

**BOARD OF APPEALS
REGULAR MEETING MINUTES
JULY 14, 2010**

Members Present: Clayton M. Harrison, Chairman
Christopher J. Graham
Kimberley Fernandes
William Wyatt, Alternate
Absent: Kendal Tripp
Gerald Coutinho
Also present: Ralph Souza, Building Inspector

Chairman Harrison called the Zoning Board of Appeals meeting to order at 7:00 PM in the Westport Town Hall, 816 Main Road, Westport, MA 02790.

Jean St. Gelais, 265-267 American Legion Highway - RE: Continued hearing on an application request for a variance for relief from Zoning Bylaws, Article 7.6.2 side yard setback – shed already having been constructed and placed closer to side lot line than allowed. The property is also known as Assessor's Map-61, Lot 19-A.

Sitting on petition: Harrison, Graham, Fernandes, Wyatt
Attending: Jean St. Gelais, petitioner
Abutters: none

Mr. Harrison explained to the petitioner that there were only four members present tonight. It is the applicant's choice to go forward with the four or continue to a meeting with five voting members. Mr. Harrison noted that with only four voting members, it would have to be a super major vote meaning that all members would have to vote in favor of the petition in order for it to be approved. Ms. St. Gelais requested to move forward tonight.

Mr. Harrison noted that Ms. St. Gelais has complied by submitting photos and a detailed plan of the property. It was noted that no correspondence has been received regarding this petition from the abutters. Mr. Harrison read into the record, the letter of the Building Inspector dated May 24, 2010. The shed on the property is 18 x 10 ft. The shed was constructed without a permit and does not meet the side yard setback requirement. Mr. Souza stated he received an anonymous complaint about a shed being built without a permit and went to inspect the property. Upon inspection, he discovered two issues: no building permit for the shed and the setback violation. Mr. Souza stated the shed is constructed on eight piers and it appears to be up to code and structurally sound. Mr. Harrison stated the plan that was submitted is not to scale but it does show where the shed is located to the west side of the property and that the septic is to the rear of the yard (north side). Ms. St. Gelais stated there is a pool in the backyard also; the shed will be used for storage. As for the pool, moving it is not possible; the only way to move the pool would be to take it apart. Mr. Harrison stated in applying for a variance, a basis for a hardship must be shown. The applicant needs to show why the shed needs to be in the area it has been placed. There is a 10-ft. hardship that needs to be shown. Mr. Harrison did note that the house was not placed properly on the property. Ms. St. Gelais stated there is a large rock in the yard, which was there originally when the house was built. The distance from the rock to the shed is about 4 or 5 ft. The top of the rock that is

exposed does not end there, it extends underground outward toward the shed and the house. The rock is much too big to have removed; it could require blasting to move it out.

Motion made by Ms. Fernandes to close the hearing. Second by Mr. Wyatt. The Board voted unanimously in favor.

Motion made by Mr. Wyatt to grant the variance for the shed located on the property of Jean St. Gelais, 265-267 American Legion Highway due to the fact that ledge underground is causing a hardship to move the shed further away from the side yard line, as shown in the photos and plan presented. Also, it appears that other structures are within 10 ft. of the abutting property. The shed is not more detrimental to the area. Second by Ms. Fernandes. The Board voted unanimously in favor.

Lawrence Webb & Janet Hadley, 82 Shirley Street - RE: Continued hearing on application request for a variance for relief from Zoning Bylaws, Article 7, Section 6 to allow the construction of a garage not meeting yard or setback requirements. The property is also known as Assessor's Map-71, Lot 81.

Motion made by Mr. Graham to continue this hearing to Wednesday, August 11, 2010 at 7:00 PM. Second by Ms. Fernandes. The Board voted unanimously in favor.

Approval of Minutes

This item was held on.


Other Business

1. **Motion** made by Ms. Fernandes to set Wednesday, August 11, 2010 at 7:45 PM to hear a petition filed by Manuel Soares, 42 Cleveland Street for a Variance. Second by Mr. Graham. The Board voted unanimously in favor.
2. Mr. Harrison stated the Board has received a verbal ruling regarding shellfish aquaculture licensing. The Zoning Board has jurisdiction over coastal waters but the Town has a large acreage, which is being considered and that area is over 5 acres cumulative, so there is no jurisdiction, therefore, no filing is necessary.
3. Mr. Harrison noted there would be an Executive Session with Town Counsel present on July 28, 2010 at 6:30 PM prior to the hearing of Deutche Donn's Special Permit application for adult entertainment.

Motion made by Mr. Graham to adjourn the Zoning Board of Appeals meeting at 8:30 PM. Second by Ms. Fernandes. The Board voted 4 in favor, 2 absent (Tripp, Coutinho).

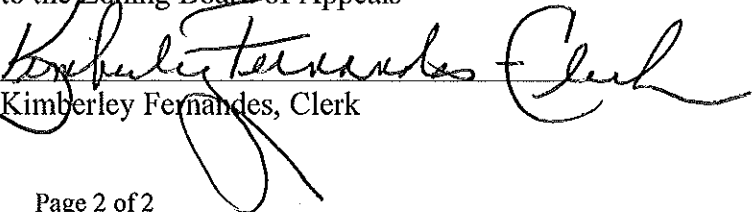
Adjournment.

Respectfully submitted,



Diane Pelland, Principal Clerk
to the Zoning Board of Appeals

APPROVED:



Kimberley Fernandes, Clerk