

**SWANZEY ZONING BOARD OF ADJUSTMENT MEETING  
MAY 17, 2010**

*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**

William Hutwelker, Chair; Bob Mitchell, Charles Beauregard, Sr., Jerry Walker. Alternates Jim Vitous and Bryan Rudgers (arrived at 7:07). Town Planner Carbonneau also was present.

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

**MINUTES**

Members agreed to postpone action on the minutes of the April 19, 2010 meeting until the next meeting in order to achieve a quorum of members who were present at the April 19, 2010 meeting.

**1. (Public Hearing) Variance**

Applicant: Aaron & Heidi Bradbury

Property owner: Aaron & Heidi Bradbury

Property location: 406 Flat Roof Mill Rd Tax Map 3, Lot 32

Zoning District(s): Business District

Request: To permit the expansion of a non-conforming structure

Members seated: Hutwelker, Mitchell, Beauregard, Sr., Walker. Vitous was seated for Thibault.

Representing the application: Aaron Bradbury; Andrew Weglinski

Abutters present: none

Hutwelker called the public hearing to order at 7:07.

**DISCUSSION**

Members received a May 11, 2010 application summary from Town Planner Carbonneau. Reviewing the summary with the Board, Carbonneau stated that the applicant seeks to expand a nonconforming structure, as the existing structure does not meet setbacks on Massey Hill Road. Carbonneau noted that legal notices, including the notice for the current application, now are also posted on the Town's website. Carbonneau stated that a prior owner received approval for a 2003 special exception to use the structure as a one-family dwelling. Carbonneau stated that the applicants had received the Board's approval in 1999 to use the property as a gift shop. Carbonneau stated that she

had received no comments about the proposal from abutters or department heads. Members reviewed color photos of property, and commended the applicant on the high quality of the detailed presentation (made available for members' review prior to the public hearing).

Carbonneau advised Board members that the proposal does not encroach into the non-conforming setback. Members confirmed that the proposed expansion would be built on the opposite side of the structure, where no setback issues would be incurred.

Bradbury stated that the proposed garage and salon would be built as drawn in the plans submitted as part of the variance application. In response to questions from the Board, Bradbury stated that the access to Flat Roof Mill Road is temporarily blocked off for safety purposes, but has not been discontinued.

Hearing no further comments or questions, Hutwelker closed the public hearing at 7:13.

Board members reviewed the criteria for granting the requested variance.

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

Members agreed in the affirmative.

2. Would the spirit of the ordinance be observed if the variance is granted?

Members agreed in the affirmative.

3. Would granting the variance do substantial justice?

Members agreed in the affirmative.

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

Members agreed in the affirmative.

5. Do special conditions of the property distinguish it from other properties in the area?

Members agreed that, because the principal structure was in position before the existence of setback requirements and prior to the adoption of zoning regulations in Town, an expansion in any dimension would trigger the need for a variance. Members felt that the proposed expansion would have minimal impact.

- a. Owing to the property's distinguishing special conditions, is there a fair a substantial relationship between the general purposes of the ordinance and the specific application of that provision to the property?

For the reasons given in response to Question 5, members agreed in the affirmative.

**Motion** by Walker to approve the variance to permit the expansion of a non-conforming structure. Second by Mitchell. All in favor.

## 2. Other business

Carbonneau and Board members discussed a recent Superior Court case that underscores the importance of laying out reasons for ZBA denials and approvals. The group discussed the status of current development projects in

Swanzey, as well as limitations of facilities/infrastructure in some portions of town. Carbonneau reminded Board members that the Board may engage consultants (at applicants' expense) when Town resources are inadequate or when heads of departments fail to respond to requests for expert opinions.

Carbonneau updated the Board on the progress of the Planning Board workgroup that currently is studying economic development and natural resource protection options for the northern portion of the Route 10 corridor.

Those present discussed possible recommendations for zoning updates. To prevent new buildings from overwhelming existing neighborhoods, members discussed connecting building height to required setback, or pegging building height to the height of existing buildings in the area.

In response to a proliferation of spray-painted plywood signs in the Route 10 corridor, Carbonneau asked Board members for their feedback regarding the adequacy of the existing sign ordinance. Members felt that signs help to "define the town," and temporary signs should be discouraged. Reviewing the ordinance's provisions for regulating signs, members felt that taking a stand with stronger enforcement (perhaps using a citation procedure) might be an appropriate first step. Members noted that, in some nearby municipalities, such signs are confiscated. Carbonneau suggested reviewing the sign ordinances of similarly sized towns, perhaps Jaffrey and/or Peterborough.

Carbonneau stated that Planning Board will be discussing proposed zoning amendments soon and encourage ZBA members to provide input. Carbonneau encouraged members to send her by e-mail specific suggestions for zoning changes.

**ADJOURNMENT**

Motion by Mitchell to adjourn. Second by Rudgers. All in favor. The meeting adjourned at 8:00 p.m.

Respectfully submitted,

Victoria Reck Barlow,  
Recording Secretary