

**UNAPPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
February 23, 2016**

Present: Mark Wright, Chairman, Elizabeth Robidoux, Mike DiPietro, and Jeffrey Benson, Members; Peggy Neveu and Kevin Stuart, Alternate Members. Minutes recorded by Denise Royce.

Also Present: Carrie Rouleau-Cote, Building Inspector and Jeffrey Porter, Conservation Commission.

Absent: Jim Lagana, Vice Chairman and Robert Beaurivage, Alternate Member.

Mr. Wright called the meeting to order at 7:00 p.m. and introduced the Board members and explained the rules of procedure for tonight's hearing to those present. Mr. Wright explained the two matters before the Board members tonight which was Case #16-03 and a request for an Appeal from a case that was decided on January 26, 2016 for Sean and Janet Johnson.

At this time, Ms. Royce read the first case into the minutes for the record.

**Case #16-03
Michael & Christine Campanella
27 Nathaniel Way – Tax Map 5, Lot 104-19
Zoned Residential Two**

Applicant is requesting a Variance from Article 4, Section 4.04, to allow a 10 foot by 14 foot shed to be less than 60 feet from structure to structure in a cluster subdivision in a Residential Two zone.

In the absence of Mr. Lagana, Mr. Wright elevated Mr. Stuart to full voting member for tonight's hearing.

Mr. Campanella began by reading his application into the minutes for the record.

Mr. Wright asked if there were any abutters or interested parties that would like to speak. None were noted. At this time, Mr. Wright read an e-mail that was sent to Ms. Royce and forwarded to the Board members from Keith Martel of Sterling Homes confirming that he had no issues with regard to the location of the shed being less than 60 feet to the proposed lot that currently did not have a house on it. The Board reviewed the proposed plan showing the location of the shed to the proposed house to be built by Sterling Homes.

Mr. Wright asked Mr. Porter if he had any questions or comments. Mr. Porter pointed out that they have been dealing with some recent issues with Nathaniel Way with sheds within setbacks and if this did not have anything to do with a wetland setback then the Conservation Commission did not have any comments at this time.

Mr. Wright asked Mrs. Rouleau-Cote, the Building Inspector if she had any questions or comments. Mrs. Rouleau-Cote pointed out that the only assurance was that the abutting lot would be able to construct the home because it will be less than 60 feet to the shed and that there were not a lot of options on the other lot for the house placement. Mr. Wright asked Mr. Campanella why he couldn't put a 10 by 12 foot shed instead of a 10 by 14 foot shed. Mr. Campanella stated that when they bought the shed that he had reviewed the information about property lines and wetlands setback but did not know about the 120 square feet for the shed. Mrs. Rouleau-Cote wanted to clarify that the shed was built without a permit. Mr. Wright asked how the applicant discovered that he needed a permit. Mrs. Rouleau-Cote indicated that he had received a letter from her office.

Mr. Wright asked the Board members if they had any questions or comments for the applicant. Mrs. Robidoux asked the applicant if there was a reason why the shed could not be placed closer to the house. The Board reviewed the plan submitted and asked if there was a house on the abutting lot. Mrs. Rouleau-Cote stated that there was not a house built yet on the abutting lot. Mr. Campanella stated if he were to put the shed next to the deck it would be right in the middle of their backyard and also stated that there was an irrigation system in the backyard as well. Mr. Campanella further stated that with the shed closer to the deck that it would not be an ideal placement for the shed.

Discussion ensued on whether or not the 60 foot requirement was due to a fire code or the Zoning Regulations. Mrs. Rouleau-Cote clarified that it had nothing to do with the fire code but was in fact in our regulations. A brief discussion ensued with regard to the 60 foot separation.

Mr. Benson asked Mrs. Rouleau-Cote that since there is no structure on the abutting lot is a permit needed because he is not 60 feet from a structure because the house isn't built yet. Mrs. Rouleau-Cote explained that she understood what Mr. Benson was saying but the lot that is not developed right now is really limited to where the structure can go. Mrs. Rouleau-Cote further added that she was sure that if the Board were to tell Mr. Martel that he would need to relocate the proposed location of the house that he would not have sent the Board a letter in favor of this tonight. Mrs. Rouleau-Cote also pointed out that even though we do not enforce protective covenants that there were protective covenants in place within this subdivision that limits the shed to 120 square feet and that Mr. Campanella exceeds that limitation. Mr. Benson also noted that Mr. Martel stated in the last paragraph that he did not want this to interfere in his ability to build the home on the abutting lot and Mr. Benson wanted to know if Mr. Martel would need relief when he went to build. Mrs. Rouleau-Cote stated that the relief that the Board would be granting tonight would allow the applicant to have his shed closer than

60 feet to the proposed abutting structure. Mr. Benson pointed out that they would have to word it as such indicating that it was the proposed abutting structure. The Board all agreed. Mr. Wright talked about the restrictive protective covenants and wondered if Mr. Martel could waive the standing of any other property owners that benefit from those restrictive covenants. Mr. Wright noted that the applicant at least has the assurance from the builder that he would not challenge the restrictive covenants. A brief discussion ensued with regard to the covenants of Nathaniel Way Subdivision and the fact that the abutting lot does not have a house built on it to date.

Mrs. Robidoux noted the slope of the land and was not in favor of having the shed so close to the deck since Mr. Campanella would be storing flammables in the shed.

Mr. Wright asked the other Board members with they had anything else to add. Mrs. Robidoux stated that she was a little upset that there was no permit pulled prior to placing the shed. Mr. Campanella apologized and added that they were not experienced homeowners and did not realize that he had to and also informed the Board that he has spread the word to his neighbors. Mr. Wright thought maybe we could occasionally take out an ad in the Crier that if you are going to build anything that you must obtain a building permit from the town and to also make sure that you are in compliance with the zoning ordinance.

At this time, Mr. Wright indicated that he would entertain a motion to vote on the application as presented assuming no one wanted to go into deliberation.

Mr. DiPietro made a motion to vote on the application as presented to allow the shed to be less than 60 feet from the abutting building as shown on the plan presented tonight, Mrs. Robidoux seconded the motion. Mrs. Robidoux voted to Grant, Mr. DiPietro voted to Grant, Mr. Benson voted to Grant, Mr. Stuart voted to Grant, and Mr. Wright also voted to Grant. All were in favor, and the motion passed in the affirmative.

Mr. Wright explained to Mr. Campanella that there was a 30 day Appeal period where interested parties could appeal the ZBA decision tonight. Mr. Wright also informed Mr. Campanella to obtain a permit for the shed as well. At this time, Mr. Wright thanked the applicant for spreading the word and the applicant exited the meeting.

Terri Koufopoulos

Request Appeal of ZBA Decision dated January 26, 2016

For Sean & Janet Johnson

16 Jennifer Lane – Tax Map 12, Lot 19-14

Variance Granted to allow a 16 x 24 foot shed

To be within 8 feet of the property line

Mr. Wright began by saying that everyone received an e-mail from Ms. Royce attaching a letter which is for a request for rehearing for the Johnson case that was heard last

month, January 26th. The rules of procedure for the ZBA were revised and as a result of those revisions of adoption of these procedures that one of the revisions was regarding asking for a rehearing which states that "Any non-applicant party filing a motion with the Board shall simultaneously copy the applicant with the motion." Mr. Wright informed the Board that Ms. Royce did forward a copy to the applicant so the applicant did receive a copy and was put on notice of the request for rehearing. Mr. Wright pointed out to the Board members that they have to make a decision on whether or not to rehear the matter if there is enough evidence to warrant a rehearing. Mr. Wright asked the Board members if they all had a chance to review the letter that was submitted. The Board members said yes. Mr. Wright opened the meeting up for discussion on the request for rehearing.

Mrs. Robidoux stated that she understood that the neighbor was not in favor of our decision and in looking over the information that she has provided to us and was trying to find something that showed that the Board did not have enough information but everything listed in the letter were all items that she did bring up in the Public Hearing and did not see anything that would change the way that she voted. Mrs. Robidoux believed that most of the items listed in the letter were civil matters that the Board does not have any control over and did not fall under our purview. Mrs. Robidoux pointed out that the one thing that she did talk about that was zoning related was that she wanted the Board to encourage the observance of our zoning ordinance but Mr. Johnson came before the Zoning Board of Adjustment because he could not meet the letter of the law in our ordinance and was granted relief. Mrs. Robidoux commented that she did not see anything in the letter that would warrant a rehearing. Mrs. Neveu agreed with Mrs. Robidoux and did not see any new evidence either. Mr. Benson also agreed and believed it was repeating what they have already heard and believed most of the items were civil matters. Mr. Stuart also agreed with the Board members and noted that she has since had it surveyed but that there was no new evidence presented. Mr. Wright asked Mr. DiPietro for his comment. Mr. DiPietro indicated that he was not present at the last meeting. Mr. Wright indicated that since Mr. DiPietro was not present that he could elevate both Mrs. Neveu and Mr. Stuart to vote on this matter if it was okay with Mr. DiPietro. Mr. DiPietro agreed and Mr. Wright elevated both Mrs. Neveu and Mr. Stuart to full voting members for this matter which will make five (5) voting members. Mr. Wright stated that he did not have anything else to add and that he was in line with what everyone else has said so with that said, he would entertain a motion.

Mrs. Robidoux made a motion to rehear the Johnson case based on the request for Appeal presented by the neighbor, Mrs. Neveu seconded the motion. Mrs. Robidoux voted to Not rehear the case, Mrs. Neveu voted to Not rehear the case, Mr. Benson voted to Not rehear the case, Mr. Stuart voted to Not rehear the case, and Mr. Wright also voted to Not rehear the case. All were against rehearing the case, and the motion did not pass by a vote of 5 to 0.

Mr. Wright asked Ms. Royce to get a copy of the Notice to the abutter as well as the applicant. Ms. Royce so noted the request.

Other Business

Mr. Wright asked the Board if there were any new cases for next month and when the deadline was. Ms. Royce stated that there were currently no new cases at this time and that the deadline was March 1st.

Discussion ensued with Zoning Board members whose terms were expiring. Mr. Wright informed the Board members that Mrs. Neveu, Mr. Beaurivage, Mr. Benson as well as himself were all expiring this year but that they everyone has graciously agreed to continue on the Board for another three (3) year term.

Mr. Wallin informed the Chairman that his son was a boy scout in Auburn and was present tonight to earn one of his merit badges and asked if he would sign something for him. Mr. Wright graciously signed a form for Jonathan Wallin who is a boy scout from Auburn. Mrs. Robidoux gave Jonathan a copy of the package of the cases that were discussed at tonight's meeting. Mr. Wallin and Jonathan thanked the Board members and exited the meeting.

Mr. Wright asked Mrs. Rouleau-Cote if she had anything to add. Mrs. Rouleau-Cote did not have anything to add other than to inform the Board about the upcoming proposed Zoning Ordinance Amendments that will be on the ballot on March 8th. The proposed Zoning Amendment has to do with the cluster ordinance. A brief discussion ensued with regard to the two (2) proposed Zoning Amendments of which one the Planning Board did not recommend and the other was recommended by the Planning Board.

Minutes

Mrs. Robidoux made a motion to accept the minutes of January 26, 2016 as written, seconded by Mr. Benson. All were in favor, the motion passed in the affirmative.

Adjourn

Mrs. Robidoux made a motion to adjourn, seconded by Mr. DiPietro. All were in favor, the motion passed unanimously and the meeting stood adjourned at 7:45 p.m.

The next ZBA Hearing is scheduled for March 22, 2016 at 7:00 pm and will be held at the Town Hall, 47 Chester Road.