

TOWN OF LOUDON  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF  
NOVEMBER 29, 2007  
REGULAR HEARING

Chairman Dave Powelson called the Loudon Zoning Board of Adjustment meeting of November 29, 2007 to order at 7:00 P.M. at the Loudon Community Building.

**ROLL CALL:**

The following members were present: Howard Pearl, Roy Merrill, Chairman Dave Powelson, Vice Chairman Ned Lizotte, George Saunderson, and Alternates Jonathan Huntington and Jim Venne.

**I. ACCEPTANCE OF MINUTES:**

*Ned Lizotte made a motion to approve the minutes of October 25, 2007; seconded by George Saunderson. All were in favor.*

**II. DISCUSSION:**

George & Lorraine Duprez – Building Permit Extension Mr. Duprez explained that they have been trying to sell this lot but due to the slow real estate market they have not been able to secure a buyer. He said the lot is more marketable with the building permit, thus their request for an extension. Dave Powelson asked if this was a permit that the applicants took for their own residence. Mr. Duprez said it was not, it was a lot in their subdivision. George Saunderson asked how long of an extension Mr. Duprez was asking for. Mr. Duprez said they would like as long of an extension as they could get, whatever the standard would be. Mr. Saunderson asked if they would come back to the Board if given a year and the lot did not sell in that time. Mr. Duprez said they would probably not come back to the Board and that they are asking for more time in hopes of market recovery. Ned Lizotte asked if most of the extensions that have been given have been for individuals building for themselves rather than those trying to sell lots with building permits. Roy Merrill noted that the Board gave Wayne Thistle two extensions last month. Mr. Lizotte talked about the current market and the findings of the Growth Management study. He said that the Board is probably going to be seeing more of these requests due to the market. He said they need to offer some sort of relief and help the process along, noting that things are hard enough for people. Mr. Lizotte said he thinks it would be prudent to grant an extension and the amount of time could be discussed.

Howard Pearl said that twelve months seems reasonable based on sales, the time of the year, and the current market. George Saunderson noted that Wayne Thistle had asked for extensions on Cross Brook Road due to extenuating circumstances, not just the market. Dave Powelson said that he believed that permits could be turned in and the next person in line could get the permit. Tony Merullo said that he felt that was incorrect, saying that once a permit is issued it cannot be turned in. He said if a permit had been applied for but not issued, then it could be done. There was discussion of the building permit process. Mr. Merullo said that he feels that developers have to do what is necessary to move their properties which could mean giving up permits or lowering their prices.

Saying that he did not feel that there is any reason not to extend the permit, **Howard Pearl made a motion to grant a one year extension on building permit #07-032; seconded by Roy Merrill.** George Saunderson said that he had no problem with that but

he feels that the Board should not be in the business of extending permits over and over. He stated that if the applicant came back another time, it would be harder to extend a second time. Howard Pearl said this would be recognizing the hard market at this point. Jim Venne said that he would agree with the one year extension but would not want to see it done continuously. Jon Huntington said that he would agree and that he thinks next year's market is going to be even worse. Chairman Powelson repeated the motion. **All were in favor.**

Andrew & Debra Knowlton – Driveway Mr. and Mrs. Knowlton explained that they have recently been notified of a change in their driveway permit. Mrs. Knowlton said that their original permit of October 2006 (from their building permit application of November 2005) was issued at 6' with a -2% grade per the former ordinance. She said that Dennis Moore did the driveway per that permit. Mrs. Knowlton explained that they received a letter dated November 8, 2007 from the road agent. She said that letter stated that they have to bring the driveway to the current ordinance of 12'. Mrs. Knowlton said that they read in Board of Selectmen's minutes that there was an issue with runoff at one point. She also said that they were told that the driveway was grandfathered.

Dennis Moore told of work that he has done at the property and on the driveway. He said that the driveway location is limited due to the grade, telephone pole, and boundary line. He said that Dave Rice and Bob Fiske approved the driveway as done. He said he then built retaining walls. Mr. Moore said that Mr. Rice wanted gravel at the front on Berry Road so he put four loads of gravel down and any runoff now goes where it is supposed to. He said that the driveway is very workable. Mr. Moore said that Mr. and Mrs. Knowlton got the letter requiring 12' after he got the work finished. Andrew Knowlton said that the 12' requirement would make the driveway very steep. Mrs. Knowlton said the retaining wall would have to be changed, there are buried lines, and the pole would have to be moved. Chairman Powelson said that Mrs. Knowlton had talked with Donna about the best way to address the situation. He said Donna had mentioned the situation to him and that he had discussed different options with her and it would appear that the options would be to apply for a variance or appeal the administrative decision by the road agent. Mr. Powelson said if the applicants chose to appeal, they have 45 days from the date of the letter, November 8<sup>th</sup>, which would give them until December 23<sup>rd</sup>. There was discussion of the location of this property, the driveway as constructed, and the need for a site walk. Donna said that she spoke with Dave Rice to find out if a 12' apron could be done and he named the same concerns as outlined by Mrs. Knowlton. Roy Merrill said that he does not think that 12' makes sense but does not feel that the driveway is even 6' as it currently stands.

Howard Pearl asked who generated the letter if Dave Rice was happy with the driveway and signed off on it. Mr. Merrill said that the Board of Selectmen had looked at the situation and want it at the required 12'. Dave Powelson asked if the applicants had a driveway permit for the 6'. Mrs. Knowlton said that the original permit was issued at 6' in October of 2006. Roy Merrill said that the driveway has not been approved just because the permit was issued. There was discussion of when the zoning of driveways changed. Howard Pearl went over the timeline of the matter, noting that they applied for their building/driveway permits in November of 2005 and that the zoning changed in March of 2006. He asked why the permit was issued for 6' if the zoning had changed. Mrs. Knowlton said that is where it had been thought that they were grandfathered because they applied before the zoning change.

Jon Huntington said that it seems that there should not be any question if the driveway was constructed and the road agent approved it. Howard Pearl said that a site walk should be done. Dave Powelson said that the applicants would need to know which way they should go and he read the ordinance with reference to appeals of an administrative decision. Roy Merrill said that they have to have a variance if it is in zoning. Mr. Powelson

said that it is up to the road agent to issue a driveway permit, that was done and then it was revoked, and that would be the decision to appeal. Mr. Merrill said that the road agent does not approve the driveway. He said that Bob Fiske does that and signs off on a driveway and that has not been done. Howard Pearl said that if it was his driveway he would think that if the road agent issued the permit and it was built that way, he would have a problem with it being changed after the fact.

A site walk at 83 Berry Road was scheduled for Saturday, December 1<sup>st</sup> at 8:30 a.m. Dave Rice will be notified and asked to attend if possible.

Denyse Merullo – Building Permit Extensions Tony Merullo spoke on behalf of his sister. He stated that he is asking for extensions on building permits for lots 58/127, 58/145, and 58/151 due to the slowdown in the market. Mr. Merullo explained that he decided since the original permit was issued to build his own house on 58/127. He said that the other two lots are on Creekwater Lane where one house is about finished but has not sold in the nine months that he has had it on the market. Mr. Merullo said that he has withdrawn two permits from the 2008 list and will go to the end of the waiting list with those lots. He said that he would like a one year extension on these three permits.

***Ned Lizotte made a motion to grant a one year extension on building permits #07-011, #07-012, and #07-023; seconded by Roy Merrill.*** Dave Powelson said that he feels that the Board is getting a little closer to a troublesome point, noting that Mr. Merullo has held three permits for a year that three other people could have used. Howard Pearl said that in looking at the list of extension requests on tonight's agenda, he would not think that others would be any luckier in selling or financing to build. He said that he feels that Mr. Merullo is being wise in giving up the 2008 permits and reducing the prices in hopes of selling. Roy Merrill said that Mr. Merullo has given up permits in the past and allowed others to get them. He noted that Mr. Merullo has paid taxes on lots with building permits. Dave Powelson said that he would be alright with the extensions but did feel that this should be part of the conversation with Jerry Coogan who is doing the Growth Management study for the town. George Saunderson stated his concern that this be a one time extension and not something that the Board is going to do again. Chairman Powelson stated that the motion is to extend these three permits for one year. ***All were in favor.***

Peter & Gary, LLC – Building Permit Extension Tony Merullo spoke on behalf of the owner. He said he is requesting an extension of one year. Mr. Merullo said that he will be coming to the Board for a special exception for a major home occupation on this property, noting that the Planning Board approved the minor subdivision at their November meeting. He said that they are going forward with test pits, survey, and wetlands delineation. Mr. Merullo said that he wants to enlarge the lot from the two acres that was approved. There was brief discussion of the plans for the lot. ***Ned Lizotte made a motion to grant a one year extension on building permit #07-033; seconded by Howard Pearl. All were in favor.***

William C Chesley Family Trust – Building Permit Extension Roland Bowie spoke on behalf of the Trust. As outlined in a letter submitted by Stephanie Bowie, Mr. Bowie explained that they are requesting a one year extension due to unforeseen circumstances that prohibited them from completing the construction in a timely manner. He said that the foundation and septic system are in and have been approved. ***George Saunderson made a motion to grant a one year extension on building permit #06-032; seconded by Ned Lizotte. All were in favor.***

Roy Merrill – Building Permit Extension Mr. Merrill said that he is requesting an extension due to the slow real estate market, noting that the foundation is in. ***George Saunderson made a motion to grant a one year extension; seconded by Ned Lizotte.*** Chairman

Powelson asked if this is a 2007 permit. Mr. Merrill said it is not and that it is on the same idea as Mr. Chesley's. He said he thought that once the foundation was in he was all set but Mr. Fiske wants him to ask for an extension. Ned Lizotte said that this would appear to be just a housekeeping measure. Jim Venne asked what year the permit was originally given. Mr. Merrill said that he did not know but the foundation was done in December of that year. Donna said that she had been given paperwork showing that this was a 2004 permit that was extended for one year by the Selectmen on December 12, 2004. George Saunderson asked if the foundation was capped. Mr. Merrill said it was not. It was stated that the foundation was done in 2005. There was no other discussion. **All were in favor of extending permit #04-022.**

Ben & Juanita Elliott – Building Permit Extension Scott Jackson spoke on behalf of the applicants. He explained that this property is on Country Hill Road and that the applicants were unable to build this year due to surgeries and subsequent financial constraints as outlined in the letter submitted. Howard Pearl asked if any improvements have been done. Mr. Jackson said there have been no improvements done and that they hope to be able to start within the next twelve months. **George Saunderson made a motion to grant a one year extension on building permit #07-017; seconded by Ned Lizotte. All were in favor.**

### III. PUBLIC HEARINGS:

### IV. UNFINISHED BUSINESS:

### V. BOARD DISCUSSION:

Donna reminded the Board that Jerry Coogan would be presenting additional information from his Growth Management study on December 5<sup>th</sup> at 6:00 p.m. She said that the Planning Board has asked that the Zoning Board be considering any zoning amendments that they may want to propose as well as possible dates for zoning workshops. Dave Powelson said that wetland crossings may be one topic to discuss, noting that a special exception is currently required. He said he is not sure that the Board needs to be involved if the site has already been through the Planning Board, Conservation Commission, and the state. He said that while revisions are being made to the Growth Management Ordinance it would be a good time to clear up what they might want to do about building permits extensions. Mr. Powelson also said that he has been approached about putting a windmill on personal property so that might be something for discussion.

### VI. ADJOURNMENT:

Jim Venne made a motion to adjourn the meeting at 8:15 p.m., seconded by Howard Pearl. All were in favor.

Respectfully submitted,

Donna White  
Administrative Assistant