

# October 21, 2004

MEMBERS PRESENT: Mrs. Middlebrook, Mrs. Roberts, Mr. Sedito, Mr. White

MEMBER ABSENT: Mrs. Leab

ALTERNATES PRESENT: Mr. Averill, Mr. Catlin, Mr. Snook

STAFF PRESENT: Mrs. Hill

ALSO PRESENT: Mr. Meeker, Mr. M. Kehoe, Mr. J. Kehoe, Press

Mr. White called the meeting to order at 7:30 p.m. and seated Members Middlebrook, Roberts, Sedito, and White and Alternate Catlin for Mrs. Leab. He reported #ZBA-0412/185 West Morris Road, Ltd/185 West Morris Road/Variance: Sections 12.14.3 and 11.6.1.c/Install Generator and #ZBA-0415/Manderson/134 Nettleton Hollow Road/Variance: Section 12.4.2/Install Pool Equipment were withdrawn and a letter dated 10/21/04 from Ms. Mitchell had been received concerning #ZBA-0417/Mitchell/18 Shinar Mountain Road/Variance: Section 12.14.1/Install Generator requesting that the public hearing be postponed until the November meeting. Mr. White then read the legal notice published in **Voices** on 10/10/04 and 10/17/04 regarding the two remaining hearings to be conducted.

**Meeker (Denscot Pool and Spa)/269 New Milford Turnpike/#ZBA-0413 Variance: Section 16.5.1 for Setback from Property Line/Erect Sign/Con't.**

## PUBLIC HEARING

Mr. Meeker was present. Mr. Sedito recused himself and left the table. Seated were Members Middlebrook, Roberts, and White and Alternates Catlin and Snook. It was noted that Mrs. Roberts, who had not attended the last meeting, had come in and listened to the tape of the first session of the hearing. It was also noted that one of the certified mailings to adjoining property owners had been sent to the address obtained from Town records, but had been returned twice.

Mr. Meeker explained the proposed 3' X 5' sign would be behind the sycamore tree, but within the 10 foot setback required from the front boundary line. He claimed it was necessary to erect it there because a fence and vegetation obscured it elsewhere on the property. He also thought it should be located close to the road because traffic goes by too fast to see it if it were placed further back, especially by traffic heading north. He stated if the proposed sign were approved, he would remove the larger vinyl sign on the north side of the building.

The Commissioners made the following comments:

- Mr. Snook thought this business had more signage than other businesses in Town and that the inflatable items on the porch also acted as signs. He noted the Board would try to maintain the uniformity of signs throughout Town without hindering Mr. Meeker's ability to make a living. He said he would support the variance request if removal of the vinyl sign on the north side of the building was made a condition of approval.
- Mr. White noted the Board has been tough on requests for sign variances in the past and said he had compared Mr. Meeker's signs to the other signs in the area.
- Mr. Catlin asked whether the two existing vinyl signs on the front and north side of the building were in compliance with the Zoning Regulations. Mrs. Hill said they were.

MOTION: To close the public hearing to consider Application #ZBA-0413 submitted by Mr. Meeker for a variance of Section 16.5.1 to erect a sign at 269 New Milford Turnpike. By Mrs. Roberts, seconded by

Mr. Catlin, and passed 5-0.

Mr. White closed the public hearing at 7:47 p.m.

## REGULAR MEETING

The Commissioners voiced the following opinions in support of and against Mr. Meeker's variance request:

- Mr. Catlin thought the property owner should work within the Regulations and place the sign to the south of the building where it could be 10 feet back from the property line.
- Mrs. Middlebrook suggested the variance would not be needed if the sign located on the front of the building was removed and a sign was hung on the south side instead, but said she thought the proposed sign was appropriate.
- Mrs. Roberts objected to the vinyl signs on the front and north side of the building and said the proposed sign was in keeping with other business signs in the area that were located close to the road. She thought granting the variance would be fair in this case.
- Mr. White was not in favor of the variance. He noted that other pool companies have discreet signs and that the large sign on the front of the building was more than adequate.

Before the vote was taken it was noted that if the variance was approved Mr. Meeker had stated he would remove the sign on the north side of the building.

VOTE: To approve Application #ZBA-0413 submitted by Mr. Meeker for a variance of Section 16.5.1 to erect a sign at 269 New Milford Turnpike. Vote: 3-2. Variance denied.

Mr. Catlin and Mr. White voted No for the reasons cited above.

## **Jepson-Dore/144 East Shore Road/#ZBA-0416/Variance: Sections 11.6.1.c for Setback from Property Line and 17.4.a for Increasing the Non Conformity of a Non Conforming Building/ Additions to Cabin**

## PUBLIC HEARING

Mr. White called the public hearing to order and seated Commissioners Middlebrook, Roberts, Sedito, and White and Alternate Averill for Mrs. Leab.

It was noted that only one of three green receipt cards for the certified mailings to adjoining property owners had been received and that the agents for the property owner had not checked with the Tax Collector to obtain the correct mailing address.

Mike and Joe Kehoe, contractors, represented the property owners. The explained the proposal to increase the height of the existing cabin so it could be used as a guest house. The renovation work would be done within the existing footprint. Mr. Kehoe said it appeared from the map submitted, survey map #225A filed on the Town Land Records on 2/5/63, that some of the cabin was less than 50 feet from the front boundary line.

Mr. Snook noted there were no accurate measurements specified on the map to clearly show the distance from cabin to the boundary lines. Mrs. Roberts pointed out the map was not an A-2 survey, which is now

required by the ZBA. Mrs. Hill noted she had used the scale on the map submitted and it appeared the cabin was approx. 45 feet from the front boundary line. The applicants were advised to get an A-2 survey with accurate dimensions to determine whether a variance application was actually necessary.

MOTION: To continue the public hearing to consider Application #ZBA-0416 submitted by Mr. Jepson and Ms. Dore for a variance of Sections 11.6.1.c and 17.4.a for additions to an existing cabin at 144 East Shore Road. By Mrs. Roberts, seconded by Mr. Sedito, and passed 5-0.

#### Consideration of the Minutes

MOTION: To accept the 9/16/04 Minutes as written. By Mr. Sedito, seconded by Mr. Catlin, and passed 5-0.

#### Other Business

**Wellings/298 West Shore Road/#ZBA-0406/Construct Garage:** Mr. White read Mr. Ajello's 10/6/04 letter to Mr. Wellings, which noted the 21' 3" X 24' 4" foundation installed was larger than the 21' X 24' garage that had been approved by the ZBA and that the concrete aprons installed had not been included in his variance application. He then read the 10/14/04 letter from Mr. Wellings and Ms. Baldwin, which stated the aprons did not increase coverage and that the footprint of the garage would not exceed the 21'6" X 24'6" dimensions that Mr. Ajello had indicated would be OK. Mrs. Hill asked the Board if they considered the attached aprons to be part of the foundation, noting if they did, they extended beyond the side yard setback approved under #ZBA-0406. A lengthy discussion ensued. 1) It was the consensus the aprons were not part of the structure and so the setback was not an issue. It was noted, however, that when the ZBA grants a variance, it approves a specific site plan and the aprons had not been included on the survey map submitted by Mr. Wellings. Therefore, if Mr. Wellings wants to keep the aprons in place, he must reapply to the ZBA. 2) Regarding the size of the garage, the Commissioners agreed since it was larger than had been approved, Mr. Wellings must apply for another variance or comply with the size of the foundation granted. It was noted that often buildings overhang foundations by a few inches, but that that situation was different than installing a foundation that was already larger than what was granted by a variance. Mr. Wellings' letter was again reviewed and the Board found no reason to justify a larger foundation than the 21' X 24', which was approved. Mrs. Hill noted zoning permits usually specify they have been approved per the ZBA variance number, but the Board asked that in the future, in addition, the zoning permit state, "The foundation may not exceed the dimensions approved per #ZBA-\_\_\_\_."

**Revision of the Zoning Regulations/Section 12.14/Generators, Pool Equipment, and Other Noise Generating Equipment:** Mr. White reported he had discussed with Mr. Martin the possibility of utilizing the Special Exception process to allow noise generating equipment further from the structure served than is now permitted under 12.14. This would mean a hardship would not have to be proved. He noted if such a revision was made, the ZBA would require viable criteria upon which to base its decisions. He said he had asked some salespersons to suggest criteria and that he would work on drafting the language for such a revision.

**A-2 Survey Requirement:** It was noted the application form now states an A-2 survey is required and that applications submitted without one should be considered incomplete. Mr. White stated Atty. Zizka had recommended the Board keep the A-2 requirement, noting that it could be waived under extenuating circumstances.

MOTION: To adjourn the meeting. By Mr. Sedito.

The meeting was adjourned by Mr. White.

FILED SUBJECT TO APPROVAL

Respectfully submitted,  
Janet M. Hill  
Land Use Coordinator