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DRAFT Minutes of September 16, 2015 ZBA Meeting

Attendees: Jim Ferguson, Carl Slusarczyk, Donald Schubert, Bruce Skivington and Marisa Roy

Also present: Andy Marchese, Zoning Enforcement Officer/Staff Liaison, and
Debra Sterling, Recording Secretary

The meeting was called to order at 6:30 p.m. by Jim Ferguson, Chairman, and he read the opening statement. All Members introduced themselves.

Carl Slusarczyk, Board Secretary, read the agenda:

1. Application # ZBA-2015-004 – KAREN McDANIEL, Applicant, seeking three Variances of the Vernon Zoning Regulations, from **1) Section 4.4.1.3** Minimum Front Yard Setback: 30 feet, to allow a Front Yard Setback of 12 feet at the Northern Front Boundary Line; from **2) Section 4.4.1.4** Minimum Side Yard Setback: 10 feet, to allow a Side Yard Setback of 5 feet at the Eastern Side Yard Boundary Line; and from **3) Section 4.4.1.8** Maximum Lot Coverage When Not In An Aquifer Protection Zone: 25%, to allow 41% Lot Coverage, all for a previously constructed pool deck on the property located at 36 Tankerhoosen Road, in the R-27 Zoning District.

Andy Marchese asked the Applicant to come forward. Applicant, Karen McDaniel, and Regina Pierce, came forward, to speak on behalf of Ms. McDaniel's application.

Jim Ferguson asked Andy Marchese to discuss the nature of the application. Andy Marchese explained the history of the property and the circumstances of the requested variances. He stated that the Applicant began this project by having an in-ground pool installed. A condition of the pool installation was to submit an As-Built Survey to the Zoning Department (a condition of the Zoning Permit) upon completion of the pool. The Applicant also had to comply with several other departments and stipulations including abandoning their septic and tying into Town Sewer, and also comply with Wetland Regulations. Upon completion of the pool, there was a misunderstanding between the Applicant and Pool Company as to who would be supply the As-Built Survey. Several months later, on July 13, 2015, a Building and Zoning Permit application was filed for floating platform decks to be constructed around the pool. During the review of these applications, Mr. Marchese noted that an As-Built Survey had not yet been provided and in order to proceed with the review of the most recent permits, he would need to review the As-Built prior to issuing the deck permit. After conversations with the Applicant and the Pool Company, an As-Built was delivered to the Zoning Department on July 25, 2015. After reviewing the As-Built, Mr. Marchese made an on-site visit to the property with the previous Building Official, and discovered that the decks had already been constructed and completed. Mr. Marchese discussed the issues with the Applicant and contractor with respect to the property setback lines. The only options for the Applicant were to take down the decks or apply for a Variance.

Mr. Marchese continued by giving a history of the road which was previously considered a private road. The Town now recognizes the road as a public road. The Town Surveyor performed some research on this lot and has concluded that the Applicant owns the lot (in the rear) to the water level however the rear property line varies with the Tankerhoosen Lake water level. Mr. Marchese explained that the front property line (being so close to the road) preceded Zoning and the lot is a legal non-conforming lot. He further stated that the contractor got ahead of himself by completing the decks prior to receiving approvals and that the Applicant has done all that has been asked of her.

Carl Slusarczyk questioned Andy Marchese about the existing decks and hot tub on the property. Mr. Marchese indicated he could not speak about past/previous structures on the lot, only the current ones related to the requested Variances.

Jim Ferguson asked the Applicant, Karen McDaniel, if she would like to make any statements. Ms. McDaniel explained that she did have a statement prepared, but wanted the Board to know she did not mean to create non-compliant issues and she wanted to do everything the right way. She apologized. Ms. Pierce added that they were not law breaking people.

Don Schubert noticed several individuals sitting in the audience and asked if there were neighbors present in support of Ms. McDaniel's application; all individuals raised their hands.

Carl Slusarczyk asked Ms. McDaniel about her dealings with the contractor; she stated that a Building Inspector met with the contractor and herself on the property and said everything looked fine and it was OK to go ahead. There was some misunderstanding between her and the Building Inspector as she was unaware that the permits were not yet approved and that there were Zoning issues.

Jim Ferguson asked if anyone in the audience wanted to come forward and speak in favor of or against the application. Several neighbors came forward. Linda Sullivan stated she lives across the lake with a direct view of Ms. McDaniel's property. She indicated that the property was beautiful and she had no objections. Steven Scott stated he and his wife reside at #24 Tankerhoosen Road, for the last 9 years, and spoke highly of all the improvements made to the property, that it was a pleasure to have Ms. McDaniel and Ms. Pierce as neighbors, and he wished other residents of the neighborhood would show more attention to their properties.

Jim Ferguson asked if there was anyone else who wished to come forward; no one else was present. The Members had no further questions. Jim Ferguson closed the hearing and discussion was held between the Members.

Don Schubert made a Motion to approve three Variances of the Vernon Zoning Regulations, from **1) Section 4.4.1.3** Minimum Front Yard Setback: 30 feet, to allow a Front Yard Setback of 12 feet at the Northern Front Boundary Line; from **2) Section 4.4.1.4** Minimum Side Yard Setback: 10 feet, to allow a Side Yard Setback of 5 feet at the Eastern Side Yard Boundary Line; and from **3) Section 4.4.1.8** Maximum Lot Coverage When Not In An Aquifer Protection Zone: 25%, to allow 41% Lot Coverage, all for a previously constructed pool deck on the property located at 36 Tankerhoosen Road, in the R-27 Zoning District, with the hardship being a compromised permitting process and lot configuration. Carl Slusarczyk seconded the Motion. All Members were in favor for a unanimous vote. Variances are granted.

Next item on the agenda, review Draft Minutes of the August 19, 2015 meeting. Bruce Skivington made a Motion to approve the August minutes. Carl Slusarczyk seconded the Motion. All Members were in favor for a unanimous vote.

Next item on the agenda, other business. Andy Marchese stated that Marisa Roy was appointed as a full time Member at last night's Town Council Meeting; we are now in need of three alternates. Bruce Skivington voiced concerns about missing Members in the winter months. Jim Ferguson and Andy Marchese stated Town Administration has been made aware of the lack of alternates for the ZBA.

Marisa Roy made a Motion to adjourn the meeting. Bruce Skivington seconded the Motion. All Members were in favor for a unanimous vote. The meeting was adjourned at 6:56 p.m.

Submitted by: Debra Sterling

Debra Sterling