

# January 15, 2004

**Members Present:** Edmund White, Katharine Leab, Bradford Sedito, Randolph Snook, Polly Roberts

**Alternates Present:** Mark Averill, Todd Catlin, Georgia Middlebrook

**Guests:** Robert L. Fisher, Jr., Esq., Dean & Jane Sarjeant, First Selectman Richard Sears, Press

Edmund White, Chairman called the meeting to order at 7:40pm.

**MOTION: to elect Edmund White as Chairman was made by Ms. Roberts, seconded by Ms. Leab by a 5-0 vote.**

**MOTION: to elect Polly Roberts as Vice-Chairperson was made by Mr. White, seconded by Mr. Sedito, by a 5-0 vote.**

## MEETING - CONTINUED

Mr. White seated Bradford Sedito, Randolph Snook, himself and alternates Todd Catlin and Georgia Middlebrook.

**ZBA-0322 Request of Corbo Associates, Inc., 218 Wykeham Road, for a variance from Zoning Regulations 11.1.2 (area of soil type), 11.3.2 (acreage based on soil types) \* old regulations, 11.2.1 (density regulations) \* current regulations, to qualify a lot as a building lot.** Members were given copies of a letter dated 1/15/04 from Michael A. Zizka, Esq. who commented on the Corbo application. Atty. Zizka made reference to case study, with this information from Atty. Zizka Mr. White was reassured that this was the right venue for the above matter. Mr. Snook questioned the second paragraph of Atty. Zizka's letter about the surveyor error. Mr. White explained about the original subdivision and feels it is not the ZBA's job to correct past mistakes. The mistake was made in the 1970's and not with the present owners. Mr. Catlin stated that the present land owners chose not to have the land surveyed. Mr. White stated that the property owner has three options the property owner can acquire more land to make the lot a 3 acre parcel, can attempt to change the Zoning Regulations or request a variance from the Zoning Board of Appeals. Mr. White still feels the applicant has other options; the Town did not make the mistake. Mr. Sedito interjected that the town has been collecting taxes on a building lot. Mr. Averill feels the applicant has exhausted all avenues of acquiring more land. Some discussion continued on lot size, adjoining property owners and the applicant's reapplication options.

**MOTION: to deny ZBA-0322 Request of Corbo Associates, Inc., 218 Wykeham Road, for a variance from Zoning Regulations 11.1.2 (area of soil type), 11.3.2 (acreage based on soil types) \* old regulations, 11.2.1 (density regulations) \* current regulations, to qualify a lot as a building lot by a 2 -3 vote.**

**Mr. Sedito and Mr. Snook voted to approve.**

**Mr. White, Mr. Catlin and Ms. Middlebrook voted to deny.**

## PUBLIC HEARING - CONTINUED

Mr. White seated Bradford Sedito, Randolph Snook, Polly Roberts, himself and alternate Todd Catlin.

**ZBA-0325 Request of Dean & Jane R Sarjeant, 28 Tinker Hill Road, for a variance from Zoning Regulations 11.5.1.a (lot coverage) and 11.6.1 (setback) for a boathouse.** Members received copies of four letters submitted to the file. The letters were from: Edward J. Bennett dated January 2, 2004, Marisa

and Lee Kilbrith dated January 5, 2004, Stephen J. Paggioli dated January 9, 2004 and Susan and Frank Smith undated. The letters were read aloud and were all in favor of granting a variance for the boathouse. Robert L. Fisher, Jr., Esq. was present to represent the applicants Dean and Jane Sarjeant who were also present. Atty. Fisher began by stating that the size of the boathouse was not an issue the problem was that it was 1 1/2' closer to West Shore Road. There was discussion on lot coverage. Ms. Roberts read from Atty. Byrne's letter of January 20, 2003 which stated that the property on the lake side of West Shore road counts as its own parcel and must meet lot coverage criteria. Mr. Sarjeant stated that the lot coverage is OK. Mr. Snook interjected that the lake side parcel is 3800 square feet. The original boat house was 30' x 45'. The Sarjeant's rebuilt a boat house measuring 10' x 16' including the roof overhang. Mrs. Sarjeant stated that Janet Hill, Zoning Enforcement Officer told them not to worry about the size, so they assumed it didn't matter; it was easier to dig where they did. Mr. Sedito asked about having control over rebuilding the boathouse to its original size. Mr. White stated this could not be done. Mr. Snook asked about the calls Mr. White had received about this boathouse. Mr. White received negative calls about the boathouse because ZBA has been tough around the lake and other people have been turned down on better spots than this. Atty. Fisher made reference to the favorable letters received about this application, which were from people immediately affected by the boathouse. At this point Mr. White asked for public comment. Mrs. Sarjeant commented that they have owned this property for 15 years, have made the land available for recreation to others and they built the boathouse where it is for safety issues. Members were reminded that the Sarjeant's still need to apply to Zoning for a special permit.

**MOTION: to close ZBA-0325 Request of Dean & Jane R Sarjeant, 28 Tinker Hill Road, for a variance from Zoning Regulations 11.5.1.a (lot coverage) and 11.6.1 (setback) for a boathouse was made by Ms. Roberts, seconded by Mr. Snook, by a 5-0 vote.**

## **MEETING**

Mr. Sedito is undecided about this application; he is bothered by the 1 1/2 ' encroachment. It would not have been approved if presented to ZBA and they could build a bigger structure on the still existing old foundation. Mr. Snook is in favor of granting the variance, it has the endorsement of the immediate neighbors, the request is minor 12 square feet, and after reviewing photos and plans he feels it is reasonable. Ms. Roberts agrees with Mr. Sedito on the point that this application would not have been allowed but understands the chain of misunderstandings which have been documented. She would be in favor of allowing the variance but is irritated with an as-built application. Coverage is not a factor and she can live with the 1.5 feet. Mr. Catlin is torn on this application, there was confusion and misunderstanding with the permit, he also is not bothered by the 1 1/2 ' but is afraid of this being the beginning of a slippery slide. Mr. White reminded members that the ZBA looks at each property individually. Mr. Sedito asked about hardship. Mr. White answered the chain of events could constitute a hardship and Ms. Roberts added the tearing down of the structure is hardship. Mr. White torn as well on this application, ZBA has taken a hard line on lake applications; this is 90% within the regulations. The 1 1/2 ' is troubling.

**MOTION: to approve ZBA-0325 Request of Dean & Jane R Sarjeant, 28 Tinker Hill Road, for a variance from Zoning Regulations 11.5.1.a (lot coverage) and 11.6.1 (setback) for a boathouse by a 4-1 vote.**

**Mr. White, Mr. Snook, Ms. Roberts, Mr. Catlin voted to approve.**

**Mr. Sedito voted to deny.**

**MOTION: to accept the minutes of the December 18, 2003 meeting as submitted was made by Mr. Sedito, seconded by Ms. Roberts by a 5-0 vote.**

## **Other Business**

Mr. White informed members that ZBA is being sued by Robert Winston and John David Hunter over ZBA-0326. Mr. White read the Aggrievement and Grounds for Appeal section of the summons. Atty Michael Zizka has been retained as council for this matter for the Zoning Board of Appeals. Pam Osborne, Secretary will send copies of the summons to all members.

Members were reminded of the Zoning Commission public hearing on January 26th dealing with Section 17.5.

The Zoning Board of Appeals has received a copy of the 2003 Plan of Conservation and Development which is kept in the Land Use office.

**MOTION: to adjourn was made by Mr. Sedito, seconded by Mr. Snook by a 5-0 vote at 9:00pm.**

Submitted subject to approval,

Pamela L. Osborne. Secretary