

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF APRIL 24, 2014**

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

ROLL CALL

The following members were present: Chairman Dave Powelson, Roy Merrill, Earl Tuson, and alternate George Saunderson. George Saunderson was appointed as a voting member in the absence of Ned Lizotte and Howard Pearl.

ACCEPTANCE OF MINUTES

Regular Hearing – Earl Tuson moved to accept the minutes of February 27, 2014 as presented; seconded by George Saunderson. All were in favor.

PUBLIC HEARING

Application #Z14-03, Bert Cox – Equitable Waiver of Dimensional Requirements, RR District, Map 48, Lot 9 on Lesmerises Road. Abutters Dustin Bowles, Bruce Drew, and Andrew Perrella were present. The applicant and his representative, Brandon Giuda, were also present.

Mr. Giuda explained that the applicant was before the Board a few months ago for a variance for a two family dwelling; that variance was denied. During that hearing an abutter stated that he felt the garage was over the property line. The matter was researched and it was determined that one corner of the garage is in the side setback by approximately five feet but not over the line. Mr. Giuda stated that Mr. Fiske wants a few things addressed before issuing an occupancy permit: two kitchens into one, this has been done; garage sheathed, this has been done; and the matter of the garage in the setback is addressed. Mr. Giuda said the discovery fits the criteria for an Equitable Waiver of Dimensional Requirements. He read from the pertaining RSA, noting how this case fit each item. Mr. Giuda said former owners made a mistake on the setback but did have a building permit for the garage. He explained that it has been almost ten years since that permit was issued and no one knew of the mistake until the last hearing. He noted that there have been no complaints in all those years. Mr. Giuda said to correct the error would require removing one quarter of the garage; this would be of significant expense and no real benefit to the public as only one corner of the garage encroaches in the setback by five feet.

Roy Merrill asked why they went with the EWDR instead of a Special Exception for reduced setback. Mr. Giuda said this fits as it was a mistake that was discovered after the fact, whereas a Special Exception is generally requested before something is done. Mr. Merrill said if this does not meet the ten years he would think it would be a Special Exception. Mr. Giuda explained that several elements need to be met if the condition has existed for less than ten years. This situation has existed for nine years and six months so they have to meet the other elements. Dave Powelson clarified that they are saying it was not noticed until after the garage was built and was not deliberate. Mr. Merrill said he misunderstood the ten year provision.

George Saunderson asked abutters if they had any previous knowledge of this error. All said they did not. Bruce Drew said the driveway brought in by previous owners is 2-3' over his property line, and he thought it would be addressed. He described the location of the driveway; board members reviewed a survey plan that was recently done. Dave Powelson noted that the abutter's description is different from the one on the map presented. Roy Merrill stated that the driveway is not shown as being over the line on the plan. Brandon Giuda said they are presenting this plan to the Board for the garage encroachment, and if the abutter continues to make assertions it would seem to be a civil matter. Mr. Drew stated that it was the applicant's surveyor that did the plan. Mr. Cox explained that he had the survey done at the abutter's request. Mr. Giuda again stated that the applicant is here for an Equitable Waiver for the garage in the setback. The chairman explained if the driveway

encroaches in the setback they would have the same option of a Special Exception or Equitable Waiver. He said for getting in and out of the house it seems this could be done without encroaching on the setback, and if the paved area does encroach then the matter could be addressed with the owner.

Chairman Powelson asked abutters if there were any other questions. Bruce Drew said he has no objection to this application. Andrew Perrella asked if the application is specific to this issue, not a license to go into the setback with other things. The chairman explained that the Equitable Waiver is for this garage to clear up a mistake that was made; anything else would have to come back before the Board.

Chairman Powelson asked Mr. Drew if he has any problem if the driveway is completely on its own lot but close. Mr. Drew said he probably would not. The applicant asked Mr. Drew what he would want for a remedy. He asked Mr. Drew if it would be acceptable if they strung a line and chiseled out what might be over the line. Mr. Drew said he is concerned with gas and oil getting on his property. He asked if that would be another waiver and if the matter will affect the sale of his property. Dave Powelson stated that the Board does not seem to feel it would have a negative impact based on the review of the application.

Chairman Powelson went through the points of the application with Mr. Giuda. Earl Tuson stated that it is good that the owner has offered to address the existing condition. He said there has been some confusion with the lot line very near the stone wall. Mr. Tuson, addressing George Saunderson as a Planning Board member, said subdivisions should follow walls when possible.

George Saunderson made a motion to grant the Equitable Waiver of Dimensional Requirements for the corner of the existing garage; seconded by Earl Tuson. A roll vote was taken: George Saunderson – yes; Earl Tuson – yes; Dave Powelson – yes; Roy Merrill – yes. Unanimous - APPROVED

ELECTION OF OFFICERS

George Saunderson moved to nominate Dave Powelson for another term as Chairman; seconded by Earl Tuson. All were in favor. Mr. Powelson accepted the position.

Roy Merrill nominated Ned Lizotte to serve as Vice Chairman; seconded by George Saunderson. All were in favor.

Roy Merrill stated that he has talked with Charlie Aznive, and Mr. Aznive is interested in being an alternate on the ZBA. He was unable to attend tonight's meeting as he is out of town. Chairman Powelson said to have Mr. Aznive come to a meeting and discuss this further.

ADJOURNMENT

Earl Tuson made a motion to adjourn the meeting at 7:34 p.m.; seconded by Roy Merrill. All were in favor.

Submitted by,

Donna White
Administrative Assistant