

APPROVED

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF
APRIL 24, 2008**

REGULAR HEARING

Chairman Dave Powelson called the Loudon Zoning Board of Adjustment meeting of April 24, 2008 to order at 7:00 p.m. at the Loudon Community Building.

ROLL CALL:

The following members were present: George Saunderson, Chairman Dave Powelson, Roy Merrill, Howard Pearl, and Alternates Jim Venne and Jon Huntington. Jim Venne was appointed as a voting member in the absence of Ned Lizotte.

ACCEPTANCE OF MINUTES:

Regular Hearing - *George Saunderson made a motion to approve the minutes of March 27, 2008; seconded by Jim Venne. All were in favor.*

PUBLIC HEARINGS:

Case # 08-04, Randy Yeaton – Special Exception for Reduced Setback, Map 38. Lot 21. Abutters have been notified; none were present. Mr. Yeaton explained that he would like to put a lean-to addition on his garage which would result in a 12' encroachment on the side setback. The chairman stated that a site visit was done just prior to this meeting, with Jim Venne, George Saunderson, and himself in attendance. He went over the points of the application and stated that there did not appear to be anything strongly detrimental to the neighborhood in the request.

Jon Huntington asked about the site visit. Mr. Powelson said that they saw the site and that the applicant is asking for a reduction from 30' to 18'. George Saunderson said that the request seemed pretty straightforward and that this is just a lean-to on a garage. Mr. Powelson said that there is a fairly heavy tree line that acts as a buffer on that side of the applicant's property.

Chairman Powelson asked if there was anyone who wished to speak in favor of or against the application. Hearing none, he closed the hearing to the public and opened it to the Board only for discussion. **George Saunderson made a motion to approve the special exception for reduction of the side setback from 30' to 18'; seconded by Howard Pearl.** Mr. Pearl said that he is familiar with the lot and cannot see that the reduction would be detrimental. Dave Powelson said that the reduction seemed reasonable for the lot, noting that all points of the application had been addressed. **A roll**

vote was taken: Jim Venne – Yes; George Saunderson – Yes; Dave Powelson – Yes; Roy Merrill – Yes; Howard Pearl – Yes. Unanimous – PASSED

Case # 08-05, Beverly & Michael Rafferty – Special Exception for Reduced Setback, Map 21, Lot 6. Abutters have been notified; none were present. A letter from Gary Beaton stated that he did not have any objections or concerns with the setback reduction. Mrs. Rafferty explained that they would like to have a two-car garage built and due to the layout of their property it would be within the side setback. She said that they are requesting a reduction from the 30' to 7 or 8'. Mrs. Rafferty went through the points of the application. The chairman stated that there was a site visit of the property just prior to this meeting and asked if there were any questions from the Board. George Saunderson pointed out that the applicant is requesting a reduction to 16' on #3 of the application yet is now asking for 7-8' as the area is staked. He said he thought 10' would be reasonable. Mr. Rafferty said that there was snow on the ground at the time the application was filed and they have since realized the actual measurements. Jim Venne said that he would agree that 10' should be the bare minimum. George Saunderson said that this is a small existing lot that is somewhat limited for options. Howard Pearl said that he would be in agreement with 10' but nothing less. Jon Huntington said that he would like to compliment the applicants on the package that was submitted, noting its neatness and completeness. He said that he likes the proposed garage location as it gets the cars back away from the road.

Chairman Powelson asked if there was anyone who wished to speak in favor of or against the application. Hearing none, he closed the hearing to the public and opened it to the Board only for discussion. **George Saunderson made a motion to approve the special exception for reduction of the side setback from 30' to 10'; seconded by Jim Venne.** Howard Pearl asked other members if they felt the garage would fit well and were satisfied after viewing the site. George Saunderson said he felt it was the only way to get a garage on the lot. **A roll vote was taken: Jim Venne – Yes; George Saunderson – Yes; Dave Powelson – Yes; Roy Merrill – Yes; Howard Pearl – Yes. Unanimous - PASSED**

Case # 08-06, N H Motor Speedway, Inc. – Variance for Reduced Setback, Map 61, Lot 5. Abutters have been notified; none were present. Chairman Powelson stated that the applicant originally asked for a special exception for reduced setback in the CR District but when reading the Zoning Ordinance it appears that a special exception can be permitted in all districts other than the CR District. He said that when the CR District was created it was not given the special exception option. Donna explained that she has researched the creation of the CR District and spoken with Bob Ordway and Roy Maxfield because they were on the original paperwork of the zoning amendment that created the district. Both felt that there was no intention to not permit special exceptions in the District. The chairman stated that there are several points that need to be proven for a variance as well as determining if it is a use or area variance.

Steve Hennigar of Gilbane Building Co. spoke on behalf of the applicant, explaining that they would like to put an entry vestibule on the front of the main office, creating a better and safer entry. He said that the current building is right at the 100' setback and this vestibule would be encroaching by 12'. Mr. Hennigar explained that there is a landscaped buffer between the building and the parking lot so nobody would be

entering right into the parking lot from this vestibule. He said that the vestibule would not reduce the parking or file lane areas. Mr. Hennigar went through the points of the application.

Howard Pearl, George Saunderson, and Jim Venne stated that they have been by the track and have no objections to the request. Roy Merrill said that it is obvious that the Zoning Ordinance needs to be amended to include special exceptions in the CR District. Jim Venne said that the vestibule would make the building more attractive. John Zudell, construction manager for Speedway Motorsports, said that the vestibule would give the building better handicapped accessibility, would better define the entryway of the building, and would provide a cleaner, safer access. The chairman, reading from the ZBA handbook, said that the Board would have to consider any special conditions of the property which would make an area variance necessary in order for the applicant to construct the development as designed and that there is no other way to get the same benefit. Howard Pearl said it definitely appears to be an oversight in that the language was omitted when the district was established. He said he feels this is a good design for the building and would certainly qualify for a special exception.

Chairman Powelson asked if there was anyone who wished to speak in favor of or against the variance. Hearing none, he closed the hearing to the public and opened it to the Board only for discussion. Donna read a note from Ned Lizotte that stated "I did go by the race track to look at the request to put up a covered entrance into the parking lot within the 100' setback and it looks fine." **Howard Pearl made a motion to approve an area variance for the installation of a vestibule, reducing the front setback from 100' to 88'; seconded by George Saunderson.** Howard Pearl said that the Board doesn't particularly grant a lot of variances but this one is necessary to correct the lack of language in the Zoning Ordinance. He said that this request would very easily qualify for a special exception if the language was in the Zoning Ordinance. **A roll vote was taken: Howard Pearl – Yes; Roy Merrill – Yes; Dave Powelson – Yes; George Saunderson – Yes; Jim Venne – Yes. Unanimous - PASSED**

DISCUSSION:

John Zudell of Speedway Motorsports asked to address a couple of matters at the track. He said that they would like to remove the old diner that is currently used as the parking office and replace it with a modular unit. He explained that the current building is within the 100' setback. The plan would be to set the new building back further but still within the setback. There was discussion about the size of the new building (24' x 64'), the proposed location, and the fact that this would make the building more conforming than what is presently there. The Board discussed the proposal and agreed that Section 603.2 would address the situation most appropriately, particularly the last sentence which states "replacements shall be in the same location and of the same dimensions as before the damage occurred, *unless change of location or dimensions would make the replacement less non-conforming.*" There was discussion about the replacement building having less square footage in the non-conforming part. The Board came to the conclusion that it would be allowed where the building was to be placed further back and in a more conforming manner. Mr. Zudell was advised to see Bob Fiske about the proposal and, if need be, a letter could be written with the Board's opinion on the question.

Mr. Zudell also asked about cutting some brush along the front of the property from the main office toward the TV gate. The Board agreed that any cutting in the state's right-of-way would have to go through the district office, any landscape that was created as part of the approved site plan must stay in place, and that other underbrush, saplings, etc on the property could be cleaned up to improve the appearance of the property.

BOARD DISCUSSION:

Donna asked the Board about a wetlands application that she recently received from the town clerk. The application is to finish the excavation of a pond for which a permit was granted in 2000 and expired in 2005. The Board reviewed the tax map and application, agreeing that the landowner needed to apply for a special exception for the pond per Section 301.5 of the Zoning Ordinance. A letter will be sent to the owner advising him of such.

ADJOURNMENT:

Jon Huntington made a motion to adjourn the meeting at 8:05 p.m.; seconded by Howard Pearl. All were in favor.

Respectfully submitted,

Donna White
Administrative Assistant