

## **ZONING BOARD OF ADJUSTMENT**

**JUNE 6 2017**

## **MEMORIAL BUILDING**

**7:00 P.M.**

*These minutes are to be considered draft minutes until approved by the Board at their next meeting.*

Members present: Susan Chiarella, Chairman; Peter Abair, Bryan O'Day, Justin Hastings, and Rick Corbett.

Others: Whit Smith, Zoning Coordinator; and Tamara Butcher, Selectboard Representative.

Chairman Chiarella called the meeting to order at 7:00 p.m.

Minutes of May 2, 2017: A correction was made to the May 2 minutes as follows: April minutes were approved with the following correction. "Peter made a motion to approve the March 7, 2017 the minutes.."

To correct the April minutes to add: "March 7, 2017" after Peter made a motion to approve the minutes. Peter moved to approve the May 2, 2017 minutes as corrected, seconded by Bryan and unanimously approved.

At 7:05 p.m., Chairman Chiarella opened the public hearing concerning the request by Atiyya S. Mirza, UPLA5AC LLC, for a Variance from Article III, Section 3.13B and Article IV, section 4.12B. of the Zoning Ordinance. The roll was called.

Applicant requests permit to allow a 5' x 9' garden shed 96 feet from the Baptist Pond Outflow, and 7 feet from the lot line marked with a State of NH monument. Property located at 378 Stoney Brook Road, Map 09, Lot 120-030.

Notice was posted in two public places, and published in the Friday, May 26, 2017 edition of the Valley News. Abutters were notified via certified return-receipt mail. Motion by Bryan to accept the application, seconded by Rick and unanimously approved.

Ms. Mirza presented the application, site plan and pictures of the site. She reported she and her husband built a garden shed and were not aware of the need for a permit. They applied for an "after the fact" zoning permit and were notified they did not comply with setbacks. In assessing the site for other possibilities, the current location is the best location on the lot as it is at the furthest point from the outflow of Baptist Pond at 96' and 7' from the lot line of the State of NH Right of Way. There are no other residential structures nearby. The shed is small and is screened from the roadway by foliage. There are limitations on the lot due to the outflow, and a trail easement that divides the property. The shed is set on concrete blocks, and not permanently attached to the ground.

Susan Chiarella read an e-mail from John Garfield, of the Baptist Pond Trust, relative to making sure that the Right-of-Way across this lot is in no way obstructed by any zoning change requested. Susan reviewed the easement area and the board agreed there was no obstruction.

The Board reviewed the pictures and discussed the measurements and distances to the edge of the property line, the edge of Stoney Brook Road, the distance to the outflow, and easement area. The Board agreed the lot is very self-limiting. The Applicant has elected to move the shed as far from the outflow as possible.

At 7:22 p.m., Motion by Pete Abair to close deliberations. Motion seconded by Bryan and unanimously passed.

The Board deliberated the facts supporting this request:

1. The Variance will not be contrary to the public interest because: *The structure is of minimal size and has no impact on surrounding land.*
2. The spirit of the ordinance is observed because: *The structure is placed where it will not be a detriment to the watershed.*
3. Substantial Justice is done: *The structure does not infringe on the easement area allows the homeowner use of their property.*
4. The values of surrounding properties are not diminished because: *Surrounding properties are vacant.*
5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship owing to special conditions of the property that distinguish it from other properties in the area because: *There is no other location on the property that would be a reasonable location for the structure due to limitations of the lot.*

Motion made by Justin to approve a 5' x 9' garden shed with a 4' variance, to be located no closer than 96' to the Baptist Pond outflow, and a 28' variance, to be no closer than 7' from the property line, (which is marked by a State of NH Monument). Motion was seconded by Rick and unanimously approved.

The Board discussed with Whit a bill before the legislature they learned of at a recent OEP workshop which, if passed, could result in the Board needed to do a "roll call" vote for each of hearing criteria to be met. Whit will be following the legislation on that.

Whit noted if the Board has been following his report to the Selectmen, a possible hearing for July will probably not be forthcoming. The owner is planning to relocate his shed.

Susan stated, if the Board needs to meet in July, the meeting will be Tuesday, July 11<sup>th</sup> since the first Tuesday falls on the 4<sup>th</sup> of July.

Justin moved to adjourn at 7:50 p.m.

Submitted by,

Janet Roberts,  
Administrative Assistant

DRAFT