

**UNAPPROVED MINUTES**  
**Town of Auburn**  
**Zoning Board of Adjustment**  
**July 26, 2016**

**Present:** Mark Wright, Chairman, Jim Lagana, Vice Chairman. Mike DiPietro, Kevin Stuart and Jeffrey Benson, Members. Minutes recorded by Denise Royce.

**Also Present:** Eric Mitchell.

**Absent:** Robert Beaurivage and Peggy Neveu, Alternate Members.

Mr. Wright called the meeting to order at 7:04 p.m. and introduced the Board members and explained the rules of procedure for tonight's hearing to those present. .

At this time, Mr. Wright asked Ms. Royce to read the first case into the minutes for the record.

**Case #16-08**

**Frank Mesmer, Trustee**

**392 Manchester Road – Tax Map 28, Lot 5-2**

**Zoned Residential One**

*Applicant is requesting a Variance to allow the construction of a carport that will be 4.3 feet from the side setback where 30 feet is required and 12 feet from the rear setback where 50 feet is required and a Variance to exceed lot coverage (31%) where 5% is the maximum requirement in a Residential One zone. (Article 4, Section 4.06(6))*

Mr. Mesmer first passed out copies of a sketch of the proposed carport to each of the Board members and proceeded to read his application into the minutes.

Mr. Wright asked if there were any abutters or interested parties present. None were noted. Mr. Wright proceeded to ask the Board members if they had any questions or comments. None were noted at this time. Mr. Wright stated that the all the Board members should have received a Zoning Determination from the Code Enforcement Officer. At this time, a few of the members reviewed the Zoning Determination which was sent separate from the package sent to all the Board members.

Mr. Wright asked Mr. Mesmer about the sketch presented to the Board and asked what type of improvements he was proposing. Mr. Mesmer asked the Board if the post had to be in the ground and if a free standing carport was allowed in Auburn. Mr. Wright asked if it was going to be portable and believed that we did have an ordinance in place which did not permit portable structures. Mr. Wright informed Mr. Mesmer that if they were to approve a Variance that they would want to have a very good sense of what they were approving in a particular location depicted on a plan presented to the Board

and that there would be no bathroom or second floor and would be in the proposed location presented tonight. Mr. Mesmer stated that there would not be a second floor and would not have a bathroom. Mr. Wright pointed out to the Board that it was a very small lot and that the relief from lot coverage was a sizeable one and that the setbacks were a challenge as well. Mr. Wright also stated that Ms. Royce has pointed out that it would be two (2) Variances that would be requested tonight with one being the dimensional setback and the other one being the lot coverage requirement.

Mr. Wright asked Mr. Benson or Mr. Stuart if they had any questions or comments. Mr. Benson indicated that he had a few questions and began by asking Mr. Mesmer if the sides would be open. Mr. Mesmer said yes. Mr. Benson asked if it would have gravel or concrete floors. Mr. Mesmer stated that it would be non-concrete because he was told that they would have to use a semi-permeable surface to allow penetration for the water because of the watershed. Mr. Lagana asked if Mrs. Rouleau-Cote had gone out to visit the property. Mr. Mesmer stated that Mrs. Rouleau-Cote has been out to the property several times.

Mr. Lagana asked Mr. Mesmer if he has seen the Zoning Determination that Mrs. Rouleau-Cote has written up. Mr. Mesmer said no. Mr. Wright informed Mr. Mesmer that Mrs. Rouleau-Cote has suggested that the Board members consider a condition that the property owner obtains Shoreland Permit through the NH Department of Environmental Services (NH RSA 483-B) because of the fact that it's such a small area and being so close to the lake. Mr. Wright also pointed out the other suggestion which was having the ZBA consider condition that a State of NH approved septic design be submitted to verify that lot can support an expansion of building footprint (Env 1004.15). Mr. DiPietro asked if there was no septic plan on record. Mr. Wright said that was correct; there was no septic system approval on file with the state.

Mr. DiPietro suggested that the Board go into deliberation. Mr. Wright agreed and stated that he would entertain a motion to enter into deliberation.

***Mr. DiPietro made a motion to enter into deliberation, Mr. Benson seconded the motion. The Board entered into deliberation at 7:22pm.***

Mr. DiPietro began by saying that he believed it would be a reasonable request if it were an addition to the home and understood it was an addition but it was well documented that it was a post and beam open carport. Mr. DiPietro agreed that it would be good to have a septic plan but did not believe they needed to consider it for a carport. Mr. DiPietro believes that asking the property owner to obtain Shoreland Permit through the NH DES was appropriate because it was so close to the lake. Mr. DiPietro did not believe that the open carport would add anymore loading on the septic. Mr. Lagana disagreed with Mr. DiPietro because the entire lot was only 6,400 square feet and this proposed addition represents approximately 8 or 9% of that lot and it will be affecting water runoff and loading and will affect how the septic system performs and the Board should consider it. A brief discussion ensued between Mr. DiPietro and Mr. Lagana with regard the request for a septic system design.

Mr. Benson commented that he understands what Mr. DiPietro is saying and read the section that Mrs. Rouleau-Cote states, "the ZBA should consider the condition that a State of NH approved septic design be submitted" and with the small lot and an old septic that his thoughts that they may not approve it because it's lacking certain specifics of the septic system. Mr. Benson further pointed out that there seems to be no indication where the septic was or made of. Mr. Wright understood the comments being made were very good points being made on both sides and discussion ensued with regard to the septic system. Mr. Lagana commented that if they prepare a septic design that it would be placed on file so if the existing system fails there is a septic design in place. Mr. DiPietro pointed out that the homes are close together and did not believe that the loading on the septic system would be no more with or without a carport.

Mr. Stuart agreed with Mr. DiPietro and believed there is a layer of protection for the watershed and the environment with having a state approved septic system and also did not believe it would impact the load on the septic system. Mr. Wright commented that there is a leaching issue and agreed that they would not be adding any more to the septic load and if you don't know where the leachfield is there is a problem. Mr. Wright would suggest obtaining more information from the applicant on location of the leachfield and a letter from Meridian, who designs septic's saying that this structure, in their opinion, would not create a harmful effect to the septic design or increase anything that would be detrimental to the land. Mr. Wright did not think it was a big effort to do what he has suggested. Mr. Lagana thought that they may find that there is no leachfield over there because they used to be camps back in the day. Mr. Lagana talked about the expansion of use. Mr. DiPietro did not believe they could tie the two things together. A brief discussion ensued with regard to connecting a carport to a septic system.

Mr. Benson added that he would be interested to know whether it was a dug well or a drilled well which would be an issue as well and that the Board may look at it differently. Mr. Benson also believed that they should have Meridian take a look at it as well. Mr. DiPietro believed that would be a good compromise.

***Mr. DiPietro made a motion to enter into deliberation, Mr. Lagana seconded the motion. The Board entered into deliberation at 7:38pm.***

Mr. Wright asked Mr. Mesmer if it was a dug well or a drilled well. Mr. Mesmer indicated that it was a dug well approximately 20 feet deep. Mr. Mesmer further stated that there were two (2) septic systems on the property. Mr. Wright asked if they had any issues with it. Mr. Mesmer said no that they have it pumped regularly. Mr. Wright asked Mr. Mesmer how big the tank was. Mr. Mesmer stated that there were two (2) 500 gallon tanks. Mr. Benson asked if there were any leachfields. Mr. Mesmer said no. A brief discussion ensued with regard to the two (2) tanks. Mr. Wright asked Mr. Mesmer that being so close to the lake if they have to get it pumped and provide any evidence of that to NH DES. Mr. Mesmer said no.

Mr. DiPietro asked if there was basement. Mr. Mesmer said yes. Mr. DiPietro asked if it got flooded. Mrs. Mesmer said that they get a little water around the edges and that they had two (2) sump pumps.

Mr. Wright asked the Board members if they had any other questions with regard to the dimensions or other concerns with the structure and pointed out that they would be looking for two (2) variances and conditions attached to both variances. Mr. Wright stated that he would entertain a motion and start with the dimensional requirement variance.

***Mr. DiPietro made a motion to vote on the application requesting a variance with regard to the setbacks contingent upon an acceptable septic review by Meridian and contingent upon a Shoreland permit application being executed,***

Mr. Benson wanted to add a friendly amendment to add “that the sides remain open on the carport and the pavement remains as presented tonight.” Mr. Wright asked if there was a second. Mr. Stuart seconded the motion and the motion was made.

***Mr. DiPietro made a motion to vote on the application requesting a variance with regard to the setbacks contingent upon an acceptable septic review by Meridian and contingent upon a Shoreland permit application being executed, and to add Mr. Benson’s friendly amendment to include that the sides remain open on the carport and that the pavement remains as presented tonight, Mr. Stuart seconded the motion.***

Mr. Wright pointed out to Mr. Mesmer that, he’s heard the conditions set forth above stating that the sides will remain open and will not change. Mr. Mesmer stated that, that was the plan.

Mr. Lagana wanted to make a friendly amendment to amend the motion to say that the applicant submits a State approved septic design and obtain a Shoreland permit as opposed to the approved septic design from the soil engineer (Meridian). Mr. Wright reread the amendment to the amendment and asked for a second. No second was made then the motion failed. Mr. Wright went back to the amendment made and which was seconded by Mr. Stuart.

***Mr. DiPietro voted to grant, Mr. Lagana voted to deny based upon the conditions as he did not agree with the conditions, Mr. Benson voted to grant because he believed it met the five (5) factors, Mr. Stuart voted to grant as he believed it also met the five (5) factors, and Mr. Wright also voted to grant. A vote was taken and the motion passed by a vote of 4 to grant and 1 to deny.***

***Mr. DiPietro made a motion to vote on the application requesting a variance to exceed lot coverage as presented not to exceed (31%) contingent upon an acceptable septic review by Meridian and contingent upon a Shoreland permit application being executed, and to add Mr. Benson's friendly amendment to include that the sides remain open on the carport and that the pavement remains as presented tonight, Mr. Benson seconded the motion.***

Mr. Lagana wanted to make a friendly amendment to amend the motion to say that the applicant submits a State approved septic design and obtain a Shoreland permit as opposed to the approved septic design from the soil engineer (Meridian). Mr. Wright reread the amendment to the amendment and asked for a second. No second was made then the motion failed. Mr. Wright went back to the previous amendment to exceed lot coverage made and which was seconded by Mr. Benson.

***Mr. DiPietro voted to grant, Mr. Lagana voted to deny based upon the conditions as he did not agree with the conditions, Mr. Benson voted to grant, Mr. Stuart voted to grant, and Mr. Wright also voted to grant. A vote was taken and the motion passed by a vote of 4 to grant and 1 to deny.***

Mr. Wright explained to Mr. Mesmer that he should obtain a copy of their decision that will set out the conditions that they described and to talk to Mrs. Rouleau-Cote and show Meridian as well and how they would like to see a letter from them that there would be no negative impact by adding the carport and then they would be good to go. Mr. Wright also explained the appeal process to Mr. Mesmer which was a 30 day appeal period where abutters or interested parties could appeal the ZBA decision made tonight.

At this time, Mr. and Mrs. Mesmer thanked the Board members for their time and exited the Public Hearing.

#### **Case #16-09**

**Eric C. Mitchell & Associates, Inc.  
Strategic Contracting Company, LLC  
10 Anderson Way – Tax Map 5, Lot 19-7  
Zoned Residential One**

*Applicant is requesting a Variance to allow a reduction from the 125 foot wetland buffer to a Level One wetland in a Residential One zone. (Article 5, Section 5.08(1)(a))*

Mr. Mitchell presented on behalf of the applicant and began by saying that Mr. Starace was present as well as the purchaser of the lot. Mr. Mitchell stated that they were before the Board tonight seeking a reduction in the wetland setback. Mr. Mitchell explained that, when he filed the application at the end of June, he had anticipated meeting with the Conservation Commission the first week in July but they did not meet in July. They are scheduled to meet with the Conservation Commission on August 2<sup>nd</sup>

and therefore do not expect this Board to make a decision tonight until they have that information. Mr. Mitchell continued by saying that, seeing that the Board was still holding a meeting tonight they figured that they could give the Board some information that they had and obtain any input that the Board may have as well. Mr. Mitchell understood that this would be continued to the next meeting. At this time, Mr. Mitchell asked the Board if they had copies of the plan. Mr. Wright said yes. Mr. Mitchell further explained that they were before the ZBA seeking a Variance for a reduction in the wetlands but withdrew that application without prejudice to see what would happen with the property. With that said Mr. Mitchell informed the Board that the proposed purchaser would like to put in a pool within the grassy area in the backyard and showed the Board members the location on the plan presented tonight. Mr. Mitchell is proposing a reduction in the wetlands down to 85 feet where before they were looking at 75 feet. Mr. Mitchell gave information with regard to the pool area and location in proximity to the wetlands and the lay of the land. The current area available is not sufficient enough to include a pool in the backyard as it is laid out right now. At this time, Mr. Mitchell passed out an aerial photograph of the proposed property they are seeking relief.

Mr. Mitchell explained to the ZBA Board what they would like to talk to the Conservation Commission about is that they have planted areas where they wanted to keep people out but they would like to do something else such as put a berm in to prevent any water runoff to go through there so this is what they would like to talk to the Commission about.

At this time, Mr. Mitchell asked the Board members if they had any questions and would be glad to take any of the input that the Board may have. Mr. Wright stated that he had a good sense of what they are looking to do and appreciate them coming before the Board to give them a heads up and recognizing that they would likely rely on the Conservation Commission expertise and believed their approach was right on. Mr. Wright asked if the Board members had any questions or comments and if not then he would entertain a motion to Table this matter.

Mr. DiPietro asked if there was any question with the Planning Board whether the wetlands were Level One or Level 2. Mr. Mitchell stated not on these wetlands but further down the road. Mr. DiPietro stated that he was sure that the Conservation Commission would inform them.

Mr. Wright concluded by asking the Board for a motion to Table this matter until next month to give the applicant an opportunity to meet with the Conservation Commission to seek their input and obtain any other comments for this Board from the Conservation Commission. Mr. Mitchell suggested to Mr. Wright that he may want to ask if there are any abutters that wished to speak. Mr. Wright asked if there were any abutters that wished to speak. Mr. Snowdale of 92 Pingree Hill Road began by voicing some of his concerns were regarding runoff and explained that his well has issues with silt in it and believed it occurred because of the construction and had some concern about contamination. Mr. Wright indicated that Mr. Snowdale's comments were well taken



and suggested that Mr. Snowdale attend the Conservation Commission meeting scheduled for next Tuesday, August 2<sup>nd</sup> at 7:00pm here at town hall and that they are also welcome to come back before this Board next month.

**Mr. Lagana made a motion to Table Case #16-09 until August 23, 2016, Mr. DiPietro seconded the motion. Mr. DiPietro voted to Table, Mr. Benson voted to Table, Mr. Stuart voted to Table, Mr. Lagana voted to Table, and Mr. Wright also voted to Table. A vote was taken and the motion passed and therefore this case is Tabled until August 23, 2016.**

### **Other Business**

Mr. Wright asked the Board if there was any new business. Mr. DiPietro explained to the Board that there was either a house bill or a senate bill that was out to make zoning boards vote on each of the criteria of the variance. Mr. Wright believed that town counsel has stated that the best practice is to vote on each of the five factors for a Variance and Mr. Stuart agreed with Mr. Wright. A brief discussion ensued in this regard.

### **Minutes**

***Mr. Lagana made a motion to accept the minutes of June 28, 2016 as written, seconded by Mr. Stuart. All were in favor with Mr. Wright abstaining and the motion passed.***

### **Adjourn**

***Mr. Benson made a motion to adjourn, seconded by Mr. DiPietro. All were in favor, the motion passed unanimously and the meeting stood adjourned at 8:05 p.m.***

The next ZBA Hearing is scheduled for August 23, 2016 at 7:00 pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted.