

**Town Of Epsom
Zoning Board of Adjustment
1/9/09**

In attendance: Glenn Horner, Chairman; George Carlson, Vice Chairman; Rick Belanger; Alan Quimby; Mark Riedel; Pam Hoyt-Denison (Alternate); Darlene Phelps, Recording Secretary;

Not In attendance: Keith Cota, Selectman's Representative

Also in attendance: David Fiorentino; Richard Boddie, Alice Thompson; Robin Stamm; Michael Stamm; Marley Taylor; Robert Taylor; Jay Hickey; Peter Arvanitis; Linda Sawyer; Bob Sawyer; Cathy Berry; Todd Flanagan; Tessa Christiana

7:05 PM

Glenn opened the meeting. Glenn made a motion to approve the minutes of 12/16/08 as amended. Alan seconded the motion. All in favor. Rick abstained.

Case 2008-14 (Boddie) [Continuance Hearing] - Richard Boddie has applied for a variance to Article III, Section B [Pre-Existing, Non-Conforming Uses], and Section G [Residential Single and Multifamily Residence Requirements] to permit the construction of a single family residence on lot containing .52 Acres (2 Acres required) and 150 feet of public road frontage (200 feet required) The property is located on Black Hall Road within the Agricultural/Residential Zoning District and is identified on Epsom Tax Map U-10 as Lot 87.

Glenn explained the procedure for the meeting and introduced the members of the board. Glenn reviewed the history of this case.

Richard Boddie stated that all properties in the area have been taxed similarly over the years, and presented a summary of such. He stated that according to the following RSA 674:39 II, he feels they are vested because substantial work has begun. He wonders if they even need a variance. Glenn stated he feels this RSA applies to the subdivider – not the owner of a lot in a subdivision.

Glenn asked Jay if he has any further input. Jay stated that there Atty. Soltani is currently reviewing a case where the applicant is using RSA 674:39 II as their basis for an Administrative Appeal, and Jay asked him about this case and Atty. Soltani feels it does not apply.

Michael & Robin Stamm stated that in our ZBA regulations it states that all lots created before 1969 are considered pre-existing lots. Glenn explained that this is true; however this is a change of use.

Cathy Berry asked for clarification of when the Stamms purchased the property – which was in 1982, and feels they should have ensured that their lot was a buildable lot before purchasing the land, and so they have brought this hardship upon themselves. Mr. Stamm responded that they applied for abatement in 1982 and were denied, so they thought they did have a buildable lot. Glenn reviewed the hardship section of the worksheet for the benefit of the public. Cathy said the Stamms offered her their property for \$55 - \$60K, but she would not use it to build a home – just area for her horses and that was too much money.

Todd Flanagan lives at 18 Easy Street, he said he was offered the Stamms property as well – and was told by the RE agent that for another \$5-\$10K they may be able to purchase the other Stamm property. Todd stated that a building permit was issued, and was allowed to expire – and as soon as it expired – the Stamms built their great room. By building a new home – it will block the view from the great room. Todd refuted the report given by the Water Engineer, but does not have an engineer's report to support his argument. Todd also had an appraisal done on his home and the appraiser stated that a new home being built will reduce his property value by about 5% (Approx \$11,500K). Todd said that the proposed value of the new home is \$223K, which is substantially less than the surrounding homes. He obtained this information from HomeLink. Todd said the deed for that property, dated 1973 describes it as "a tract of land" – not "tracts".

Alice Thompson, the RE agent provided a copy of the deed which states it is two tracts of land, the wording can vary depending on the title company that writes the deed.

Todd reiterated his objections are dealing with the loss of his view – and the loss of value of his home. He stated once again he would not have purchased his home if he was aware that a home would be built in front of his.

Bob Sawyer, abutter also refutes the Water Engineer's report stating there is less than 50% groundcover & disagrees with the engineer's statement that the runoff will not increase. He presented some pictures of water damage that occurred on his property in 1972.

Tessa Christiano stated she is upset about the loss in property value.

Richard Boddie stated again that according to his appraiser, property values would not decrease. Mr. Stamm said in response to the value of the proposed home being \$223K – a home was sold in 4/08 for \$209K and Todd Flanagan's home was purchased for \$240K – so they are all in line. Jay indicated it is difficult to compare sale value with appraised value.

Rick made a motion to close the public hearing. Alan seconded the motion. All in favor. Alan made a motion to continue the deliberation and decision to Wednesday, January 21. George seconded the motion. All in favor.

8:30 PM

Case 2008-15 (Taylor) [Continuance Hearing] - Marley Taylor has applied for a Special Exception to Article II, Section C. [Table of Uses] Part 34 [Day Care that provides services for ten (10) or more children] to permit the establishment of a Day Care facility providing services for twenty (20) children. The property is located on 41 Goboro Road with the proposed business located in the Residential/Agriculture Zoning District and is identified on Epsom Tax Map U-05 as Lot 65.

Pamela recused herself from this case, as she is an abutter.

Glenn reported that we have since received the Certified Return Receipts from Samuel Marston, Thomas Marston, Rene Baghdad, Raymond Cummings, Carl Daufen & Hopkinton Cemetery. The following letters were returned as undeliverable: George Bruett, Roger Ford.

Marley stated that Richard Leonard submitted a copy of his Septic Design review from Eugene McCarthy. She also submitted a letter from NHDES regarding the soil evaluation. She has changed the proposed traffic pattern/parking. The board has received a letter from Don Gates from Custom Concepts, who is a tenant in the Huckins building, stating that they only regularly use one parking spot as they do not occupy the building full time. They give permission for the childcare to use all of their parking spots. Marley has had a pipe rail gate installed at the front door, which has been inspected by the Fire Department. Glenn asked Marley if she has anything in writing from the Fire Department stating that her rear access is acceptable. Marley

said she has not – but she will have to submit to a lengthy inspection for her child care license. Alan said he has spoken to Chief Moulton and agrees that the FD inspection that will be done for the child care license will be sufficient.

Pam Hoyt-Denison reiterated her support of the use of this property as a child care center. She has the same traffic/safety issue concerns, but feels they are being addressed. She also asked this board to support her request that the speed limit be reduced, as 30 MPH is too fast on that road. She feels that this property is not appropriate for retail.

There was a brief discussion amongst the board and the public that the speed limit should be reduced to 20 MPH from Route 4 to the area of the apartments. The board would like to go on record as being in favor of a reduction and enforcement of the speed limit.

George made a motion to recommend to the BOS that the speed limit be reduced to 20 MPH (and enforced) from Route 4 to the area of the apartments – in consideration of the childcare and for public safety in general. Alan seconded the motion. All in favor.

Jay Hickey reported that Cec Curran has been working with Marley on all appropriate issues.

George made a motion to close the public hearing. Mark seconded the motion. All in favor.

The checklist was reviewed.

Question 1 – All members answered yes.

Question 2 – All members answered yes.

Question 3 – All members answered yes.

Question 4 - All members answered yes.

Question 5 - All members answered yes.

Question 6 - All members answered yes.

Question 7 - All members answered yes.

Question 8 - All members answered yes.

Question 9 - All members answered yes.

Mark made a motion to grant the Special Exception with the following condition:

The approved day care facility shall receive Non-Residential site plan review through the Planning Board prior to establishment.

Alan seconded the motion. All in favor.

9:15 PM Old/New Business

There was a discussion about Dave Fiorentino and that Jay issued a building permit before the Non-Residential Site Plan Review was completed on his property, which was a condition of his approval by the ZBA. Jay asked Atty. Soltani for his opinion because the decision was written with some question about whether he could build his garage before completing the Non-Residential Site Plan Review with the Planning Board. Tony stated that the way it was written, Jay **had** to issue the building permit.

In the future it must be worded “Non-Residential Site Plan Review must be completed before any building permits are issued.

9:35 PM Mark made a motion to adjourn. Alan seconded the motion. All in favor.