

ZONING BOARD OF ADJUSTMENT
MARCH 2, 2010

APPROVED:

AGENDA: CONTINUED VARIANCE: CARL W. CARLSON, 225 Hemphill Rd., #215-004.
TWO VARIANCES: ALFRED & CYNTHIA DeFEO/ROBERT SPENCER, 35 Pine St., #217-078.

ATTENDING: Sandra Heaney (Chairman), Lloyd Belbin, Larry Denton, Ashley Dolloff, Lorraine Onorato-Sullivan
Alternate: Alan DeStefano, Sara Shattuck

ABSENT: _____

OTHER: Michelle Bonsteel (Land Use Officer), Janice DellaCroce (Planning Board), Dennis Kutcher (public), Joe Denning (Selectman)

The meeting opened at 6:00 pm. Ms. Shattuck mentioned that she is friends with the DeFeo's and it was felt that she should step down for that hearing.

CONTINUED VARIANCE: CARL W. CARLSON

Ms. Heaney felt that the Board now has all the dimensions needed after looking over the latest submission.

Mr. Carlson assured the Board that the apartment upstairs in the barn is to remain a 1-bedroom even if the State permit allows for a 2-bedroom. He feels that the State listed it that way as there is to be one bathroom in the apartment and 1 bathroom on the first floor. Mr. Carlson continued to say that the barn is to house Shire Draft horses. They had to raise the ceiling 3' to accommodate their height. Besides the horses, Mr. Carlson intend on having water buffalo, sheep, and chickens. The apartment is to house a caretaker as Mr. Carlson will need the help. It is to be a small apartment.

Mr. Carlson added that Mr. McCormick, previous permit processor, had no problem with the height when the permit was received. They originally asked for 35' but the timber framers determined that a gambrel roof would need two pitches; for aesthetic reasons, they changed it to 40'.

CARLSON VARIANCE: continued:

Mr. Carlson addressed the criteria at this point, stating that Concerning the Public Interest, the barn is well situated away from the road. It will have a well proportioned roof. He felt that this would cover the second criteria as well. For the 3rd criteria, this is the only home up there. The house is higher than the barn roof will be due to it being on a higher grade level. It won't obstruct the view of the lake as all the land around is owned by the Society for the Protection of Forests, except for one lot which is lower down the hill. The pitch would be steeper to allow snow to come off. As to Surrounding Property Values, there is only one and this will not devalue them.

Ms. Heaney asked for comments for and against and received none. For last statements and questions, Mr. Carlson stated that he hopes that the board looks at the photos submitted. Mr. Denton asked that he confirm that the barn is to be higher due to the height of the horses and Mr. Carlson stated that the first floor ceiling will be higher. Mr. Denton asked what 21 hands (describing the horses) amounts to and was told 6' to 7'. Mr. Denton explained that he is trying to understand why the roof needs to be 40'. Mr. Carlson again stated that when he got the permit, Mr. McCormick did not care about the height. The timber framers wanted to be sure that the snow would come off the tin roof and that, aesthetically, it wouldn't be as nice at 35'.

It was calculated that they need 11' for the horses, 6" for a panel for radiant heat in the floor and 9' for the apartment, with 8' for the gambrel. Mr. Denton asked about Substantial Justice and Mr. Carlson stated that anyone driving by will not know that they needed a Variance for the roof. Since he bought the farm, he has put a lot of time and money into it to make it a showplace. He is thinking of a riding stable to be open for the public.

With no other questions, Ms. Heaney closed the public hearing and brought the board to deliberations. They addressed the 5 criteria:

1. NOT CONTRARY TO PUBLIC INTEREST: We received no abutter letters against the project. Mr. Denton said that he has no problem with this and Mr. Belbin agreed.
2. SPECIAL CONDITIONS THAT PROVIDE UNNECESSARY HARDSHIP: Mr. Denton was not sure that the roof height is due to the timber framer. Ms. Heaney directed the board to consider what they would feel if the barn had not been built yet. Ms. Onorato-Sullivan felt that it would be different if it had not already been built. Mr. Denton said that this criteria is most difficult. Mr. Belbin added that he feels that there was no intent to deceive but a hardship was created by the permit processor. Ms. Heaney stated that ignorance of the law is no excuse. Also, cost cannot be considered. We have to follow the letter of the law.

CARLSON VARIANCE continued:

3. CONSISTANT WITH THE ZONING ORDINANCE: Ms. Dolloff stated that the apartment is not consistent. Ms. Heaney added that any building is not allowed to be above 35' in the Ordinance. Mr. Belbin said that the ruling was put in to prevent unsightly large buildings. He feels that this case is located further out and it will be a nice looking barn. Mr. Denton agreed.

4. SUBSTANTIAL JUSTICE: It was generally felt that this is an odd criteria and Ms. Heaney explained that it is easier if you think would it be an injustice.

5. DIMINUTION OF VALUE: Mr. Denton stated that it will not diminish any values. Mr. Belbin and Ms. Onorato-Sullivan agreed. Mr. Denton added that it may increase values.

The VOTE was called with 1 for and 3 against. The Variance was DENIED. Ms. Heaney explained that there is a 30-day appeal period. She then took the Notice of Decision to fill out.

TWO VARIANCES: ALFRED AND CYNTHIA DeFEO/ROBERT SPENCER

Mr. Denton stepped down as Mr. Spencer is his brother-in-law. Mr. DeStefano was asked to fill in.

The secretary read the application, abutters notified, where the hearing was advertised, and stated that there were no letters nor telephone calls received pertaining to this case. She presented the permission letter for Mr. Spencer to represent the DeFeo's.

Mr. Spencer asked that the board bear with him as the homeowners became ill and he has had just a week to prepare. Ms. Heaney stated that we shall have to continue the hearing anyway as we need to have the four sides of dimension and the dimension showing how much is in the setback. Mr. Spencer went over just exactly what is needed and asked what the board will be looking for. He was told that he must meet the 5 criteria.

A. DeStefano made a MOTION, second by L. Onorato-Sullivan, to CONTINUE THE TWO VARIANCES FOR ALFRED AND CYNTHIA DeFEO/ROBERT SPENCER TO APRIL 6, 2010. The motion CARRIED.

MINUTES FOR FEB. 2, 2010:

L. Denton made a motion, second by L. Belbin, to accept the minutes as read. The motion carried.

FORMAT FROM OFFICE OF ENVIRONMENTAL PROTECTION (OEP)

Ms. Bonsteel had submitted copies of a suggested format for a Variance Application which came from the OEP. The board went over this and felt that it would be good to adopt. A discussion followed as to the process of preparing applicants for a hearing. Ms. Bonsteel and Ms. Laferriere both explained the hours put into explanations and still folks try to get around them. Ms. Dolloff asked if she could have a copy of what is given out so that she might come up with further suggestions to improve understanding. Ms. Bonsteel is happy to get any input and will email the package to her.

PUBLIC THOUGHTS:

Dennis Kutcher said that he did not understand why the barn variance was denied. Ms. Heaney stated that, by law, they must meet all 5 criteria. Mr. Denton asked if Mr. Kutcher thought that the applicant had met all 5 criteria. Mr. Kutcher felt that the location makes it okay. Mr. DeStefano explained that the height restriction also plays into fire protection for the residences and this barn will have an apartment.

Mr. Denning had arrived and was asked if he had anything that he wished to bring up. He stated that he feels that he needs to see the processes of the boards.

COMMUNICATIONS:

The Feb. Town & City magazine will be in the office.

MEMBERS:

Ms. Heaney expressed that we are losing two members and will need to move people up to full-time and get new alternates. Ms. Onorato-Sullivan mentioned that Mike Willingham had mentioned that he would be willing to serve again. Ms. Heaney will contact him to see if he is still interested and in what capacity.

OTHER:

It was mentioned that Ms. Bonsteel will be filling in for Ms. Laferriere while she is out recuperating from an operation.

Mr. Denning thanked the Board for all that they do. He feels that the ZBA is a difficult Board to be on and appreciates all that the members do. Ms. Heaney thanked him for the hard work that he does, also.

With no other business, L. Denton made a motion, second by L. Belbin, to adjourn at 7:20 p.m.

Respectfully submitted,
Jan Laferriere, secretary