

**SWANZEY ZONING BOARD OF ADJUSTMENT MINUTES
OCTOBER 16, 2006**

[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 regular 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, Keith Thibault, Bob Mitchell and alternate Marty Geheran. Geheran was seated for Charles Beauregard, Sr. 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 September 30, 2006. Motion by Geheran to approve the minutes from September 30, 2006 as submitted. Seconded by Mitchell. Vote: All in favor.

2. Minutes from October 2, 2006. Motion by Thibault to approve the minutes from October 2, 2006 as submitted. Seconded by Mitchell. Vote: All in favor.

Hutwelker stated that there are only 4 Board members present this evening. In order for an application to prevail, it will need 3 votes in favor of the application. Hutwelker offered the applicants the opportunity to continue to a date and time certain, should they so desire. All decided to proceed with their applications this evening.

3. Public Hearing (Application for Area Variance). Gail Guyette requests an area variance from Section IV.A.3. and from III.X. in order to create a lot in the Rural/Agricultural Zoning District that does not contain 3 acres of upland soils and does not have the required 225 feet of road frontage. The property is located off Route 32 and Hale Hill Road, shown at Tax Map 9, Lot 7. The applicant requested that this matter be continued to the November 20, 2006 meeting. Motion by Mitchell to continue this matter to November 20, 2006 at 7:00 p.m. without further notice. Seconded by Thibault. Vote: All in favor.

4. Public Hearing (Application for Area Variance). Brian Stone requests an area variance from Section IV.B.3. to permit the construction

of a carport that does not meet required setbacks. The property is located at 39 Goodell Avenue, shown at Tax Map 30, lot 5-4 situated in the Residence Zoning District. Brian Stone appeared before the Board. No abutters were present. Geheran noted that he used to work with Stone, but did not feel that he had any conflict of interest. Stone agreed. Public hearing opened.

Stone stated that he wished to construct a carport on the easterly side of his property. While he already has a two-car garage, he would like to construct a carport in order to provide additional vehicle storage. Stone noted that a stockade fence currently exists along his easterly property line. Stone also stated that the area upon which he wishes to install the carport is already paved. In addition, the proposed area is located near the existing driveway. Stone reviewed the location of various improvements on his property, specifically noting the location of the shed, pool and the permanent fence around the pool. It was noted that if the carport was installed on the westerly side of the house, that a variance may still be required. It was noted that if the carport were to be located on the westerly side of the house another driveway access would need to be constructed. Due to the frontage of the property and the locations of adjacent driveways, it was uncertain if Stone would be able to obtain a driveway permit. Also, Stone noted that there was a blue spruce to the westerly side of the house, in addition to the well.

Stone noted that the abutting property to the east fronts on both Goodell Avenue and Trotter Lane, with the house actually facing Trotter Lane. Therefore, the proposed carport would be located to the rear of the house situated to the east on Trotter Lane. In addition, the Trotter Lane neighbor has a shed that appears to encroach on the setbacks to the rear (near Stone's easterly property line, near the fence). Public hearing closed.

The Board reviewed the criteria for granting an area variance. Board members felt that there would be no diminution of property values should the variance be granted; that granting the variance would not be contrary to the public interest; that there was hardship due to the existing location of the pool, permanent fence and being unable to obtain a second driveway access resulting in the inability to site the carport in any other location on the property; and that granting the variance would observe the spirit of the ordinance and would do substantial justice. Motion by Thibault to grant the area variance based on the review of the criteria for granting an area variance, noting that there is no other reasonable location on the lot to locate the carport and that special conditions exist, specifically that the subject lot abuts a corner lot backing up to the rear of the neighbors property line. Seconded by Geheran. Vote: All in favor.

5. Public Hearing (Application for Area Variance). Seth and Avis Fisk request an area variance from Section IV.B.3. and V.B.3. to permit a

boundary line adjustment to property shown at Tax Map 18, Lot 91 and Tax Map 18, Lot 90 reducing Tax Map 18, Lot 90 by approximately .25 acres. The properties are located at 32 Pasture Road and 26 Pasture Road and are situated in the Residence and Business Zoning Districts. Seth and Avis Fisk and Margaret Liberge appeared before the Board. No abutters present. Public hearing opened.

Liberge stated that they had presented this request previously to the ZBA and were denied, as there were concerns about the ability to construct a replacement septic system, if needed. Liberge stated that this application is substantially different, as the property is now connected to public sewer. Motion by Mitchell that this application is substantially different from the application submitted previously due to the existence of public sewer. Seconded by Thibault. Vote: All in favor. *(Editorial note: Upon review of the historical files, it appears that there was no previous application. On November 16, 1998 Liberge and Fisk appeared before the Board to discuss a potential variance and were advised that "a request for a variance would probably be unsuccessful.)*

S. Fisk reviewed the proposed boundary line adjustment before the Board. It was noted that an area variance was required as Liberge's lot would be reduced to less than 1 acre. It was noted that Fisks' lot would become more conforming. Fisk stated that the parcel to be conveyed to him provides very little benefit to Liberge's property, as there is a drainage ditch that separates the parcel from the remainder of Liberge's property. S. Fisk noted that currently Liberge's parcel is one of the larger lots in the neighborhood and that the boundary line adjustment would result in a lot that was more similar to other lots in the area. Public hearing closed.

The criteria for granting an area variance was reviewed. Board members felt that the application met all the criteria for granting an area variance and that there were no other means of effectuating the boundary line adjustment without the granting of the variance. Motion by Geheran to grant the area variance, subject to the condition that the parcel to be conveyed by Liberge is to become part of Tax Map 18, Lot 91. Seconded by Mitchell. Vote: All in favor. Carbonneau noted that the next step is the submission of a boundary line adjustment application to the Planning Board.

6. Public Hearing (Application for Area Variances). Coyote Builders, agent on behalf of Virginia Baldwin, requests an area variance from Section IV.B.3. and XI.2. to permit the construction of an addition that does not meet required setbacks and to expand the footprint and cubic volume of a non-conforming structure. The property is located at 16 North Pine Street, shown at Tax Map 18, Lot 235 situated in the Residence Zoning District. Greg Wilson from Coyote Builders and Virginia Baldwin appeared before the Board. No abutters were present. Public hearing opened.

Wilson reviewed the plans and photographs of the site. Wilson noted that the existing porch is located approximately 16 feet from the property line and that the existing house is situated 9 feet from the line. The expansion/addition to the existing porch would maintain the existing 16 foot setback.

Wilson stated that the addition would improve egress from the house and would provide the property owner with the opportunity to construct a handicapped accessible ramp that meets ADA standards. Wilson stated that the addition would change the roof line, in order to prevent snow and ice from building up on the ramp. Also, the porch addition/expansion would be insulated but will not be heated at the present time.

Thibault noted that the application should be an area variance from Section XI.B.2. (versus XI.2.) and IV.B.3. Public hearing closed.

The Board reviewed the criteria for granting area variances. It was noted that the proposed addition would not result in any greater encroachment on the property line setback. Thibault noted that the proposed addition would result in safer egress from the structure. Motion by Mitchell to grant the variances, noting that no greater encroachment would occur and that the addition provides for improved access, protecting the property owners' health and welfare. Seconded by Geheran. Vote: All in favor.

7. Public Hearing (Application for Variance and Special Exception).

Robyn Romano requests a variance from Section III.M.5. to permit a duplex to be built on a rear lot and for more than one structure to utilize the access to the rear lot and a special exception pursuant to Section IV.A.2.g. to permit the construction of a duplex. The property is located off CL Lane and shown at Tax Map 13, Lot 7 situated in the Rural/Agricultural and Residence Zoning Districts. Robyn Romano appeared before the Board. No abutters were present. Public hearing opened.

Board members reviewed the plans with Romano. While Romano thought that she was building a duplex, it appears that what she is proposing to build is not a duplex. Rather, it is a one-family dwelling with two kitchens and expanded living areas. Weston noted that the plans do not include a 2-hour fire wall that would be required if it was a duplex. In addition, Weston noted that the plans show free-flowing access between the two living areas and a shared laundry area. Board members determined that the structure that Romano is proposing is not a duplex – hence, no special exception for a duplex is required. However, a variance is still required for the proposed house on a proposed rear lot and the existing house to both utilize the driveway serving the proposed rear lot.

Due to the previous discussions, Board members solely considered the variance for two dwelling units using the rear lot access. Romano

stated that she wished to utilize the existing drive as the access for both the existing house and the proposed structure to be located on the proposed rear lot. Romano noted that constructing separate driveways would not be feasible due to the location of the existing tree line along the driveway, as well as the depth of the existing ditch line along CL Lane that restricts construction of an additional driveway. Board members felt that a written opinion from DPW Director Dunham should be provided regarding the feasibility of a second driveway access.

Motion by Thibault to continue this matter to November 20, 2006 at 7:00 p.m. without further notice. Seconded by Mitchell. Vote: All in favor.

Motion by Mitchell to adjourn. Seconded by Geheran. Vote: All in favor. Meeting adjourned at 9:30 p.m.

Submitted by,

Sara H. Carbonneau
Town Planner