

**UNAPPROVED MINUTES  
Town of Auburn  
Zoning Board of Adjustment  
November 15, 2022**

**Present:** Mike DiPietro, Chairman. Kevin Stuart, Vice-Chairman, Patrick Bergeron, Member. Nick Pappas & Steven Kimball, Alternate Members. Minutes were taken and prepared by Denise Royce.

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

**Absent:** Jill Dross & Shawn Matte, Members. Shannon Daoust, Alternate Member.

Mr. DiPietro called the meeting to order at 7:00 p.m.

Mr. DiPietro informed everyone that there was only one case before the Board tonight. Mr. DiPietro moved on by introducing himself and the Board members and Alternate members of the Board to everyone present. Mr. DiPietro elevated both Mr. Pappas and Mr. Kimball to full voting members in the absence of Mr. Matte and Ms. Dross. Mr. DiPietro pointed out that, Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer was also present this evening.

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

**Case #22-26**

**Gerald Demirjian**

**Demirjian Realty Group, LLC**

**269 Rockingham Road – Map 25, Lot 40**

**Zoned Commercial Two**

*Applicant is requesting a Variance from Article 4, Section 4.07(6) Lot Size, Frontage, Yards and Heights to allow the installation of a 12-foot by 20-foot accessory structure within the 50-foot front/rear property line setback in a Commercial Two zone.*

Mr. DiPietro asked if there was the need for relief from lot coverage. Mrs. Rouleau-Cote explained that this applicant was before the Board several years ago and at that time he required a Variance for lot coverage. Since that time, the applicant has acquired additional property in addition to this parcel. Originally this parcel was .33 acres and there was a lot of impervious coverage and since then this lot has increased to .73 acres. Mrs. Rouleau-Cote has done the calculations and in conclusion the applicant does not need any relief from impervious lot coverage as he was well below the requirement. Mrs. Rouleau-Cote presented the Board members with her calculations which the Board reviewed.

Mr. Demirjian began by asking the Board to amend his application to be a 14-foot by 20-foot structure as opposed to a 12-foot by 20-foot structure. The Board members accepted the amendment to the application. At this time, Mr. Demirjian read his application into the minutes for the record. Mr. Demirjian stated that, there were many lots on Rockingham Road that had unsightly storage of equipment and that he wanted to maintain a neat and clean appearance for his building. At this time, the Board reviewed photos of surrounding properties as well as photos of Mr. Demirjian's building located at 269 Rockingham Road. The Board also reviewed a photo showing the proposed location of the shed. Mr. DiPietro asked Mr. Demirjian how far from the property line would the shed be. Mr. Demirjian indicated that, it would be 100-feet away from one property line and it would be 37-feet from the front property line.

Mr. Villeneuve commented that, Rockingham Road was extremely wide and believed that Mr. Demirjian would be no closer to the road than the previous Variance that was granted and no closer to the wetland buffer than the previously granted Variance. Mr. Villeneuve explained the background on how the lot was created due to the highway being put in place because this lot used to go all the way to Candia Road. Mr. Villeneuve pointed out that the highway was approximately 14-feet higher which creates a slope that water no longer goes through. Mr. Villeneuve added that the wetland is classified as a Level 2 because it is large and mostly because it's just drainage and there's no wildlife or habitat. Mr. Villeneuve talked about the previous Variance relief that was obtained prior to the existing building being built. Mr. DiPietro believed that the Board can say that the shed will be no closer to the road than the existing building. Mr. DiPietro asked Mrs. Rouleau-Cote for her thoughts on that. Mrs. Rouleau-Cote stated that, she was taking some measurements off of a scaled drawing that she had and indicated that the shed would be about 30-feet off of the front property line and probably 50-feet off edge of pavement.

Mr. DiPietro asked the Board members if they had any questions for the applicant. None were noted. Mr. Villeneuve added that, it was basically the only place to put the shed on that lot. Mr. DiPietro commented that, if there were no further questions that he would entertain a motion to vote on the application as presented. Mrs. Rouleau-Cote wanted to add that, this has gone before the Planning Board and that any relief that the Board would grant would still be subject to a minor site plan review with the Planning Board. Mr. Stuart also noted that, as far as what relief they are granting that the shed would be no closer than the existing building to the front setback. Mr. Kimball pointed out that it looked like it encroached into the rear setback as well because it's such a narrow lot. Mrs. Rouleau-Cote pointed out that the request was from the front/rear setback because there was nowhere else to place the shed and his proposal is to keep it in the same plane as the building to keep it away from the retaining wall and the wetland at the same time. Mr. Kimball asked if he obtain relief from the wetland buffer. Mrs. Rouleau-Cote commented that, they received relief in 2018 for a reduced buffer. A brief discussion ensued with regard to prior relief.

***Mr. Stuart made a motion to vote on the Variance application with the condition that the applicant complete a minor site plan review with the Planning Board and that the structure is to be no closer than 12-feet from the wetland setback with the amendment from the applicant that the shed will be 14-feet by 20-feet as opposed to 10-feet by 20-feet and no closer to the front or rear setback than the existing structure as shown on the plan presented tonight for #22-26, Gerald Demirjian, Demirjian Realty Group, LLC, 269 Rockingham Road, Tax Map 25, Lot 40. Seconded by Mr. Bergeron. Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. Pappas voted to Grant finding all five (5) factors have been met, Mr. Kimball voted to Grant finding all five (5) factors have been met, Mr. Bergeron voted to Grant finding all five (5) factors have been met, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.***

Mr. DiPietro informed the applicant that the Variance was granted and explained that there was a 30-day appeal period. Mrs. Rouleau-Cote pointed out that, it was still subject to site plan review with the Planning Board. Mr. Demirjian thanked the Board for their time and the discussion ended.

#### **Case #22-22**

#### **Request Rehearing of ZBA Decision**

**Joe & Heidi Levesque**

**314 Rattlesnake Hill Road, Tax Map 1, Lot 15-16**

**Zoned Residential One**

*An Interested Party (Mitchell Delacoe) is requesting that the ZBA reopen and rehear the ZBA Decision Granting the Applicant a Special Exception from Article 4, Section 4.06(3)(b) to allow a home shop in a Residential One zone on October 25, 2022.*

Mr. DiPietro brought up the request for an appeal of Variance that was granted on October 25<sup>th</sup>. Mr. DiPietro stated that he was not present for that hearing and therefore would recuse himself. At this time, Mr. Stuart, who chaired the meeting began by saying that the Board received a request to rehear the case and that the Board's task is to decide whether or not it warrants a rehearing. If the Board approves a rehearing, then the applicant would be notified and there would be a rehearing on this case at the request of Mr. Mitchell Delacoe who has filed this motion or the Board Denys it in which case there would be no rehearing. The Board members began their discussions and basically what they are looking at is the request for rehearing and reading through the request to see if anything qualifies or if there are any new facts that were not presented or if the Board erred in their decision.

At this time, each Board member went through their thoughts on whether the request warrants the Board to grant a rehearing. Mr. Kimball had a few questions and pointed out the section "asking for the Variance prior to registering their business" believed it was very common practice. Mr. Kimball went on to say that the concerns about the operation

of the business and the legality of it was not in the Board's jurisdiction. Mr. Kimball asked Mrs. Rouleau-Cote how it came about that they were operating a business out of the home. Mrs. Rouleau-Cote stated that, she sent them a letter stating that they were operating a home shop and that they needed to apply for a Special Exception for the home shop. Mr. Kimball understood that this was a Special Exception and not a Variance. The Board all agreed. Mrs. Rouleau-Cote stated that it met all the criteria for the home shop as everything was being done inside. With that said, Mr. Kimball commented that he did not see any error on the part of the Board based on the information that was presented. Mr. Pappas did not see any error on the part of the Board. Mr. Stuart also did not see any error about the Board's decision or any new evidence that would change the decision or any injustice or the use of discretion of the Board's decision.

Mr. Stuart stated that if there was no further discussion that they could move to a vote on whether to grant the motion for rehearing or deny the motion for rehearing.

***Mr. Stuart made a motion to move to a vote on whether to grant the motion for rehearing or deny the motion for rehearing for Case #22-222, 314 Rattlesnake Hill Road, Tax Map 1, Lot 15-16. Seconded by Mr. Bergeron. Mr. Pappas voted to Deny the request for rehearing finding the Board did not err in their decision, Mr. Kimball voted to Deny the request for rehearing finding no err of law or any new relevant facts to warrant a rehearing, Mr. Bergeron voted to Deny the request for rehearing finding no new facts presented and that the Board made an accurate decision, Mr. DiPietro voted to Deny the request for rehearing finding the Board did not err in their decision, and Mr. Stuart also voted to Deny the request for rehearing finding no err of law or reason to grant the motion. A vote was taken and, all voted to DENY the Request for a Rehearing.***

Mr. DiPietro indicated that the person filing the motion will be informed that their request was denied, and that the applicant would be copied as well.

Mr. DiPietro moved on to the approval of the meeting minutes for October 25, 2022.

## **Minutes**

***Mr. Stuart made a motion to accept the minutes of October 25, 2022 as written, seconded by Mr. Kimball. All were in favor, and the motion passed.***

## **Other Business**

Mr. DiPietro asked Ms. Royce and Mrs. Rouleau-Cote if there would be any discussions with any warrant articles this year. Mrs. Rouleau-Cote stated that she has put together a few things in front of Mr. Poltak, Planning Board Chairman and the timeframe is approaching very quickly. Mrs. Rouleau-Cote also informed the Board that the Planning Board and the Conservation Commission have been working on a Ground Water

Ordinance. Mrs. Rouleau-Cote also commented that there were some statutory stuff that Attorney Tierney has pointed out.

Mr. Stuart asked about the December hearing. Ms. Royce stated that the Board has one case already for December but that they may have one more that would be coming. The deadline is Friday, November 23, 2022. Mrs. Rouleau-Cote pointed out that, that meeting is early in December due to the holiday. Ms. Royce stated that it was scheduled for Tuesday, December 13, 2022.

Mr. DiPietro thanked the Board Members and asked for a motion to adjourn.

### **Adjourn**

<b><i>Mr. Bergeron made a motion to adjourn, seconded by Mr. Stuart. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 7:37 p.m.</i></b>
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**The next scheduled meeting is a week early due to the holiday schedule and is scheduled for December 13, 2022 at 7:00 pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted on the upcoming Agenda.**