

APPROVED

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF JANUARY 22, 2009**

REGULAR HEARING

Chairman Dave Powelson called the Loudon Zoning Board of Adjustment meeting of January 22, 2009 to order at 7:00 p.m. at the Loudon Community Building.

ROLL CALL:

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

ACCEPTANCE OF MINUTES:

Regular Hearing – **Roy Merrill made a motion to approve the minutes of November 24, 2008; seconded by George Saunderson. All were in favor.**

DISCUSSION:

Tony Merullo – Building Permit Extensions for Denyse Merullo. Ms. Merullo submitted a request to extend the building permits for Map 58, Lots 127, 145, and 151. Mr. Merullo explained that Lot 127 is to be for his personal house. The lot has been cleared and the project put on hold. He explained that the other two lots have been cleared but they did not get to do the foundations before the weather changed. Mr. Merullo said that he got some extensions last year and turned other permits in. He stated that he believes they will use all three of these this year as they are caught up with other permits and projects and are hoping for a better year. **George Saunderson made a motion to extend the building permits through December 31, 2009; seconded by Ned Lizotte.**

Roy Merrill said that he has talked with Bob Fiske and wants to go on the record to let Mr. Merullo know that permits run out in December. He said that he does not feel that the Board should extend any permits after they lapse. Mr. Merrill said the extension requests should be done in November or December. Mr. Merullo said that he picks the permits up at the end of the allowable period. He said that he picks them up at the end of February and pays for them at that time, thinking that was the time when the permit started. Mr. Merrill said that the permits have an issue date of early January and if they are not picked up by a certain date they go to the next person on the list. Ned Lizotte stated that the Board will pay attention to this housekeeping measure. George Saunderson said that the Board has typically been extending permits for one year but because of the economy they have been more lenient with a second extension. **All were in favor of extending the permits.**

PUBLIC HEARINGS:

Case # 09-01, Tony Merullo – Special Exception for Wetland Crossing, Map 38, Lot 7-3. Abutters have been notified; none were present. The Conservation Commission,

Planning Board, and Health Officer were notified of the application. Comments have been received from the Planning Board and Conservation Commission.

Mr. Merullo gave an overview of the location and his future plan to subdivide a 5.5 acre lot into two lots. He explained that he applied to DES and was granted a Wetlands and Non-Site Specific permit for this crossing. Mr. Merullo stated that the ZBA granted a special exception for the same crossing with the prior owner in 2007. He explained that he had already made application before realizing that. Because of a slight difference in this crossing, it was Mr. Merullo's feeling to go with the public hearing for a special exception under Sceptre Custom Homes and have it specific to this crossing that was approved by the State. He said that this plan calls for a 36" round culvert as compared to the box culvert proposed on the previous owner's plan.

Chairman Powelson stated that the first approval that was granted was more or less permanent. Roy Merrill asked if the only difference was the culvert. Mr. Merullo said that the crossing is in the same location with a different culvert. He explained the circumstances under which a box culvert is required. Mr. Merullo stated that the conditions of this crossing do not meet those requirements so a round culvert will be sufficient. He explained the greater disturbance involved when installing a box culvert.

The Planning Board noted at their January 15th meeting that their only concern would be if the culvert would be suitable for water flow in that location. Roy Merrill said that a 36" culvert will handle a lot of water and he is in agreement with the proposal if the State approved it. Tony Merullo said that he checked with Peter Schauer to be sure the culvert would be the right size. He said the State also looked at the plan closely, and there were several letters back and forth with the State to meet their requirements.

George Saunderson asked about the shoulder work that was part of the original approval for a crossing at this location. Mr. Merullo said that he was aware of the request to do the shoulder work, 75' in one direction and 50' in the other. Roy Merrill clarified that the work was to be done to either side of the driveway along the road to create a safer shoulder in the location of the driveway and crossing. Mr. Merullo asked if he would be filling in to the stonewall. Mr. Merrill said that he would suggest 3' or 4' out, tapered to the stonewall. There was discussion about building a good foundation when doing the shoulder work.

Howard Pearl asked if they would be issuing a new approval to supersede the former approval or modifying the original approval. Chairman Powelson said they would be issuing a new special exception approval, not transferring the old one which goes with the land. He said that Mr. Merullo could give up the old one. Mr. Merullo said that he would prefer a new one with his plan at the point of least disturbance, the same location as the original approval. He went through the points of the application.

Chairman Powelson read a letter from the Conservation Commission. The Commission asked that "the construction be restricted as much as the topography and conditions allow to mitigate the impact of the driveway to wetlands and wetland buffers both during construction and upon completion". Roy Merrill stated that he was instructed by the Planning Board to bring up the matter of the culvert. He spoke of the Planning Board's concerns of washouts in the area and he said that he feels the 36" culvert is sufficient. Mr. Merullo said that he would check the culverts that are downstream from this location before going to the Planning Board for the subdivision.

Roy Merrill made a motion to approve the special exception with the

conditions placed upon the original approval with regard to the shoulder work and that Mr. Merullo agrees to give up the special exception approval that was granted on August 23, 2007, Case # 07-13; seconded by Howard Pearl. Mr. Pearl noted that it appears that the proposed culvert is sufficient for the location and crossing. **A roll vote was taken: George Saunderson – Yes; Ned Lizotte – Yes; Dave Powelson – Yes; Roy Merrill – Yes; Howard Pearl – Yes. Unanimous – PASSED.**

DISCUSSION:

Tony Merullo said that he would be before the Board next month for a special exception for steep slopes. He asked if a site walk could be scheduled prior to the meeting. It was agreed to do a site visit on February 26, 2009, the day of the meeting, at 4:30 p.m. Abutters will be notified of the site visit in the meeting notification.

Dan Aversa – Building Permit Extensions. Mr. Aversa was not present. Howard Pearl stated that he typically likes having someone present to discuss their request for extensions. Roy Merrill spoke about the permits expiring at the end of the year and that he has talked with Bob Fiske about this matter. He said it would be best if extensions were requested in the fall before the permits expire and that the Board no longer consider requests after the permit expiration date. Howard Pearl asked if there would be any issues with Mr. Fiske if the Board waited until February to see if Mr. Aversa would be present to discuss this request. Mr. Merrill explained that the permits are issued on the second or third of January and that Mr. Fiske would like to see the extensions done at the end of the year. He said a line has to be drawn as to when the Board will no longer consider requests for extensions. There was discussion as to how best to handle the matter. George Saunderson asked if anyone has seen the driveways mentioned in Mr. Aversa's request and if they were up to code. Roy Merrill said that the driveways have been roughed in but he was not sure if they are to code. He suggested that the Board not act on the request at this time and let Mr. Aversa come in next month so that the Board would have more information. **Howard Pearl made a motion to table the request for building permit extensions; seconded by George Saunderson.** Roy Merrill said that a policy should be set for the ZBA. Jim Venne asked if Mr. Fiske's problem is that the permits have expired on December 31st. Mr. Merrill said that was correct and they need to make a policy to act before the permits expire. Dave Powelson said that the Board has traditionally extended for the first year and some for a second year due to extenuating circumstances. He said he would be willing to approve Mr. Merrill's motion to consider this request next month. Mr. Aversa will be notified of the discussion and the date of the next meeting. It was noted that no correspondence has been received in the Zoning Office from the building department with regard to permit expirations or extensions. **All were in favor of tabling the request.**

ADJOURNMENT:

Ned Lizotte made a motion to adjourn the meeting at 7:55 p.m.; seconded by George Saunderson. All were in favor.

Respectfully submitted,
Donna White, Administrative Assistant