

**UNAPPROVED MINUTES**  
**Town of Auburn**  
**Zoning Board of Adjustment**  
**July 25, 2017**

**Present:** Mark Wright, Chairman, Jim Lagana, Vice Chairman. Mike DiPietro, Kevin Stuart & Jeffrey Benson, Members, Peggy Neveu & Robert Beaurivage, Alternate Members. Minutes recorded by Kathryn Lafond.

**Absent:** Stephen Carroll, Alternate.

**Also Present:** Carrie Rouleau-Cote, Building Inspector.

Mr. Wright called the meeting to order at 7:00 p.m. and introduced the Board members to everyone present tonight and explained the procedure for tonight's hearing.

**Case #17-07**

**Martha Herrick**

**640 Pingree Hill Road – Tax Map 2, Lot 44-3**

**Zoned Rural**

**TABLED from June 20, 2017**

*Applicant is requesting a Variance to allow a 16 foot by 20-foot storage shed to remain in the location it was built onsite within the side setback in a Rural zone. (Article 4, Section 4.05(4))*

Mrs. Herrick noted that the shed is 14 foot by 20 foot, not 16 foot by 20 foot. Mr. Wright indicated that at the last meeting the applicant was to hire a licensed land surveyor to prepare a certified plot plan that included all structures on the property as well as the septic, well and driveway. The applicant's son in law presented the Board with the plot plan and pointed out the corner of the shed is slightly over the setback line. The son in law indicated that if the Board does not grant the variance he believes he can pivot the shed to meet the setback. The son in law pointed out sloping and wooded areas on his property on the plan. Mr. DiPietro asked what the distance is from the edge of the road to the corner of the house. The son in law indicated 21 feet. Mrs. Neveu asked about moving the shed to the other side of the driveway. The son in law stated that he is not moving the shed and will appeal the Board's decision to court. Mrs. Herrick informed the Board that she lost property when the road was being put in. Mrs. Rouleau-Cote noted to the Board that there is no record that applicant's lot line was moved or adjusted; there is a prior variance for the house which is in the setback. Mr. Stuart asked why the shed could not be put in the back of the house. The son in law indicated that is the only yard area for them to enjoy with their kids. The son in law continued that the shed position is close to the house and easy for his mother in law to walk to and the rest of the lot is sloped. The son in law presented pictures of the property on an iPad and explained that on the one flat area they would like to put a garage in the future. The son in law stated that the shed isn't going to bother anyone or block anything. The Board reviewed the

variance for the house from 1986. It was commented that there was no plot plan with the variance. Mr. Wright noted that there was not a lot of detail about the variance. Mrs. Rouleau-Cote commented that the Board could have the minutes regarding the variance from that time period pulled for their review. Mrs. Rouleau-Cote continued that the setback is 50 feet from the property line, the variance was granted to allow the house to be constructed within the setback. Mrs. Rouleau-Cote also explained that if the applicant had pulled a building permit prior to constructing the shed they would have been informed of the property setbacks. Mr. Lagana confirmed that no building permit was pulled. Mrs. Rouleau-Cote stated that was correct. Mr. DiPietro suggested that the Board enter into deliberation. Mr. Wright first asked if any abutters were present and had comments. No comments were made.

***Mr. DiPietro made a motion to enter into deliberation, Mr. Stuart seconded the motion. All were in favor, the motion passed unanimously.***

Mr. DiPietro commented that the Board is not even acting on a request for a variance from the setback. Mr. Neveu agreed that the application is requesting that the shed remain in its current location. Mr. Wright noted that from the applicant's testimony he would be willing to move the shed 7 inches. Mr. Stuart indicated that he is concerned that the applicant has not met the five factors because the shed could be moved to a different location. Mr. Benson agreed that the shed is movable and that is something that the Board has to consider. Mrs. Neveu agreed the applicant stated he could but chooses not to. Mr. Beaurivage stated that he visited the Reeds Ferry website and on it the site it addresses building permits and that it is the responsibility of the property owner.

***Mr. DiPietro made a motion to exit deliberation, Mr. Stuart seconded the motion. All were in favor, the motion passed unanimously.***

The son in law informed the Board that his mother in law did not go on the website; she spoke with a salesman mostly via the phone. The son in law added that at the last meeting they were to clear the right of way, only a corner is within it, the shed is at the tree line. The son in law continued that the current location of the shed is in a convenient spot for the mother in law who had two bad knees; it would also be an exorbitant cost to move the shed at this point. Mr. Wright indicated that he would entertain a vote on whether the five factors have been met.

***Mr. DiPietro made a motion to deny the applicant a variance to allow a 14 foot by 20 foot storage shed to remain in the location it is built onsite within the side setback in a Rural zone for Case #17-07, 640 Pingree Hill Road, Tax Map 2, Lot 44-3, Mr. Lagana seconded the motion. Mr. Benson voted to deny as the applicant doesn't meet the hardship or spirit of the ordinance, Mr. Stuart voted to deny, Mr. DiPietro voted to deny, Mr. Lagana voted to deny and Mr. Wright also voted to deny. The Board members unanimously agreed that the five (5) factors have not been met by the applicant. All were in favor, the motion passed unanimously.***

Mr. Wright explained to the applicant that they would be getting a notice of the Board's decision and that there was a 30 day appeal period where they or someone else could appeal the Board's decision, should the applicant choose to appeal the decision new or additional evidence should be presented.

**Case #17-15**

**Wesner Percil**

**Lisa Bergeron**

**27 Sun Valley Road – Map 18, Lot 5**

**Zoned Residential One**

*Applicant is requesting a Variance to allow the construction of a garage within the 50-foot setback in a Residential One zone. (Article 4, Section 4.06(6))*

Mr. Stuart recused himself from this case as the applicant was a witness in a recent case of his. Mr. Wright elevated Mrs. Neveu to full voting status for this case.

A gentleman named Dave introduced himself and presented the application to Board on behalf of the applicant. Dave read the application into the minutes for the record. Dave indicated that the lot is unique as it has frontage on two roads. Dave pointed out on a provided plan the location of the proposed garage, noting that the corners of the garage are 30 feet and 39 feet from the Peachtree Road and 129 feet from Sun Valley Road. Dave noted that there is no other practical area on the lot. Mr. Wright asked if any abutters were present. None were. Mr. Lagana pointed to an area on the presented plan and asked what was in the area. Dave stated open land and added that there will be no access onto Peachtree Road from the garage. Mrs. Rouleau-Cote indicated that the applicant has come in and met with her and was informed of this process. Mr. Benson questioned the lot size. Mrs. Rouleau-Cote indicated that the lot is non-conforming. Mr. Wright commented that the applicant has a well-presented application and plan. Mr. Wright added that the request is reasonable and if this wasn't a corner lot the applicant would not need to be here.

***Mr. Lagana made a motion to grant the applicant a variance to allow the construction of a garage within the 50-foot setback in a Residential One zone for Case #17-15, 27 Sun Valley Road, Tax Map 18, Lot 5, Mrs. Neveu seconded the motion. Mr. Benson voted to grant, Mrs. Neveu voted to grant, Mr. DiPietro voted to grant, Mr. Lagana voted to grant and Mr. Wright also voted to grant. The Board members unanimously believed the five (5) factors have been met by the applicant. All were in favor, the motion passed unanimously.***

Mr. Wright explained to the applicant that he would be getting a notice of the Board's decision and that there was a 30 day appeal period where someone could appeal the Board's decision.

**Case #17-16  
James Swalgen  
Kevin & Su Lien Dumais  
200 Rockingham Road – Map 27, Lot 13  
Zoned Commercial Two**

*Applicant is requesting a Special Exception to allow mixed Residential/Commercial Use in a Commercial Two zone. (Article 4, Section 4.07(5))*

Mr. Wright noted that the Board is in receipt of a letter from the property owner giving Mr. Swalgen permission to apply for the special exception. Mr. Swalgen read the application into the minutes for the record. Mr. Swalgen explained that the second building on the lot would be used for storage of plumbing supplies, there will be no customers to visit the site but the business would include 6 vehicles and 8 employees, he and one other employee in the office and the rest would be coming and going. Mrs. Rouleau-Cote suggested that should the Board grant the special exception, a minor site plan review should be a condition of approval. Mr. Lagana commented that historically the property has been mixed use. Mrs. Rouleau-Cote indicated that the property has been vacant for some time. Mr. Swalgen believed that a dog kennel used to be run on the property previously. Mr. Wright asked if any abutters were present. None were. Mr. Wright informed the applicant that the town is in receipt of a letter from an abutter about an encroachment on to their land. The applicant reviewed the letter and noted that the commercial building looks pretty close to the property line but he was not aware of an encroachment. Mrs. Rouleau-Cote was unsure if the encroachment was the structure or improved area. The applicant noted that there may be gravel behind the building; it is not a usable area. The Board agreed that an approval would be subject to a minor site plan review by the Planning Board and the resolution of the encroachment on the other property.

***Mr. Lagana made a motion to grant the applicant a special exception to allow mixed Residential/Commercial Use in a Commercial Two zone for Case #17-16 with the condition that a minor site plan review is conducted by the Planning Board and any encroachment onto other property is resolved. , 200 Rockingham Road, Tax Map 27, Lot 13, Mr. Benson seconded the motion. Mr. Benson voted to grant, Mr. Stuart voted to grant, Mr. Lagana voted to grant, Mr. DiPietro voted to grant and Mr. Wright also voted to grant. All were in favor, the motion passed unanimously.***

**Minutes**

At this time, Mr. Wright moved on to the approval of minutes for June 20<sup>th</sup>, 2017.

***Mr. Lagana made a motion to accept the minutes of May 16, 2017, as written, seconded by Mr. DiPietro. All were in favor, and the motion passed.***

Mr. Wright indicated that he would entertain a motion to adjourn.

## **Adjourn**

***Mr. Wright made a motion to adjourn, seconded by Mr. Lagana. All were in favor, the motion passed unanimously and the meeting stood adjourned at 7:57 p.m.***

**The next ZBA Hearing is scheduled for August 22<sup>nd</sup>, 2017 at 7:00 pm and will be held at the Town Hall, 47 Chester Road.**