

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF OCTOBER 25, 2012**

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

ROLL CALL

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

ACCEPTANCE OF MINUTES

Regular Hearing – Jim Venne noted one spelling correction. **George Saunderson made a motion to accept the minutes of September 27, 2012 as corrected; seconded by Roy Merrill. All were in favor.**

PUBLIC HEARING

Application #Z12-16, Nancy Marchillo – Special Exception for Reduced Setback, Village District, Map 20, Lot 40 on South Village Road. There were no abutters present. Paul Krukonis, the applicant’s architect, represented the applicant.

Mr. Krukonis explained that the applicant is proposing to put a small addition on the back of her house to put a staircase to the second floor. He said the existing staircase does not come close to meeting code and this would give the applicant a second exit and safer access to the second floor. The addition would also provide space for a laundry area. Mr. Krukonis noted that the addition would have a very small footprint.

Chairman Powelson went through the points of the application with Mr. Krukonis. The request is to reduce the setback from 15’ to 1’. It was stated that this addition would not be on a foundation, it would be on sauna tubes. Mr. Krukonis pointed out the location of the septic tank at the rear of the building. He said the addition would be approximately one foot off the ground. The chairman asked if there were any questions from the Board. Earl Tuson asked if it was correct that the existing setback is 0’. Mr. Krukonis said that was correct. The house sits at the property line, and the addition would be 1’ in from the line. Roy Merrill said he feels the addition is a good idea for safety reasons.

The chairman asked if there was a need for a site visit. Jim Venne said he would not think so. Mr. Powelson noted that the driveway is on the right side of the house, with approximately 15 ½’ of area. He asked how far it would be to the next building to the left of this house. Mr. Krukonis said it was approximately 20’. It was agreed that there were not a lot of other solutions and there was no need for a site visit. The chairman stated that the request is for a small addition at the back of the house with a 1’ side setback. **Roy Merrill made a motion to approve the application with a reduced side setback from 15’ to 1’; seconded by Howard Pearl. A roll vote was taken: George Saunderson – yes; Ned Lizotte – yes; Dave Powelson – yes; Roy Merrill – yes; Howard Pearl – yes. Unanimous - APPROVED**

Application #Z12-17, Ruth Krochmal – Variance, RR District, Map 29, Lot 7-93 on Azalea Court. Abutters Dan Plourde, Gary & Kathy Garland, Ned Lizotte, Roy Merrill, and Terrance O'Brien were present. Steve Ives represented the Town of Loudon, also an abutter. The applicant was present. Ned Lizotte and Roy Merrill stepped down from the Board. Jim Venne and Earl Tuson were appointed as voting members for this case.

Tony Marcotte spoke on behalf of Ruth Krochmal. He explained that the applicant would like to buy a home in the Villages at Loudon. A list of signatures of several residents of the Villages in favor of the application was presented. Mr. Marcotte gave a summary of the history of the Villages and an overview of the applicant's request. He explained that they would have to get the approval from all owners to allow this one person under the age of 55. He went through the points of the application. Mr. Marcotte said the applicant feels the request is very reasonable and does meet the spirit of the ordinance, particularly Section 303.1. He said this request allows the Board to consider this specific case which makes it different than any other situations in town.

Dave Powelson asked to clarify that the application is specific to 13 Azalea Court and to one resident under 55. Mr. Marcotte said that was correct. He explained that the applicant cannot maintain her home and large property in Epsom. She wants a maintenance-free property and does not feel she can wait until she turns 55. Mr. Marcotte said the applicant could own the property but she would not be able to live there without this variance. Howard Pearl asked to clarify the situation of the applicant and her cousin's ability to help. Mrs. Krochmal spoke about losing her husband six years ago and trying to keep up with the maintenance of the property. She said it is just too much. Her cousin lives with her and helps out financially but is not able to help with the maintenance. Mrs. Krochmal said her sister and brother-in-law live in the Villages and she would really like to as well.

The chairman stated that the Board cannot change anything relative to the condominium documents that Mr. Marcotte had mentioned. Mr. Powelson said it appeared from Mr. Marcotte's description that the town is party to the documents. He asked if that was the Planning Board and Board of Selectmen. Mr. Marcotte said that Code Enforcement has the ability to enforce the 55+ requirement if there are any complaints of underage residents. Steve Ives asked if he was correct in saying that the applicant could not live there if the Board grants the variance but the condo association votes against the proposal. Mr. Marcotte said the homeowners association does not have the authority to change the restriction without the variance from the town. He said the Zoning Ordinance appears to be the most stringent so they started with that. He said it would be a three part process for this to happen: a) ZBA approval; b) residents have to approve; c) applicant has to sell her current house.

Ned Lizotte asked what would happen if the Board approved the variance but the association denied the request. He said it would appear that the town would be left open to a variance for that lot. Mr. Lizotte said he was not sure the Board would have the ability to grant a variance for a specific lot and he voiced his concern of this setting a precedent. Mr. Marcotte said the variance would be for the applicant specifically, not the lot. Howard Pearl said they could do it for a lot but he is not sure they could do it for a person. Dave Powelson said that would be a risk the Board would have to take. Mr. Marcotte said it has to be resident specific because the use is already approved; it is the applicant's age that does not meet the ordinance.

Chairman Powelson asked if there were any abutters wishing to speak in favor of the application. Dan Plourde said the applicant is 52, will be 53 shortly, and she's not coming in with three kids, etc. He said it does not make sense to deny the request and that he feels anyone above 50 would fit in with the other residents. Roy Merrill said that Tony Marcotte came in originally to cut the age down drastically and he was not in favor of that but he does agreed that it is hard if one person is 55 and one is younger. He said the request is for one person aged 52 and he feels the Board should look into giving a variance for the person, not the lot, even though he is not sure that can be done. Mr. Merrill said he is not against the request.

Chairman Powelson asked if there were any abutters wishing to speak against the application. Kathy Garland said if the Board does this for one they will be doing it for others. Gary Garland said the age was already lowered once when it went from 62 to 55. He asked what will keep it from being lowered again. The Garlands voiced complaints about the developer. They said the development is supposed to be 55 and over and there is already too much going on in there. Steve Ives, Selectman for the Town of Loudon, said he does not feel the applicant has shown a burden. He said he cannot see giving a variance if not even sure if the association will approve. Mr. Ives said there were a couple of points on the application about this adding to the tax base. He noted that the house is already on the tax warrant so there would be no change. Mr. Ives said there are other options out there and he sees no proof of burden warranting a variance. Mr. Marcotte said Mr. Ives is correct as the house is already built; however, there is another person interested in the property. He said this sale would mean that a new house would be built next door to this one for that other party, adding to the tax base. Mr. Marcotte spoke about a recent Open House that was held at the Villages, the number of smaller homes that are available, and the interest shown. He said there are no other choices in Loudon which is where the applicant wants to live.

Chairman Powelson read letters from abutters Phillip and Carol Webster and John George. Both encouraged denial of the application. Dan Plourde spoke about various benefits that begin at age 50 and again stated that he felt 50 was appropriate for this type of community. Steve Ives said if there is trouble with the Zoning Ordinance then it should be looked at for making changes but he does not see a hardship here. There was discussion of the age for elderly housing being dropped from 62 to 55. It was stated that a change could be presented to the Planning Board for their next zoning workshop or it could be submitted as a petition. Tony Marcotte said the applicant is not asking for a change in the Zoning Ordinance. He said this Board has the power to look at each case and he feels the applicant clearly has a hardship. He said that does not mean that the development is 'anything goes'. Mr. Marcotte said the applicant is not 55 but is a widow and this would not be opening a can of worms, they would be looking at a specific person. Howard Pearl said he does not think the board can grant a variance for a person; he feels it would have to go with the lot. George Saunderson said he would agree and he would want the Town attorney's opinion. He suggested continuing the matter for a month. Howard Pearl said maybe the variance could be given for two years until the applicant reaches 55. Steve Ives stated that town counsel frowns on temporary approvals.

There was discussion of options open to the Board. Roy Merrill suggested to Mr. Marcotte that he could try to get a response from all 24 residents. Jim Venne said if the association was all in favor of wanting this then it would be clearer to the Board. Howard

Pearl said the burden of hardship is necessary. Dave Powelson said it might be good to seek the attorney's opinion and carry the case to another meeting. **George Saunderson made a motion to continue the application to November 29 and to seek the attorney's advice; seconded by Howard Pearl. All were in favor.** The application will continue to the meeting of November 29th, 7:00 p.m. at the Community Building. There will be no further notification.

Tony Marcotte spoke about his history with the developers of the Villages at Loudon and how they do care about the community and abutters of the Villages.

ADJOURNMENT

Howard Pearl made a motion to adjourn the meeting at 8:20 p.m.; seconded by Jim Venne. All were in favor.

Submitted by,

Donna White
Administrative Assistant