

**Town of Southeast
Zoning Board of Appeals
Minutes of January 20, 2016**

Timothy Froessel, Chairman	Present
Paul Vink, Vice Chairman	Present
Kevin Sheil	Present
Roderick Cassidy	Present
Debra Keiser	Present
Greg Wunner	Present
Carla Lucchino	Present
Willis Stephens, Jr., Town Attorney	Present
Victoria Desidero, Secretary	Present
Cathy Chiudina, Assistant Secretary	Present

Chairman Froessel introduced new Vice Chairman Paul Vink and new Boardmember Carla Lucchino.

Jill Jacobs, 18 Pine Road – This was a Public Hearing to review an application for an existing pool which requires a variance due to being installed within the setback. Jill Jacobs was sworn in and the mailings were verified to be in order.

Chairman Froessel: Please give us an overview of your application.

Jill Jacobs: You all have a copy of the documentation in a report format. Basically, there is an aboveground pool on my property that was installed in 1994. At that time I was married to my very able husband, Mike Quinn, who I had believed had done the proper permitting. I know he had gone down to the Town of Southeast office to obtain information but since he has been deceased for five years I have absolutely no way of knowing exactly what he was told nor what information he had or didn't have. I was born in Brewster in the adjacent house to the house I built in the late 80s and at that time my parents and I had sort of conjoined property. The property line was staked but because there is an angle to the property when the pool was put in there was one corner of the pool deck that was 4 ft. 8 in. shy of the required 20 ft. setback. I found out about this three years ago when my mother, at 88 years of age, was forced to sell the house I was born in adjacent to the property. A survey was done and it was indicated to me that there was a corner of the pool deck that was not up to the proper setback. Even though throughout my life it was a conjoined property at the time that we sold her original house where I was born I planted arborvitaes and, physically for my visual health, separated the property with lovely 6 ft. arborvitaes and other plantings as well as around the pool. Since I love gardening and landscaping there are many plantings around the pool deck. It is an extremely well maintained pool. It was put in as I may have mentioned in the mid 90s. It's above ground but it is set kind of landscaped into the property. It's beautiful. I love my pool and I just, going forward when I became aware of this a few years ago realized that I needed to do some research and make things right. Pretty much it's me right now. I own the house as a single woman and I feel like I want to move forward and get everything permitted. I have had an electrical inspector there already. Everybody seems to be very impressed by the condition and the beauty of the pool. There are slight Code upgrades that need to be done that I intend to do with your permission and the Zoning Board's approval to proceed. There are five neighbors that were notified in the surrounding area and they are all very dear to me and many of them love that pool as much I do and use it and they were in total support. They were not

able to be here tonight I guess. I am asking for the variance for that south corner of the deck which is 4 ft. 8 in. short of the 20 ft. setback. The rest of the property is within the proper setback. Again it is because the property line was at a very interesting angle that although it was staked by my father who for many years was a podiatrist in this community, it just wasn't clear exactly how the angle ran when we constructed the pool. That's it in a nutshell.

Chairman Froessel: Let me ask you a question, how did you find out it was within the setback?

Jill Jacobs: How did I find out it was not within the setback?

Chairman Froessel: Yes.

Jill Jacobs: When we went to sell my mother's home we had a survey done by Terry Bergendorff Collins and she just noted in that corner of my mother's adjacent property that there was a 15.4 ft.

Chairman Froessel: So the property your mother owned abuts to that same property line?

Jill Jacobs: Yes.

Boardmember Lucchino: No complaints from the new neighbor that bought the property?

Jill Jacobs: No, they're lovely. I teach water exercise at Wings Over Water so I am definitely a pool person. Anyone that wants to come by can do that. I was born in the house next door so this whole community is dear to me. I ran a daycare center for 25 years with my cohort who is in the audience and I believe Boardmember Wunner can attest to that. I have deep roots here and I hope that the Board can take a look at this situation and help me get up the proper codes that I need to be.

Chairman Froessel: I don't have a lot in the way of questions for you. It's a straightforward pool. It's a very nice structure that's been very well maintained and has been there for 21 years and no one has had a problem with it. The amount of the variance you are seeking really isn't tremendous.

Boardmember Vink: The plantings certainly shield any adverse effect it would have on the neighboring property.

Chairman Froessel: I agree and the pictures are actually very helpful.

Jill Jacobs: I'm glad. As Ms. Chiudina can tell you, I felt like I may have gone overboard with that.

Chairman Froessel: I am of the belief that you can never give us too much.

Boardmember Vink: Too much is better than too little.

Jill Jacobs: It's my teaching background. I give a lot of information in a nice format.

Chairman Froessel: If no one has any questions or comments I think this is pretty straightforward. I think we can just close the Public Hearing and vote.

Chairman Froessel: Before I close the Public Hearing I would ask you if you feel you have had a fair and adequate opportunity to present your application?

Jill Jacobs: Absolutely.

Chairman Froessel: Is there anyone in the audience with any questions or comments on this? Okay, with that we will close the Public Hearing and I will entertain any motion anyone wishes to make. This is for a 5 ft. variance of the rear property line.

The motion to grant the requested variance of 5 ft. for the south side yard setback where 20 ft. is required was introduced by Boardmember Vink, seconded by Boardmember Cassidy. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.

Obviously not because the pool has been there for 20 years. It is not going to change the neighborhood at all. The property itself backs up to the highway so it's not impacting anyone.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
The only option would be to tear down 5 ft. of the deck around the pool which would require a change in the whole layout of it and that's really not feasible given the situation.
3. Whether the requested variance is substantial.
It is 25 percent of the setback requirement but, at the same time, given the plantings that have been done to separate the pool and the deck from the neighboring property offset that.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
Obviously it will have none as it has been there for 20 years with no problems.
5. Whether or not the alleged difficulty was self created.
Not by this applicant. It was created more by the question about the drawing of the line when the property was subdivided.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	In Favor
P. Vink	In Favor
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 7 to 0.

Michael and Kathy Daigneault, 343 Starr Ridge Road – This was a Public Hearing to review an application for a proposed shed. Michael Daigneault was sworn in and the mailings were verified to be in order.

Chairman Froessel: Good evening, please let us know what you are here for.

Michael Daigneault: I would like to put up a shed on the south side of my property. The reason for the request of the variance is because my property isn't really sufficiently wide to construct a shed otherwise. That's the shed and you can see a picture of the plan of the shed.

Chairman Froessel: Is the shed currently in place or is this a shed you're proposing to build?

Michael Daigneault: No, I want to build it.

Chairman Froessel: What are the dimensions of the shed?

Michael Daigneault: It's 15 by 8. I have a picture in there.

Boardmember Lucchino: Is it wood?

Michael Daigneault: No it is a prefab shed. The base will be wood on posts.

Boardmember Lucchino: What color will the exterior be?

Michael Daigneault: Maple-beige type of color. I actually haven't opened the boxes.

Boardmember Lucchino: Roof?

Michael Daigneault: The roof is a dark brown.

Boardmember Lucchino: Are those skylights in the roof.

Michael Daigneault: Yes they are.

Boardmember Lucchino: That's a nice looking shed.

Michael Daigneault: Yes I hope so. Time will tell.

Boardmember Lucchino: Are you going to build it yourself?

Michael Daigneault: I am yes.

Chairman Froessel: You said your lot is about 150 ft. wide, is that the approximately width?

Michael Daigneault: Yes. When I was sitting back there I was reviewing my paperwork. I believe it is 150 ft. wide and I am really quite sure what we needed for the width.

Chairman Froessel: The point being with a 100 ft. setback it would be impossible for you to put the shed anywhere on the property without getting a variance.

Michael Daigneault: It is 100 ft., yes exactly.

Boardmember Lucchino: How high or tall will it be?

Michael Daigneault: You know it's actually not very tall because the roofline is relatively low there. I want to say, let me see if I can get the dimensions for you from this picture. It actually doesn't say.

Boardmember Lucchino: Roughly.

Michael Daigneault: I don't think above 9. It is kind of short. It's basically storage.

Boardmember Lucchino: Does it match the house?

Michael Daigneault: In general, yes, in the color. My house is a like a honey maple color I think it's called, something like that.

Boardmember Lucchino: What's on the left side of your property? On the shed side.

Michael Daigneault: On the shed side is Beth Maley.

Boardmember Lucchino: A neighbor?

Michael Daigneault: Yes.

Boardmember Lucchino: And no objections?

Michael Daigneault: I have talked with her and no objections whatsoever.

Boardmember Lucchino: She will be able to see the shed from her house?

Michael Daigneault: She will, yes. I have had discussions with her by the way. She was the first person I talked to, she and her late husband, and they were good with it. Really other than that, other than drivers-by, no one else would really be able to see it because there is a fence there.

Chairman Froessel: What's the proposed use of the shed, just your typical storage?

Michael Daigneault: Yes, I really don't have any storage for the tractor and stuff like that. I'm tired of shooing the mice away every time I mow the lawn.

Chairman Froessel: I don't have any other questions. Anyone else on the Board have any questions? No? Is there anyone in the audience that would like to offer an opinion on this particular application? No? Okay.

Boardmember Vink: This survey is pretty old. I am actually looking at an overhead satellite image. I see you have a pool back there that doesn't appear on the survey. Is that right or is that the wrong address?

Michael Daigneault: No that's right. You know that's interesting. I guess it's not on this particular survey but I do have surveys with a pool in the picture. It's the same picture but there just isn't a pool in this one.

Boardmember Vink: Are there any other changes? How far is the shed from the pool?

Michael Daigneault: That's a good question. I don't know but I would say basically it's the septic system and then the pool is right there. I did measure that because I wanted to run some speakers down there at one time. I think it's like 75 ft. back behind the house. That's a memory from 10-15 years ago.

Boardmember Vink: Okay, so the shed would be midway between the pool and the house?

Michael Daigneault: Closer to the house but yes.

Boardmember Vink: It looks like you have a lot of trees on that side of the property. Is that right?

Michael Daigneault: Right exactly. I am trying to tuck the shed away, you know what I mean?

Boardmember Vink: It's amazing what Google Maps will give you. It looks like I am sitting here playing on the phone but it's because I'm looking at a view of your property.

Michael Daigneault: Oh I didn't even see actually. I thought you were doing paperwork.

Boardmember Lucchino: You are not going to landscape around it?

Michael Daigneault: Well I would like to. I would like to certainly put some things in front which I'm confident about but because where it is on the south side there are larger trees there, some sort of locust trees that are very tall. I don't know what I could get to grow behind it. I would do it but I am not really sure.

Chairman Froessel: If you're going to try to plant anything that's low-growing underneath shade trees you're not going to have a lot of luck.

Michael Daigneault: Yeah, I'm not an expert but I don't know what I could do. I was just thinking that.

Chairman Froessel: Unless no one else on the Board has any questions of the applicant we can close the Public Hearing.

Boardmember Cassidy: Does anyone want to see the property?

Board: No.

Boardmember Lucchino: You have it on your phone.

Boardmember Vink: I do. Would you like to see it.

Boardmember Lucchino: Yes.

Michael Daigneault: You have probably all seen it. It's a pretty busy road there. I could point to where the shed would be on there. May I?

Boardmember Vink: Yes please.

Michael Daigneault: There is that white-ish car, straight back from there and tucked in those trees. I don't know if you can zoom in but they're pretty tall trees. I am trying to make the shed as low-key as possible, I guess is the phrase I am looking for.

Boardmember Lucchino: That's the house and that's the pool?

Boardmember Vink: Yes.

Michael Daigneault: Yes, the pool has been there at least 30 years, three owners.

Chairman Froessel: Do you have any final comments you wish to make to us?

Michael Daigneault: No, no. The only hesitation I have is that my brother-in-law stopped by and he said I may have a little issue if my septic ever goes bad because I have the shed in that location but I think I'm committed at this point. I would have to go through the whole process again before building if I wanted to move it or anything like that right?

Chairman Froessel: Is the septic going to be underneath the shed?

Michael Daigneault: No the septic is directly behind that addition in the survey there. Can you discern the addition part? So, at any rate, what he's saying is from the driveway you'd have to go around the front. Now, I'm not an expert, I don't know if where the front is you'd

go by the water line. I guess that would be okay if you were going to redo a septic. I'm not really sure but he said I may have a problem with that in the future.

Chairman Froessel: Worse comes to worse you could move the shed to fix the septic.

Michael Daigneault: But the septic is fine so I guess I'll worry about that later on.

Chairman Froessel: Do you feel you have been given a fair and adequate opportunity to present your application to the Board?

Michael Daigneault: Sure.

Chairman Froessel: My view on this is that the setback requirement as applied to this particular applicant's yard is completely not feasible and it would be literally impossible for him to put a shed without a variance. He wants it 21 ft. from the property line which we have had people wanting to go a lot closer to the property than that. Given the shape and size of his lot and the fact that no one ever wants to put a shed right in the middle of their yard, I think the application is pretty reasonable and not out of character with that neighborhood or really any other neighborhood.

Boardmember Vink: Yes and again the plantings and the trees between that location and the house next door actually shield it as well.

Chairman Froessel: That's true too. There is pretty good tree cover there. If no one else has any questions or comments I'll open it up for anyone to make a motion with respect to this application.

The motion to grant the requested variance of 79 ft. in the south side yard setback where 100 ft. is required and 21 ft. is proposed was introduced by Boardmember Cassidy, seconded by Boardmember Vink. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the various variances.
No not at all. There are many houses in that neighborhood that have sheds and I think it will be a fine addition to the property.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No because if you need a shed you need a shed and it would be literally impossible to put it anywhere on that property and have the 100 ft. required setback.
3. Whether the requested variance is substantial.
Yes it is substantial but in light of the fact that the property is shaped the way it is and is the size that it is, I don't think that in and of itself should be a reason to deny the application.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
Absolutely not and there has been no testimony to suggest otherwise.
5. Whether or not the alleged difficulty was self created.
It is self-created to the extent that the property owner wants to have a shed on their property but again there is no other way it can be done without getting a variance.

Roll Call Vote:

G. Wunner In Favor
K. Sheil In Favor
P. Vink In Favor
R. Cassidy In Favor
C. Lucchino In Favor
D. Keiser In Favor
T. Froessel In Favor

The motion to grant the variance as stated in the motion passed by a vote of 7 to 0.

Alcon Commercial Realty, LLC / Blackgate Farm, 411 North Salem Road – This was a Public Hearing to review an application for a proposed sign. Robert Alfredo was sworn in and the mailings were verified to be in order.

Robert Alfredo: My name is Robert Alfredo. I own a farm right on North Salem Road. I'm looking to put up a sign. We're in a residential zone and the allowable size I believe is 4 sq. ft. and we're looking to put up a 3 ft. by 3 ft. sign which would be 9 sq. ft. I am not sure if any of this paperwork was presented to the Board and I don't know how well you can see this. Yes, that's the proposed sign. We have well over 800 ft. of frontage. It is a very large lawn area along the road. We're looking to put this approximately 20 ft. back from the road. With our application two years ago we actually had it on our site plan when the equestrian use was constructed but obviously we're asking for a sign larger than the allowable size in this Zone. That's basically our application.

Chairman Froessel: I am not fully aware of your farm, is it a commercial operation?

Robert Alfredo: It's a commercial equestrian operation but before two years ago it was strictly a nursery and now it serves both purposes. If you passed it along the road it probably looked like a tree farm and it's between Fields Lane and Starr Lea Road.

Chairman Froessel: I have driven passed it numerous times. You have people going there for riding lessons and other equestrian events or something?

Robert Alfredo: Yes, correct.

Boardmember Cassidy: In your application you have area signs and samples. Where are these located?

Robert Alfredo: Pleasant View Farm is about 1/8 mile up the road towards Starr Lea.

Boardmember Cassidy: Is it still in Southeast?

Robert Alfredo: Yes it is. The Miller sign next to that is on Nichols Road which is also in Southeast. Walker Stables is on Starr Ridge Road. Walker Stables sign is as large as 21 sq. ft. Actually it's larger than that.

Chairman Froessel: What did you say the Walker Stables sign was?

Robert Alfredo: It's over 21 sq. ft. and that's on Starr Ridge Road. It's actually 24 sq. ft.

Boardmember Lucchino: For Walker Stables you said? In the bottom of the picture it says 38 in. high by 93 in. wide with posts. And you said it's how big?

Robert Alfredo: Well it's 3 by 8 so it's 24 sq. ft.

Boardmember Keiser: I live in Southeast and it doesn't sound familiar.

Robert Alfredo: It's Southeast from what I understand, pretty positive.

Chairman Froessel: I'm familiar with the Miller & Associates sign because it's (*inaudible*) and we did grant a variance for that.

Boardmember Cassidy: Where is Walker Stables? I can't place it.

Robert Alfredo: It would be if you turned onto Starr Ridge Road and you were heading south toward Bloomer Road, it would be on your right about midway to Bloomer Road. Up on kind of the high part of the road. There are large fields up there.

Chairman Froessel: I think I know where it is now.

Robert Alfredo: It's a red barn. I think it's red in color.

Chairman Froessel: I think I know where it is now. It's on the right side.

Robert Alfredo: It's probably 10 or 15 years old, the farm.

Chairman Froessel: You don't need a variance for where you are placing the sign correct? You are putting it far enough away. Is the sign going to be illuminated at all at night?

Robert Alfredo: It's far enough away and from the ground with a small bullet-type spotlight but it's going to be about 20 ft. off the road. The sign closest to us, which would be the Pleasant View Farm is very, very close to the road and in the significance of the property 9 sq. ft. is not very large.

Chairman Froessel: You have a good distance back from the road.

Robert Alfredo: Exactly, before the fence.

Boardmember Lucchino: Any objections from any neighbors?

Robert Alfredo: Quite honestly, I haven't asked the neighbors.

Chairman Froessel: Does anyone here have any comment on this application? No? I would say the neighbors don't care then.

Robert Alfredo: In other instances I have had compliments from the neighbors that the property has been cleaned up since I bought it.

Boardmember Lucchino: The light you are going to put in, that's a low-voltage kind of light?

Robert Alfredo: Yes it would be like a 40 watt, just enough to lightly illuminate it.

Boardmember Lucchino: On at dusk, off at dawn?

Robert Alfredo: Yes.

Boardmember Lucchino: This is actually to bring notice to your business, correct?

Robert Alfredo: Correct.

Boardmember Lucchino: And there is nothing there now?

Robert Alfredo: No.

Boardmember Lucchino: So someone would just have to have the address and know that you were there.

Robert Alfredo: Correct. That's the problem now is that people are driving by but don't know I'm there.

Chairman Froessel: We can close the Public Hearing and take a vote.

Ms. Chiudina: I just wanted to let you know that it did receive County approval.

Chairman Froessel: Very good. Thank you. We received that via email I believe so we can vote on this. Do you have any final comments or statements you want to make before we close the hearing and proceed to a vote?

Robert Alfredo: No, thank you.

Chairman Froessel: Do you think you've been given a fair and adequate opportunity to present your application.

Robert Alfredo: Yes, absolutely.

Chairman Froessel: Okay, we will close the Public Hearing. I will just note for the record that for the Miller & Associates sign, we did grant a variance for that one approximately four years ago.

Boardmember Vink: And this a very similar sign in a similar location.

Chairman Froessel: Yes it's a similar sign and this one is actually a little bit smaller than the Miller & Associates sign. It's not inconsistent with any of the others and I commend the

applicant for not needing a variance because he wants to put it right next to the road or because he wants it to be 17 ft. high. He is complying with all the other requirements other than the sign size.

Boardmember Vink: And really a 2 by 2 sign doesn't really do much for you.

Chairman Froessel: It doesn't. Particularly at the distance he wants to put it back from the road which will be compliant with the Code. Any comments or thoughts from anyone? No? Okay. I will entertain any motion anyone would wish to make with respect to this application.

The motion to grant the requested variances was introduced by Boardmember Vink, seconded by Boardmember Sheil. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
No, this type of sign is perfectly in keeping with the character of the neighborhood as can be seen from the prior applications here and signs seen on that road.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No, considering the sign is being placed observing the setbacks, a 2 by 2 sq. ft. sign or 4 sq. ft. sign would simply not be visible from the road and would probably be a safety hazard so I don't think there's a feasible method other than a variance for this application.
3. Whether the requested variance is substantial.
It is doubling the size but again it is offset by the distance from the road so while it is nominally substantial I think the practical impact is not substantial.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
No and there is no reason to think there would be any and there is certainly no evidence of any.
5. Whether or not the alleged difficulty was self created.
Only to the extent that he wants to bring notice to his property and wants to put a sign up.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	In Favor
P. Vink	In Favor
R. Cassidy	Opposed
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 6 to 1.

The motion to approve the Meeting Minutes of October 19, 2015 was introduced by Chairman Froessel, seconded by Boardmember Vink and passed 4-0 with 2 absent and 1 abstaining.

The motion to approve the Meeting Minutes of December 21, 2015 was introduced by Chairman Froessel, seconded by Boardmember Cassidy and passed 4-0 with 3 absent and 1 abstaining.

The motion to close the meeting was introduced by Chairman Froessel, seconded by Boardmember Vink and passed all in favor.

Respectfully submitted,

Cathy Chiudina