SWANZEY ZONING BOARD OF ADJUSTMENT MEETING
JULY 13, 2009

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.

ATTENDANCE

Bill Hutwelker, Keith Thibault, Charlie Beauregard, Jerry Walker, and alternates Bryan Rudgers and Bob DeRocher. Town Planner Sara Carbonneau also was present.

Chairman Hutwelker called the meeting to order at 7:00 p.m. and read the agenda for the meeting. The Board addressed the following items.

MINUTES

Motion by Beauregard to approve the minutes of June 15, 2009 meeting and June 22, 2009 site visit. Second by Walker. All in favor.

1. PUBLIC HEARING (AREA VARIANCE APPLICATION)

Applicant: Betsy Braden
Property owner: Betsy Braden
Property location: 11 Page Court Tax Map 19, Lot 9
Zoning District(s): Residence and Shoreland Protection District
Request: area variance from Section XI.B.1 to permit the expansion of a non-conforming structure.

Hutwelker opened the public hearing at 7:06
Members seated: Hutwelker, Thibault, Beauregard and Walker. Rudgers was seated for Mitchell.
Representing the application: Betsy Braden
Abutters present: none

DISCUSSION

Board members acknowledged receipt of a July 8, 2009 ZBA Application Summary prepared by Carbonneau. Carbonneau presented the summary of the proposed alteration of a non-conforming structure. She stated that the existing structure does not meet front and side setbacks; the applicant seeks to remove part of the non-conforming porch from the front, and expand the porch on the east. The porch expansion of the east side would meet all applicable setback requirements. Carbonneau said that the proposal would result in less square footage, but an expansion of the structure's footprint on the east side.

Braden described the history and past use of the house, constructed in 1884 as mill housing, and described her restoration of the structure. She stated that expanding the porch to 12' x 12' would improve the appearance of the house, and stated that her neighbor supports the proposal.

Hutwelker determined that Board members had no further questions, and closed the public hearing at 7:13.

REVIEW OF CRITERIA

Board members agreed that the proposal would require an area variance, not a use variance. Members reviewed the criteria for granting the requested variance.

1. *Could the area variance be granted without diminishing surrounding property values?*
   Members agreed in the affirmative.

2. *Could the variance be granted without the proposed use being contrary to the public interest?*
   Members agreed in the affirmative.

3. *Owing to special conditions, would the denial of the variance result in unnecessary hardship to the land owner, according to the* Boccia *test for determining unnecessary hardship?*

   a. *Is an area variance needed to enable the applicant's proposed use of the property given the special conditions of the property?*
      Members agreed in the affirmative.

   b. *Could the benefit sought by the applicant be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance?*
      Members agreed that the benefit sought could not be achieved by another method.

4. *If the variance is granted, would the spirit of the ordinance be observed?*
   Members agreed in the affirmative.

5. *Would granting the variance do substantial justice?*
   Members agreed in the affirmative.

Motion by Rudgers to approve the area variance from Section XI.B.1 to permit the expansion of a non-conforming structure. Second by Walker. All in favor.

2. PUBLIC HEARING (USE VARIANCE AND AREA VARIANCE APPLICATION)

Applicant: Camp Squanto
Property owner: East Coast Conference Evangelical Church
Property location: off West Shore Road Tax Map 46, Lots 6 and 16
Zoning District(s): Rural/Agriculture and Shoreland Protection District
Request: to utilize Camp Squanto on a year-round basis, requiring a use variance pursuant to Section IV.A. Also, to construct a new dining hall that does not meet the required setbacks, requiring an area variance from Section VIII.c.3.a.

Hutwelker opened the public hearing at 7:16.
Members seated: Hutwelker, Thibault, Beauregard and Walker. DeRocher was seated for Mitchell.
Representing the application: David Cairns (Executive Director, Pilgrim Pines Conference Center), Rob Hitchcock (SVE Associates), attorney Michael Bentley
Abutters and neighbors present who expressed opinions regarding the application: Mark Adams, Martha Zimmerman, Susan Zimmerman, Richard Scaramelli, Jonathan Hoden, Garth McGrath, Jay Dinkel, Sara Brown Adams, Nancy McGhee, Bill McGhee, Phil Johnson, David Page, Lynne Hoden, Robert Dvorak

DISCUSSION

Hitchcock presented an overview of the plans. He described the proposed drainage system, which includes a three-foot wide stone drip area surrounding the building.

Presenting a sectional drawing, Hitchcock showed how the system is designed to allow water to collect and filter through gravel to the low side of the building, to be released at ground level at low velocity so as to minimize erosion.

Hitchcock corrected his previous representation that the existing septic system would be unchanged, aside from the relocation of lines. The proposed modifications have triggered the need to comply with amended State regulations that now require an additional 2,500-gallon septic tank. Hitchcock said that the system still is designed to treat 10,900 gallons/day. Waste is pumped into a settling tank, then to aerated Clean Solution tanks, then to the leach field. Hitchcock estimated that usage will generate approximately 3,000 gallons/day. Hitchcock stated that it is his experience that the State requires septic capacity in an amount that is approximately twice the volume typically generated. Hitchcock estimated that winter usage would be approximately 1,000 gallons/day. Cairns said that the tanks are pumped annually, and the installer inspects the entire system every three years.

Neighbors stated that the existing septic system generates odors. DeRocher, drawing on his experience as health officer, stated that septic system odors typically emanate from vent pipes during days of humidity, low pressure or downdrafts. DeRocher said that Clean Solution systems do a good job; he had never before heard of a complaint of odor from a Clean Solutions system. David Page, maintenance director at Pilgrim Pines, said that installation of a charcoal filter on the vent pipe had resolved the problem.

Hitchcock said that landscaping materials would include bark mulch, and plantings of *Vinca* as a ground cover. Hitchcock said that the plans call for planting six to eight evergreen trees (species to be determined by the Planning Board and neighbors) in the area where the cottage will be removed. Hitchcock reiterated that the State Comprehensive Shorelands Protection Act requires that landscaping on the Swanzey Lake side of the existing building remain untouched.

Hitchcock said that one full cut-off wall pack lighting fixture would be installed on the Lake side of the building. He said wall packs would be installed at every door, and three shielded bollard lights would illuminate the walkway. Hitchcock said that light emanating from windows could be reduced with blinds or shades.

Cairns responded to Swanzey Conservation Commission references to a 1990 letter from Jody Connor, Swanzey Lake Association. Referencing the executive summary of 2008 Swanzey Lake monitoring results, Cairns said that the report indicates downward trends in indicators of pollutants, and relatively stable measured levels of phosphorus. Cairns said that Pilgrim Pines seeks to protect the water quality of Swanzey Lake.

Cairns corrected his previous statement about laundry facilities, saying that a clothes washing machine and dryer exist in the nurse's station across West Shore Road. Cairns noted that the use of this washing machine is strictly to serve the infirmary.

Cairns said that construction of the proposed sleeping rooms would result in the elimination of one bed in a cabin, elimination of two 8-bed platform tents, elimination of 18 beds from an additional building and 5 beds in another building. Cairns said that the maximum capacity of Camp Squanto is 200 people. Three to five employees would staff the proposed winter retreats; Cairns said that he includes retreat leaders in the 40-camper retreat maximum. Cairns reiterated his prediction that retreat campers would arrive in groups, likely generating a maximum of ten additional vehicles per retreat. Cairns said that DPW Director Dunham has no objections to this increase in traffic volume.

Attorney Bentley recapitulated many of these points, adding that the septic system would still be underutilized during the winter months. He encouraged neighbors to contact the Town's code enforcement officer or health officer with concerns regarding the functioning of the septic system. Bentley said that eliminating the ballfield to construct the dining hall in that location would greatly diminish the summer camping experience. He said that the requested variance represents a good use of the building,

and is consistent with the church's philosophy and Camp Squanto's mission.

Garth McGrath, speaking as pastor of Monadnock Covenant Church, Keene, and as a Swanzey Lake homeowner, said that the increased use of the facility would be a positive investment in the lives of children. He said that people in communities historically have sacrificed to allow the existence of camps, and said that the need to invest in children is especially high today. He stated that the proposal would yield a positive impact on youth in the region, and requested the Board's approval of the application.

Jay Dinkel said that the balloon test had satisfied his issues, and spoke in favor of Pilgrim Pines's stewardship. However, he said that the proposal represents the most significant development on Swanzey Lake for at least fifty years, and requested, at minimum, a complete review of the septic system function and better due diligence to find an alternative location for the proposed structure. Hitchcock said that there exists no other location for a building of the proposed size; locating the dining hall at a location distant from the hub of camp activities would represent poor planning.

Bentley presented the applicant's response to ZBA criteria for approval, recapping information presented at the June 15, 2009 meeting.

Hutwelker closed the public hearing at 9:04. Those present took a five-minute break.

REVIEW OF CRITERIA

Board members reviewed the criteria for granting the requested area variance.

1. *Could the area variance be granted without diminishing surrounding property values?*

Members agreed that tearing down the derelict cottage and dining hall and moving the proposed structure further away from the lakeshore would not diminish surrounding property values.

2. *Could the variance be granted without the proposed use being contrary to the public interest?*

Members agreed that the proposed use is not contrary to public interest.

3. Owing to special conditions, would the denial of the variance result in unnecessary hardship to the land owner, according to the Boccia *test for determining unnecessary hardship? Denial would result in*

a. *Is an area variance needed to enable the applicant's proposed use of the property given the special conditions of the property?*

Members agreed that special conditions of the property afford no other tenable locations for the proposed structure.

b. *Is the benefit sought by the applicant one that cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance?*

Members agreed that the method proposed is the most reasonably feasible alternative.

4. *If the variance is granted, would the spirit of the ordinance be observed?*

Members agreed that granting the variance would observe the spirit of the ordinance by improving protection of Swanzey Lake, specifically with the improved drainage system and by constructing the new structure further away from the lake.

6. *Would granting the variance do substantial justice?*

Members generally agreed that granting the variance would do substantial justice. Thibault expressed reservation, saying that the benefit is not as clear-cut as normally seen by the Board; however, in the final analysis he said that he felt that granting the variance would do substantial justice.

Motion by DeRocher to approve an area variance from Section VIII.c.3.a. to permit construction of a new building (to house the dining hall and kitchen, bunkhouse, common meeting room, office space and storage) that does not meet the required setbacks. Second by Beauregard. Hutwelker, Beauregard, Walker, DeRocher in favor. Thibault opposed. Motion passes.

Hutwelker advised those present that the 30-day appeal period begins on July 14, 2009.

Members reviewed the criteria for granting the requested use variance.

1. Could the variance be granted without diminishing surrounding property values?

Members agreed that the change in use would not diminish surrounding property values.

2. Could the variance be granted without the proposed use being contrary to the public interest?

Members agreed that the proposed use is not contrary to the public interest.

3. Owing to special conditions, would the denial of the variance result in unnecessary hardship to the land owner, according to the Simplex *test for determining unnecessary hardship?*

a A zoning restriction as applied to the property interferes with the applicant's reasonable use of the property, considering the unique setting of the property in its environment;

Members agreed in the affirmative, following consideration of the Zoning Ordinance, which lists summer camps, campgrounds, religious and education uses as permitted by special exception. Members determined that there are no issues with emergency management, and noted that the Fire Chief submitted no comments. Members agreed that the proposed wintertime use is a significant reduction from current summertime use, and agreed that the proposed bunkroom sleeping accommodations and group bathroom facilities would make adult use unlikely.

b No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property;

Members agreed that, while the Ordinance does not appear to contemplate the proposed use, other uses permitted by special exception (such as campgrounds and summer camps) are similar. Members agreed in the affirmative.

c. The variance would not injure the public or private rights of others.

Members agreed that others would be affected by the variance, but not injured by it. Members discussed addressing rights of others through recommendations for Planning Board site plan review, such as buffers, lighting, shingles, and septic system inspections.

4. If the variance is granted, would the spirit of the ordinance be observed?

Members agreed that granting the variance would observe the spirit of the ordinance, although it appears that winter camps were not contemplated when the Ordinance was drafted. Considering testimony regarding improvements in Swanzey Lake water quality, members agreed that the proposal incorporates facilities (such as the septic system) and actions (moving the structure away from the Lake; septic system inspections) clearly designed to protect Swanzey Lake.

5. Would granting the variance do substantial justice?

Members agreed that granting the variance would do substantial justice.

Motion by Beauregard to approve a use variance, pursuant to Section IV.A, to permit the year-round utilization of a new structure to be built at Camp Squanto, with the condition that a total of 40 beds (to be allocated amongst no more than 5 rooms) shall be the maximum occupancy of the dining hall/bunkhouse building (requiring the discontinuation of the use of 40 beds elsewhere on the property), and including recommendations that the Planning Board

1. be aware of concerns regarding lighting
2. call for roofing shingles that are unobtrusive
3. make efforts to improve groundcover materials
4. stipulate retention of all but one tree within the 50-foot protected shoreland waterfront buffer.

Second by DeRocher. All in favor.

Hutwelker advised those present that the 30-day appeal period begins on July 14, 2009. He said that an appeal would treat the two decisions as separate matters.

Cairns thanked ZBA members and staff for the investment of time represented by their review and consideration.

3. OTHER BUSINESS AS MAY BE REQUIRED

Rules of procedure Board members signed the amended Rules adopted on June 15, 2009.

ADJOURMENT

Motion by Rudgers to adjourn. Second by Thibault. All in favor. The meeting adjourned at 10:10 p.m.

Respectfully submitted,

Victoria Reck Barlow,
Recording Secretary