering would be a better long term solution. If and when Mr.
7 Flachbart comes in for a home occupation permit, that would be one less thing he would have
8 to do going forward. The Chairman asked Mr. Smith to restate the condition.
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10 Mr. Smith stated the condition will now read that the Applicant agrees to provide screening
11 on the premises from the adjacent property using walls, fences or other devices. There will
12 be no commercial activity on the property and if so, the Applicant will apply for a home
13 occupation permit. The motion was seconded by Mr. Barker. The motion was carried
14 unanimously.
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16 The Chairman informed the applicant that there is a 30 day appeal period so any work done
17 in the interim is at his own risk.
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19 Mr. Barker made the motion that the Board closed case number 567. This was seconded by
20 Mr. Karam. The motion was carried unanimously.
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22 The Board reviewed the November 8, 2011 minutes but did not make a motion. The minutes
23 will be reviewed at the next meeting.
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25 The meeting was adjourned at 8:32pm.
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