

**ZONING BOARD OF APPEALS
REGULAR MEETING
October 15, 2014 – 7:00 PM
NEW HARTFORD TOWN HALL- 530 MAIN STREET
MINUTES**

PRESENT: Chairman Mary Lou Rayno, Paul Griffin, Scott Goff, Bert Brander; Alternates Lew Chappel and John Wilhelm; Zoning Enforcement Officer Steve Sadlowski.

ABSENT: John Rouleau.

Chairman Mary Lou Rayno called the meeting to order at 7:00PM. Alternate Lew Chappel was seated for John Rouleau. The entire proceedings were recorded digitally and are available in the Town Hall.

MOTION Mr. Paul Griffin, Mr. Chappel second, **to add to the agenda under Public Hearings and Pending Applications: B. Peter A. Spath Jr. & Kimberley Spath, 84 Carpenter Road – Variance for Front Setbacks for Shed on Property; unanimously approved.**

1. PUBLIC HEARINGS:

A. Bruce Aldrich/Applicant, Cheryl L. Leppert/Owner – 114 Camp Workcoeman Road – Special Exception – Increase FAR to 14% as per Section 7.1.C.2.

The legal notice for the public hearing was read into the record which was published in *The Independent Community News* on October 3, 2014 and October 10, 2014. Zoning Enforcement Officer Steve Sadlowski confirmed to the commission that the applicant did send notice of public hearing to the abutters of said property.

Mr. Sadlowski reported to the board that the application indicated a request for a Special Exception to increase the FAR (Floor Area Ratio) to 14%. In reviewing the application, Mr. Sadlowski reported that he noted the numbers did not add up. Mr. Sadlowski contacted, initially, the engineer of the applicant and then subsequently the architect, and received this date the final numbers. Revised numbers as computed by Mr. Sadlowski were provided to board members. The total area was listed as 5,433 square feet, resulting in a FAR of 18.516%, according to Mr. Sadlowski's calculations. Mr. Sadlowski did note that the error was not an intentional misrepresentation by the applicants in that the Zoning Regulations are somewhat unclear in that under the Definition section, FAR is defined as, "the total of all floor area measured from the outside surface of the exterior walls of all stories of a building used for human occupancy including the basement and attic areas at any point, etc." Mr. Sadlowski speculated that the applicant's engineer must have omitted the garage and the sheds in the calculations, interpreting them to not be deemed for human occupancy. Mr. Sadlowski noted however, that also in the regulations, is a chart that speaks to what is and isn't counted in FAR and garages and sheds are included. Because 14% was

advertised but yet true FAR is 18.516%, Mr. Sadlowski explained that he checked with land use attorney Mark Branse. Attorney Branse provided Mr. Sadlowski with several different options to handle the discrepancy and they were identified in a reply to “Questions to Mark Branse on FAR advertising issue” that were distributed to board members for review.

Mr. Sadlowski pointed out to board members that it was the recommendation of Attorney Branse that the applicant withdraw the application, re-advertise it and in effect, start at the beginning. Mr. Sadlowski noted for board members that the applicant had, however, flown up from Virginia, at the cost of hundreds of dollars, for the meeting. Mr. Sadlowski advised the board to review the suggestions made by Attorney Branse and to proceed as they deem best. Ms. Rayno inquired to the applicant what the duration of his stay was. The applicant responded that he would be in Connecticut only until Tuesday, which all agreed was not adequate time to re-advertise. In response to a question from Mr. Brander regarding how far into the process the applicant would be able to withdraw his application, Mr. Sadlowski responded the applicants may do so up until the time the board actually takes a vote on the application.

Ms. Rayno asked the applicant, Mr. Bruce Aldrich, if he would like to continue with the application. Mr. Aldrich responded that two of his four neighbors are present at the hearing. Mr. Brander clarified with the applicant that should the application go forward and an appeal be filed, the whole process could delay his application by at least a year. Mr. Aldrich indicated that he preferred to proceed with the application.

Mr. Aldrich presented the board with copies of his proposed site plan on the subject property. Ms. Rayno clarified that the three outbuildings presently on the site would be torn down as part of this plan. Mr. Aldrich confirmed.

Mr. Aldrich explained that the applicants plan to build a retirement home in stages, building a garage first and leaving the existing home there for a while. He continued that the applicants originally sought to only build the garage initially and to tear the existing home down later on when the new home gets built. Mr. Aldrich indicated that the proposed new home will not be any closer to West Hill Lake, but instead will be farther across the property, a house currently at twenty-two (22') feet wide will become fifty-two (52') feet wide. He pointed out on his plan that currently a driveway splits the property, one-third of it located near the Boy Scout camp where the septic system and well are positioned. Ms. Rayno asked if those are preapproved. Mr. Aldrich indicated that they are engineered and with the Farmington Valley Health District but was unsure if formal approval is in yet. Ms. Rayno clarified the locations of the well and the septic system on the drawings.

For the benefit of the board, Mr. Sadlowski identified exactly where the location of the proposed garage bays, the driveway, the existing house, and the three sheds. In response to a question by Mr. Griffin regarding whether the garage would be attached to the proposed new house, Mr. Sadlowski referred board members to pictures in their packet that they were provided with showing the proposed house design. Ms. Rayno

asked what the height would be of the proposed new house. Mr. Aldrich indicated that it is proposed at thirty-three (33') feet. Ms. Rayno asked what the height of the current home is. Mr. Aldrich indicated that it is presently approximately twenty-five (25') feet. Mr. Brander inquired as to the square footage of the proposed home with the garage. Mr. Aldrich responded that for the FAR figure, it is 5,400 square feet.

Ms. Rayno clarified that the proposed home would be no closer to the lake. Mr. Aldrich confirmed. Ms. Rayno clarified that the bottom of the home has an enclosure. Mr. Aldrich confirmed, indicating that this accounted partially for the discrepancy in the FAR because this area she referenced must be counted as living space because it will include screens. Mr. Sadlowski confirmed this explaining that it is less than half in the ground.

Mr. Sadlowski noted for the record that he had advised the applicant to seek approval from the Zoning Board of Appeals prior to the necessary approval from the Inland Wetlands Commission because he anticipated a livelier meeting with the Zoning Board. Mr. Sadlowski indicated that he had confirmed this atypical sequence with Attorney Branse, who had simply advised that any approval that may result include conditions regarding Inland Wetlands approval, too. Agreeing with Mr. Brander, Mr. Sadlowski noted that the Farmington Valley Health District approval is close but should also be included as a condition.

Ms. Rayno inquired about the trees that will need to be removed. Mr. Aldrich indicated that only the trees necessary to be taken down will be removed.

Mr. Brander asked whether the 18% was derived because of the size of the garage or because of the size of the whole house. Mr. Sadlowski explained that it is all of the space and that he is allowed 10% by right, and up to 20%, with approval from the board. Ms. Rayno inquired about whether a loft that was identified on the plans could be used as a bedroom. Mr. Aldrich indicated that while it could, it is intended to be his office.

In a question regarding exact square footage of living space posed by Mr. Griffin, Mr. Aldrich replied that it would be 3,400 square feet. Mr. Griffin asked what the square footage of living space is presently. Mr. Aldrich responded that it is presently an 800 square foot one season cottage, with no insulation and built on studs. Mr. Brander inquired as to why the applicant needs a three car garage. The applicant responded that he collects antique cars and does not want to get rid of them. Mr. Goff inquired as to the number of bedrooms in the proposed design. Mr. Aldrich responded that there will be three bedrooms. In response to a question from Ms. Rayno about the loft again and whether it is possible to be a bedroom, Mr. Aldrich indicated that any area in the house could be a bedroom but the implication was that it was not likely. Mr. Griffin clarified the square footage of the lot. Mr. Sadlowski responded that it was 29,342 square feet. Ms. Rayno confirmed the water frontage to be a little over one hundred feet.

Ms. Rayno inquired about a detail on the site plan. Mr. Aldrich explained that it is an engineering feature, as requested by Mr. Sadlowski, to catch the runoff, a water garden or a catch drain, from the house's roof to catch the rainwater before it goes into the lake. Mr. Griffin clarified what the square footage allowed as of right, which would not necessitate any type of Special Exception from the board. Mr. Sadlowski indicated that it would be 2,934.2 square feet.

Ms. Laura Wyman Bull, owner of **106 Camp Workcoeman Road**, spoke in opposition of the application expressing concerns over the height of the proposed house and the perceived threat to privacy and the possibility of access to her cottage being interrupted for a period of time.

Mr. Stephen Kayser, owner of **122 Camp Workcoeman Road**, spoke in opposition of the application expressing concerns over potential blasting and the perceived threat to his well water. Mr. Kayser also expressed concern with the FAR provision of the regulations and opined that under this provision, he recalled that Special Exceptions would be a very difficult one to receive.

Mr. Peter Humphrey, resident of **273 Niles Road**, read into the record a letter from **William Adamsen**, identifying himself as the owner of **166 Camp Workcoeman Road**, opposing the application expressing concerns over whether the design is in harmony with the neighborhood, specifically with the size of the proposed home. Mr. Humphrey expressed his interest in the outcome of the board's decision and described his own property, and what the FAR calculations would net if he were to use those to modify his own site plan.

Mr. John Flattery, whose wife owns **116 Camp Workcoeman Road**, spoke in opposition of the application and expressed concerns over any type of tree removal and or site disturbance that may negatively impact the quality of the lake water.

Ms. Jackie Turner, owner of **106 Camp Workcoeman Road**, spoke in opposition of the application in that she opined that the increase in size of the proposed home would change the character of the neighborhood. Further, she urged board members to visit the property personally before making a determination on the application.

Ms. Rayno clarified that she, Mr. Griffin, and Mr. Sadlowski had visited the property and have viewed it firsthand.

Ms. Rayno read into the record a correspondence from **Mr. Paul Guilmette**, owner of **632 West Hill Road**, opposing the application opining that the FAR regulation already allows for the construction of oversized homes to be built on a small piece of property.

Mr. Sadlowski cautioned board members that testimony that is technical in nature, i.e. relative to property values, should only be considered when stemming from an expert, i.e. licensed appraiser.

Mr. Aldrich addressed the board again, reporting that his wife, Cheryll Leppert, as well as her family, as former owners of this property, have been enjoying this lake for over fifty years and that the proposed site plan realizes the couple's dream home. He continued that he disagrees with the characterization that his application's FAR figure is different from the area and only seems so because of the chart that is being utilized.

Mr. Griffin sought procedural clarification as it relates to the public hearing according to Attorney Branse.

MOTION: Mr. Brander, Mr. Chappel second, **to continue the public hearing in the matter of Bruce Aldrich/Applicant, Cheryll L. Leppert/Owner – 114 Camp Workcoeman Road – Special Exception – Increase FAR to 14% as per Section 7.1.C.2; unanimously approved.**

B. Peter A. Spath Jr. & Kimberley Spath, 84 Carpenter Road – Variance for Front Setbacks for Shed on Property.

The legal notice for the public hearing was read into the record which was published in *The Independent Community News* on October 3, 2014 and October 10, 2014. Zoning Enforcement Officer Steve Sadlowski confirmed to the commission that the applicant did send notice of public hearing to the abutters of said property.

Mr. Peter Spath explained to the commission that in a previous application for a variance, he erred in the dimensions contained in the application. As part of this application, Mr. Spath sought a variance for a shed not to exceed twenty six feet long by twenty feet deep with a maximum height allowance of twenty feet (26' x 20' x 20').

MOTION: Mr. Griffin, Mr. Chappel second, **to close the public hearing in the matter of Peter A. Spath Jr. & Kimberley Spath, 84 Carpenter Road – Variance for Front Setbacks for Shed on Property; unanimously approved.**

2. PENDING APPLICATIONS:

A. Bruce Aldrich/Applicant, Cheryll L. Leppert/Owner – 114 Camp Workcoeman Road – Special Exception – Increase FAR to 14% as per Section 7.1.C.2.

No action taken as the public hearing was continued.

B. Peter A. Spath Jr. & Kimberley Spath, 84 Carpenter Road – Variance for Front Setbacks for Shed on Property.

MOTION: Mr. Griffin, Mr. Goff second, **that we have determined that the hardship for this application is the unique topography of the land. It has particularly steep slopes just behind the home and across the rear of the property, making it nearly impossible (or prohibitively expensive) to build the shed in a conforming location. Therefore we approve the following application: Peter & Kimberly Spath – Variance to approve a (35') foot variance to the front setback to allow a storage shed to be built within fifteen (15') feet of the property line with the following conditions: 1. The size is**

limited to 26'x20' and is 20' high and is located in the approximate location of the hand drawn sketch provided with the application; unanimously approved.

3. NEW APPLICATIONS:

None.

4. APPROVAL OF MINUTES: September 17, 2014 & September 30, 2014 (Special Meeting).

MOTION: Mr. Chappel, Mr. Goff second, **to approve the minutes of the September 17, 2014 Regular Meeting and the September 30, 2014 Special Meeting; Ms. Rayno, Mr. Chappel, Mr. Goff, Mr. Griffin voting to approve; Mr. Brander abstained; motion passed.**

5. OTHER BUSINESS PROPER TO COME BEFORE THE BOARD.

Mr. Goff inquired as to whether it would be possible to invite Attorney Branse to do a workshop on Special Exceptions.

Ms. Rayno suggested that, prior to closing the public hearing on the application regarding 114 Camp Workcoeman Road, board members should visit the site. Mr. Griffin inquired as to whether or not applicants are aware that board members have a right to visit sites on pending applications. It was determined that there is a blurb on applications that reads, "The property shall be subject to inspection by Town Staff and Board Members prior to a decision." Both Mr. Sadlowski and Ms. Rayno reminded board members that in the event they do visit the site and/or in conversations with one another to not discuss the pending application outside the meeting.

MOTION: Mr. Griffin, Mr. Brander second, **to adjourn the meeting at 8:20PM; unanimously approved.**

Respectfully submitted,

**Pam Colombie
Recording Clerk**