

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF
APRIL 27, 2006**

REGULAR HEARING

Chairman Roy Maxfield called the Loudon Zoning Board of Adjustment meeting on April 27, 2006 to order at 7:30 PM at the Loudon Community Building.

I. ROLL CALL:

The following members were present: Roy Maxfield, Vice Chairman; Ned Lizotte, and alternate Jon Huntington. Dave Powelson, Chairman; Roy Merrill and alternate George Saunderson were not present.

Roy Maxfield will act as Chairman and Jon Huntington will be a voting member.

II. ACCEPTANCE OF THE MARCH 23, 2006 MINUTES:

Ned Lizotte made a motion to accept the minutes as written. Seconded by Jon Huntington. All were in favor.

III. APPEAL:

1. Roy Merrill – Roy Maxfield stated the first order of business is an appeal by Roy Merrill which the board members have a copy of. Mr. Maxfield stated the town attorney has advised us, based on a selectperson sitting, to accept the appeal and set an alternate in place of Steve Ives. Mr. Maxfield stated he recommends alternate Jon Huntington in that capacity and recommends Mr. Huntington review the minutes and look at the tape in January to be prepared to participate and vote next month. Mr. Maxfield stated the board will accept the appeal and asked for all in favor. None were opposed. Appeal accepted.

IV. PUBLIC HEARINGS:

1. Case #06-05 - Jeremy Minery - Special Exception for a reduced setback. 252 Route 129, Map 21, Lot 5. Abutters have been notified. Mr. Minery stated he has a letter from the direct abutters Arlene and Michael Souther. Roy Maxfield stated the Souther's do not object to the reduced setback. Mr. Minery stated he has only 66 feet of road frontage and $\frac{3}{4}$ of an acre; the lot is non-conforming. Mr. Minery stated the existing house is 8½ feet with the overhang to the property line and the addition will be 4½ feet to the property line. Mr. Maxfield stated Mr. Minery has the option of accepting the decision of a three person board and proceeding with the hearing. Mr. Minery stated he accepts. Mr. Maxfield read the application. Mr. Maxfield asked how this will not diminish light, air and space and asked how far the neighbor's house is from this house. Mr. Minery stated you cannot see their house from his house, Mr. Souther built on the back of his lot. Mr. Maxfield inquired about fire access. Mr. Minery stated both doors are on the other side by the driveway. Mr. Maxfield asked if there were any questions from the board. Jon Huntington stated Mr. Minery has done a good job improving the property. Ned Lizotte stated he is familiar with the place and what he is doing looks really good for what he has to work with. Mr. Maxfield asked if there was anyone that would like to speak for or against the application. There were none. Mr. Maxfield closed this hearing and it will be taken up under unfinished business.

2. Case # 06-06 - David & Claire Drake - Special Exception for a reduced setback. 260 Clough Pond Road, Map 58, Lot 96. Roy Maxfield asked what the aqua flags represent at the site. Anthony Merullo stated they are the corners of the proposed house; they have moved a bit from when they were originally put there. Mr. Merullo stated the existing building is non-conforming and sits 10 feet from the front and 15 feet from the back property lines. Mr. Maxfield asked what is happening at the lot next door. Mr. Merullo stated it is a vacant lot. Mr. Maxfield stated this is to reduce the side setbacks from 30 to 25 feet on both sides and to allow the driveway to encroach on the right side setback. Mr. Maxfield read the application. Mr. Maxfield stated this will turn into a permanent residence. Mr. Merullo stated they are aware there are problems in this area with driveway and house runoff and they have spoken to the road agent about what is happening with DES and containment. Mr. Merullo stated at the end of the driveway turn around there is a retention area. Ned Lizotte stated he is familiar with the property and it slopes up. Mr. Merullo stated it slopes up and then it shelves; there is flat area near the road and water does not run directly onto the road. Mr. Merullo stated he is catching the water on the first shelf and holding it there. Mr. Maxfield read the additional requirements for a reduced setback and stated any representations made at a hearing become part of the deal. Mr. Merullo stated they believe they have taken all the trees they are going to need to take. Mr. Maxfield stated they have done a good job putting the house back in the middle of the lot. Mr. Maxfield asked if there were any questions from the board. Abutters have been notified. Mr. Maxfield asked if there was anyone that would like to speak for or against the application. There were none. Mr. Maxfield stated he did not cover the driveway and they require setbacks too. Mr. Merullo stated the driveway is not in the setback but the turnaround area encroaches the setback to about 15 feet. Mr. Merullo stated the driveway runs straight into the bottom of the house. Mr. Lizotte stated the turnaround is about a 25-30 foot swath. Mr. Merullo stated yes and it will have a retention area behind the turnaround to catch water. Mr. Maxfield stated the turn around does not bother him; he feels the intent is to keep from driving up someone's property line. Mr. Maxfield closed this hearing and it will be taken up under unfinished business.

V. UNFINISHED BUSINESS

1. Case #06-05 - Jeremy Minery - Special Exception for a reduced setback. 252 Route 129, Map 21, Lot 5. Roy Maxfield stated he will take a motion to reduce the side setback from 30 feet to 4½ feet. Ned Lizotte made a motion to accept the application as presented. Seconded by Jon Huntington. Roll call vote: Jon Huntington - yes, Ned Lizotte – yes, Roy Maxfield - yes. All in favor, application approved.
2. Case # 06-06 - David & Claire Drake - Special Exception for a reduced setback. 260 Clough Pond Road, Map 58, Lot 96. Ned Lizotte made a motion to accept the application as presented. Seconded by Jon Huntington. Ned Lizotte stated the understanding is the T turnaround does not go closer than 15 feet to the side setback. Roll call vote: Jon Huntington - yes, Ned Lizotte – yes, Roy Maxfield - yes. All in favor, application approved. Roy Maxfield asked the applicant if he accepts the decision of a three member board. Mr. Drake stated yes.

VI. DISCUSSIONS

1. Joanne Sanborn – Steve Jackson represented Ms. Sanborn. Mr. Jackson stated he has brought in some plans and deeds concerning property located on Map 44, Lot 8 on Kenney Road. Mr. Jackson stated Ms. Sanborn currently resides in a residence on Map 53, Lot 2;

which has a 30 foot easement through Mr. Epps property for her driveway. Mr. Jackson stated they are trying to get a building permit for lot 8; Ms. Sanborn would like to downsize and build a smaller home. Roy Maxfield asked where the road frontage is for lot 8. Mr. Jackson stated that is the discussion for tonight; there is a 50' wide piece of land that runs down to Kenney Road. Mr. Jackson stated he thought a couple of planning board members had come out to the property and based on what they saw, there wouldn't be the ability to get a permit. Mr. Maxfield asked how Map 44, Lot 5 is accessed. Mr. Jackson stated he believes they have their own right-of-way somewhere. Mr. Maxfield asked how lot 2 got a building permit in 1990. Ms. Sanborn stated Mr. Hibbard had a permit when she bought the land and two years ago Mr. Epp gave them the right-of-way; the 50 foot wide area use to be the access to the lot. Mr. Lizotte asked why the 50 foot strip was not pursued as the access way. Mr. Jackson stated a survey from Mr. Bartlett in 1994 describes a lot owned by Mr. Little as cutting Ms. Sanborn off from her access; Ms. Sanborn does not have the resources at this time to challenge this. Mr. Maxfield stated she has access but does not have frontage so his answer is no. Mr. Jackson stated in June 2005 former selectman Debbie Kardaseski stated, "if the driveway across Mr. Epp's property was 50 feet wide, then the access could be worked out with a shared driveway, as has been done on other occasions." Mr. Maxfield stated he does not see where you can have a building permit without frontage and you would have to create frontage somehow. Mr. Maxfield stated they had a situation where someone had frontage on Route 106 but used a 50 foot access to get into the lot, but he had frontage. Mr. Jackson stated a lot of record with a 50 foot access can be built on. Dustin Bowles stated the only way you are going to proceed is to prove they have the 50 foot strip; then they can build. Stanley Prescott stated they mentioned earlier someone from the planning board looked at it; he was the one who looked at it as a surveyor and went out with a selectman. Mr. Prescott stated he looked at the record as it was presented to him and the problem is the survey of the little piece and the surveying of the abutting piece overlap; so it negates the 50 feet. Mr. Prescott stated the two lots on either side were conveyed first and they are going to get what they need for their lot and what ever is left over, the third party will get theirs. Mr. Prescott stated he suggested she needs to go to Mr. Hibbard and say she didn't get what she bought. Mr. Prescott stated she indicated at that point she did not have money to do that; so subsequently she went to Mr. Epp and got her right-of-way. Mr. Prescott stated the regulations now say you have to have 50 feet of property, not a right-of-way. Mr. Prescott stated this is a civil issue. Mr. Jackson stated he believes she still has 50 feet on the road; it appears it was challenged further into the lot. Mr. Prescott stated she may have a 50 foot triangle out by the road but it doesn't go anywhere. Mr. Bowles stated there is nothing the town can do until she has a deeded 50 foot wide piece of land.

2. Scott Leppard – Mr. Leppard stated he is on 85 Berry Road and thought he was measuring from the right pin but found out he is actually 13' from the side setback. Mr. Leppard stated abutter Scott Jackson has no problem with that. Mr. Leppard stated the pin was moved by someone in the past, not by him. Mr. Leppard stated he has spoken to Chief Fiske, who gave him the original go ahead to start digging, and asked him to stop what he was doing. Mr. Leppard stated on Tuesday evening Mr. Jackson brought it to his attention he was not within his setbacks; he would like to ask the board for a reduced setback on the northeast corner. Mr. Leppard stated Mr. Prescott, Mr. Jackson and Chief Fiske came out and ran the measurements. Mr. Leppard stated Mr. Jackson's .71 acre lot is vacant; a part of his driveway and a rock garden are actually on Mr. Jackson's property; Mr. Jackson is allowing a 12 foot easement for this. Mr. Leppard stated he would like preliminary approval tonight so he can finish the footings. The board reviewed the regulations. Mr. Maxfield stated the planning board regulations allow for preliminary approval, not the zoning board. Mr. Maxfield stated Mr. Leppard can proceed at his own risk; the board has public notice requirements. Mr. Maxfield stated he will notify Chief Fiske of this.

3. Roy Maxfield stated on behalf of the zoning board he would like to take this opportunity to thank our secretary Tammy for her excellent performance and wish her every success in her new position. All were in favor.
4. Ned Lizotte made a motion to appoint Howard Pearl as alternate member. Seconded by Roy Maxfield. All were in favor. Mr. Maxfield stated the board understands the absent members also support Mr. Pearl's appointment. Mr. Maxfield stated Mr. Pearl should also acquaint himself with the Volunteers of America's case before next month.

VII.ADJOURNMENT:

Jon Huntington made a motion to adjourn this meeting at 8:30 p.m., seconded by Ned Lizotte. All were in favor.

Respectfully submitted,

Tammy Davis
Secretary