

**SWANZEY ZONING BOARD OF ADJUSTMENT MINUTES
NOVEMBER 19, 2007**

[Note: Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.]

The November 19, 2007 meeting of the Swanzey Zoning Board of Adjustment was called to order at 7:00 p.m. by Chair Bill Hutwelker. Members present: Bill Hutwelker, Jenn Gregory, Bob Mitchell and alternates Bob DeRocher, Bob Smith and Bryan Rudgers. Town Planner Sara Carbonneau was also present. The agenda for the evening's meeting was read and the following items were addressed:

1. Minutes from October 15, 2007. Motion by Mitchell to approve the minutes from October 15, 2007 as submitted. Seconded by Smith. Vote: All in favor.

2. Consideration of Appeal from an Administrative Decision submitted by David Webster. Seated were: Hutwelker, Gregory, Mitchell, DeRocher (for Charles Beauregard, Sr.) and Rudgers (for Keith Thibault). Hutwelker noted that this was not a public hearing but rather a public meeting of the Board to consider whether the Appeal from the Administrative Decision was filed in a timely manner.

Board members noted that the decision was dated September 11, 2007 and that it was signed and sent via certified mail – return receipt requested by Code Enforcement Officer Weston on September 13, 2007. The ZBA's Rules of Procedure state that "Appeals from an administrative decision taken under RSA 676:5 shall be filed within thirty (30) days of the decision." Using September 11, 2007 as the date of decision, the Appeal was required to have been filed by October 11, 2007. However, some Board members thought that the date of decision was the date the document was signed by CEO Weston, specifically September 13, 2007, which would result in the Appeal needing to be filed no later than October 13, 2007. It was noted that the Appeal was filed on Monday, October 15, 2007, two days after deadline for filing.

Motion by DeRocher to not accept the application as it was not filed in a timely manner as required by the Board's Rules of Procedure. Seconded by Mitchell. Vote: All in favor of the motion.

3. Public Hearing (Special Exception) – Barton and Darlene Smith request a special exception from Section IV.A.2.g. to permit the construction of an addition to convert the existing one-family dwelling to a two-family dwelling. The property is situated at 206 Hale Hill Road and is shown at Tax Map 10, Lot 20, situated in the Rural/Agricultural Zoning District. Seated were: Hutwelker, Gregory, Mitchell, Rudgers (for Charles Beauregard, Sr.) and Smith (for Keith Thibault). Barton and Darlene Smith appeared before the Board. No abutters were present. Public hearing opened.

B. Smith stated that they wished to construct an addition to the existing dwelling in order to convert the existing one-family dwelling to a duplex (studio apartment). B. Smith stated that the septic system for the existing house is designed for 3 bedrooms. B. Smith noted that there would not be an increase in the total amount of bedrooms, as one of the existing bedrooms would be converted to a den.

The Smiths provided the Board with a letter from Michael Finley, licensed septic designer dated November 17, 2007. Board members were unclear regarding some of the statements made in Finley's letter. Finley was not present to clarify these statements.

Hutwelker questioned as to whether the proposed construction was truly a duplex, as the Smiths stated that there was to be direct access between the studio apartment and the existing house.

Motion by Mitchell to continue this matter to the December 17, 2007 meeting without further notice in order for the Smiths to obtain and provide additional information (specifically, more details about the proposed addition and clarification of Finley's letter). Seconded by Gregory. Vote: All in favor.

4. Public Hearing (Area Variance) – Joann Barnes requests an area variance from Section IV.B.3. to permit the creation of a lot that does not have the required road frontage. The property is located at 58-68 Spring Street, shown at Tax Map 57, Lot 64 situated in the Residence Zoning District. Seated were Hutwelker, Gregory, Mitchell, DeRocher (for Charles Beauregard, Sr.) and Smith (for Keith Thibault). Attorney Barry Faulkner appeared before the Board on behalf of the Applicant. No abutters were present.

Faulkner reviewed the history of this lot, including the subdivision that was granted by the Planning Board in July 2007. Faulkner stated that after the subdivision was granted by the Board, it was discovered that the Town's Zoning Map incorrectly showed the northerly portion of the lot as being in the business district (versus the residence district). Faulkner stated that with both lots being in the residence district, a total of at least 300 feet of Class V road frontage was required. Map 57, Lot 64 only has 292 feet of Class V road frontage.

Faulkner stated that Map 56, Lot 64-2 as configured on the subdivision plan has 125.09 feet of Class V frontage. Faulkner noted

that while it was possible to provide each lot with 146 feet of Class V frontage (1/2 of the total of 292 feet), it was not the best solution, as the line as shown on the proposed subdivision plan followed a natural tree line.

Faulkner also noted that while Map 56, Lot 64-2 has 125.09 feet of Class V frontage as shown on the subdivision plan, it also has 190.34 feet on the Class VI portion of the road.

Faulkner reviewed the criteria for granting the area variance. Faulkner noted that effect of granting the area variance would be to allow the subdivision of the property to occur. Faulkner also noted that granting the variance would allow each residence on the property to have its own lot. Public hearing closed.

The Board reviewed the criteria for granting the area variance. It was noted that each criteria was met. In addition, Board members felt that the configuration of the lots as shown on the subdivision plan was reasonable considering the natural topography. Motion by Gregory to grant the area variance. Seconded by Smith. Vote: All in favor.

5. Public Hearing (Special Exception) – David A. Williams requests a special exception from Section XI.A.2. to permit the construction of an addition to property situated at 330 Matthews Road, thereby expanding the non-conforming use. The property is shown at Tax Map 38, Lot 14, situated in the Commercial/Industrial Zoning District. The property is owned by Elaine H. Schierioth Trust. Seated were: Hutwelker, Gregory, Mitchell, Rudgers (for Charles Beauregard, Sr.) and DeRocher (for Keith Thibault). Tom Moses appeared before the Board on behalf of the Applicant. No abutters were present. Public hearing opened.

Moses stated that the proposed addition is to an existing residential structure situated within the Commercial/Industrial Zoning District. Moses noted that the proposed addition, as well as the existing structure, meets all setback requirements. It was noted that the property is situated on Matthews Road, which is primarily residential in nature, even though part of it is located within the Commercial/Industrial District.

Code Enforcement Officer Jim Weston stated that he recently granted a building permit for a similar addition across the street. However, that property was located within the boundaries of the Residential Zoning District. Moses noted that within the Commercial/Industrial District there are only 2 commercial uses in that area on Matthews Road.

Moses reviewed the criteria for granting the special exception as set forth in the application. Public hearing closed.

The Board reviewed the criteria for granting the special exception. It was noted that it was a modest expansion to the existing residential use and that the surrounding uses were primarily residential in nature. Board members determined that each criterion for granting the special

exception was met. Motion by Rudgers to grant the special exception. Seconded by DeRocher. Vote: All in favor.

6. Public Hearing (2 Variances & Area Variance) – Russell Gocht, on behalf of Ronald and Nancy Gocht, requests an area variance from Section III.E. and use variances from Section IV.A. and XI.C.1. to permit the construction of a second dwelling unit on property situated at 46 East Shore Road. The property is shown at Tax Map 45, Lot 12 and situated in the Rural/Agricultural and Shorelands Protection Overlay Zoning District. Seated were: Hutwelker, Gregory, Mitchell, DeRocher (for Charles Beauregard, Sr.) and Smith (for Keith Thibault). Russell, Ronald and Nancy Gocht appeared before the Board. No abutters were present. Public hearing opened.

Carbonneau stated that the area variance from Section III.E. was not required, as a variance regarding the lack of road frontage was granted in 1976.

Russell Gocht (RG) reviewed the application before the Board. He noted that the proposed new structure would meet all applicable setbacks (including the shoreland protection setback).

RG stated that the footprint of the proposed structure is 24' x 32'. The structure will have storage on the lowest level, living space on the middle level and a loft. It will have only one bedroom. RG stated that Tom Forest, licensed septic designer, will design a new enviro-septic system to serve both structures. RG stated that he feels that the request to expand the living space on the property is reasonable and modest and that the best solution for expanding the living space is the construction of an additional structure.

RG stated that consideration was given to increasing the size of the existing structure. RG felt that increasing the size of the existing structure would have more negative impact than building an additional structure away from the water.

RG noted that his parents have been good stewards of the property and of the lake and would continue this practice with the proposed change to the property. The construction of the carriage house would have minimal impact on erosion, as the area proposed for construction is fairly clear right now (and includes a portion of an existing driveway). RG stated that native vegetation would be added to reduce erosion.

Board members reviewed e-mail correspondence from abutting property owner M. Symons who expressed concern about the proposed structure being located within the driveway area. RG stated that Symons does not have a deeded right to use that driveway and has another driveway that serves her property. RG stated that based on his reading of Symons' e-mail, it appears that Symons does not appear to have an issue with the construction of a small house on the property – rather, she is more concerned about the location of the structure on the driveway.

Board members also acknowledged receipt of an e-mail from abutting property owners Kai and Jenn Dafeldecker indicating their support of the application.

RG stated that many properties on Swanzey Lake have guest cottages. In addition, RG stated that many of the existing structures on the lake have greater square footage than the existing structure and the proposed structure combined.

Board members felt that a site visit would be useful and decided on Saturday, November 24, 2007 at 9:00 a.m. Board members requested that the site of the proposed building be staked-out and that the property lines be clearly indicated. Motion by Gregory to continue this matter to a site visit (public hearing) on Saturday, November 24, 2007 at 9:00 a.m., without further notice. Seconded Mitchell. Vote: All in favor.

Motion by Smith to adjourn. Seconded by Gregory. Vote: All in favor.
Meeting adjourned at 9:10 p.m.

Submitted by,

Sara H. Carbonneau
Town Planner