

**MINUTES OF ZBA MEETING OF
AUGUST 17, 2009
APPROVED BY BOARD SEPTEMBER 21, 2009**

PRESENT: D. Lasell, **Vice Chairman;** P. Lambert, S. Perley, R. Tautkus, D. Greski (alternate), O. Gibbs (alternate)

ABSENT: S. Bogert, J. Tivnan (alternate)

STAFF: S. Saunders, K. Snow

D. Lasell called the meeting to order at 7 pm and welcomed everyone to the August 17, 2009 meeting of the Laconia Zoning Board of Adjustment. He stated that D. Greski would be seated as a full board member for the evening.

HEARING: (held over from meeting of July 20)

Application # 2009-00031

MSL # 10-153-4

RRII Zone

D. & J. LaFond

1393 Meredith Center Rd

Area Variance

The applicant is seeking a Use Variance from 235-35 (A) in order to erect a storage shed. The property has 2 frontages; the frontage in this Zone is 75'.

Applicant: David and Janet LaFond appeared for the application. D. LaFond said the abutters were noticed. He has 2 ROW'S to access the property, which is totally landlocked. The abutters stated they had no issues with this. The lot in front of him is 183' long, all wooded, with no structures. Wink Road is a private road. This property is 87' deep, with no structures. He wants to come off of Wink Road. There is a lot of ledge on the lot. He doesn't want to place the shed in the front of his house or in his driveway, which would happen if he has to meet the setbacks. The lot is under an acre.

P. Lambert asked where the ROW's are and was told one is off of Wink Rd. D. LaFond showed the board where that ROW is. S. Perley asked if this was an actual road and was told no, just a ROW. She asked what the storage shed will be used for and was told tools and extra household items; this is only a one bedroom house. This is a retirement home and is fairly small.

S. Perley said she assumed there would be electricity, but would there be any other utilities – and possibly a bathroom; D. LaFond stated no. He said at some point he might possibly heat this with a wood stove, but he is not sure. P. Lambert asked if this would have a wood floor and was told yes, two birch beams.

S. Perley confirmed this is not prefab and the applicant is going to stick build. D. LaFond said it would be stick built. P. Lambert clarified that the other property owner cannot build on the lot between this house and Wink Road, and was told that is correct. There isn't enough room there.

D. Greski said he thinks there is plenty of room to build the shed without getting a variance and J. LaFond said there is septic by the house as well as ledge in the area. There is a dry well there, too. If they ever need a leach field in the future, it needs to be placed in that area. There is another drive on the property, too. The house is 16 x 50, with a second floor.

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P. Lambert mentioned there is only about 100' to edge of property. There is a lot of ledge. D. Greski asked if there will be a foundation for the shed and was told no.

Public: No one spoke for or against the application.

Board: P. Lambert said he has no issue with using the corner of the property for the shed; it is flat there and no one else can use it. D. Greski said he drove up there the other day but was unsure if correct house and J. LaFond said the residence he mentioned was one of the ROW's.

Motion: S. Perley moved to approve application # 2009-00031 for an area variance to erect a storage shed. She said this is a fairly small landlocked parcel with no close neighbors where the shed will be placed. This won't impact the neighbors. The benefit sought cannot be achieved in another fashion due to the size and configuration of the lot, the ledge and terrain. The variance should not be contrary to public interest and no one spoke for or against the proposal.

This is consistent with the spirit of the ordinance as it allows the applicant to make best use of his property. Substantial justice is done as the benefit achieved to the applicant outweighs any negative impact to the general public.

The proposed 20 x 30 ft garden/tool shed will be concealed by trees and foliage between property lines so values of surrounding properties should not be diminished.

P. Lambert seconded, and all voted in favor of approval, 5-0, based upon the following:

- a) Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.**
 - i. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;** The parcel is landlocked; due to the size and configuration, ledge and terrain, there is no other area to place a storage shed; **AND**
 - ii. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance;** The benefit cannot be achieved in another fashion due to the size and configuration of the lot, the terrain and existing ledge: there is no other place on the lot to put this shed; **AND**
- (b) The variance will not be contrary to the public interest;** No one from the public appeared to speak for or against the proposal; **AND**
- (c) The variance is consistent with the spirit of the ordinance;** This proposal allows the applicant to make best use of his property; **AND**
- (d) Substantial justice is done;** The benefit achieved by granting the variance outweighs any negative impact to the general public; **AND**
- (e) The value of surrounding properties will not be diminished;** The values of the surrounding properties will not be diminished. The shed will be concealed by trees and foliage between the property lines.

The hearing was over at 7:20 pm.

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HEARING: (continued from meeting of July 20)

**Application # 2009-00030
Akwa Waterfront LLC**

**MSL # 130-234-001
Scenic Road**

**SFR Zone
Area Variance**

The applicant is requesting an Area Variance from 235-37, Building Height, in order to allow the building height to exceed the 35' which is allowed in the zone.

D. Lasell let the applicant know that not all of the board members who heard the original application were present, which leaves them with a short board and gave them the option of continuing or returning in September.

Applicant: Rod Dyer appeared. Due to the short board, they decided to come back to the meeting in September.

NEW HEARINGS:

**Application # 2009-00033
D. Ohanian**

**MSL # 371-152-52
123 Mechanic St**

**RG Zone
Area Variance**

The applicant is requesting an Area Variance from 235-33, Residential Unit Density, in order to change a one family residence to a two family. The lot size is .19 acres.

Applicant: D. Ohanian appeared for the application. She said she purchased the property in April of this year. The house needed insulation, windows, porch, and a furnace. All of the pipes and the furnace burst. The electric box was 3 pieces of plywood with wires running through them. She has an electrician, plumber and person doing the heating waiting. She wants to convert the 3 bedroom house into 2 apartments, a two bedroom on the first floor, and a one bedroom on the top floor, and use the top floor for just herself eventually.

P. Lambert asked about the garage and D. Ohanian said this is being used for storage currently. She said it is now falling apart, and that next year she plans to do the driveway, siding and basement. P. Lambert asked about tenant parking and D. Ohanian said that she still has 3 bedrooms either way so there would be no additional people. P. Lambert said she needs 4 parking spaces for a two-family. She said she could possibly remove part of the fence in the rear. She said the garage has a wood floor, and is dangerous now. She is trimming the lilacs back, which gives more room.

P. Lambert said there is about 55' of play area in the rear and asked if she intended to designate that entire area to green space. She said she is not changing that at all. D. Lasell said by increasing the parking, she could change greenspace calculations and said she is possibly over the 65% greenspace requirement now. P. Lambert said he feels it is premature to ask for this variance as she needs to show parking. To add a second apartment, with people backing out into the street, it is dangerous. It could be done if she eliminates the garage.

D. Ohanian said if this is not a 2 family then she could change one room upstairs to another bedroom and make it a 4 bedroom residence. D. Lasell said that would only require 2 spaces for parking. He said he doesn't think converting this to a two family is the issue; the parking and greenspace are the concerns here.

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D. Greski said this is a 3 bedroom, so “X” amount of people can live there; if tomorrow it becomes a 2 family, there are still 3 bedrooms, so this won’t change much. He feels the drive would hold at least 3 cars and the garage would handle another. P. Lambert said you are stacking parking by doing this and that is always aggravating with people having to move vehicles so people can get in or out. He said he doesn’t feel that enough work has been done on addressing the issues.

D. Ohanian said she cannot do anything until she gets the building permit; this is holding her up. She can’t do her plumbing or electrical.

R. Tautkus said she drove by and feels this could go either way. She feels this is workable but the parking could be a problem down the road.

S. Saunders was asked for her opinion. She said the parking is not contingent upon bedrooms but on the number of units. P. Lambert asked her if she feels the lot is workable now; you need 14’ to maneuver, there is a 5’ setback, so now there is 9’ to maneuver which makes this very tight. S. Saunders agreed it would be tight. P. Lambert said if she can show 3 parking spaces at the head, and widen that a bit, it would work. You could stack one behind it but she would have to take down the garage to do it.

Public: No one spoke for or against the application.

Board: P. Lambert said his concern is with the applicant coming back with a plan to show how the parking works, and the green space. He asked if the Planning Department could review this and S. Saunders said yes. The applicant needs to show the required parking spaces and not lose any existing greenspace.

P. Lambert said he had no problem with the 2 family, but the applicant cannot give up green space to do it. He said he feels the garage is in poor shape and could come down.

D. Lasell reopened the hearing to the public.

Applicant: D. Ohanian said the garage is in better shape than the house so she doesn’t want to take that down. The square footage of green space was not determined.

D. Lasell said we could approve this tonight contingent upon her meeting greenspace and parking requirements. The Planning Department could review and do the final approval. D. Ohanian said that was fine with her.

Public: No one spoke for or against.

D. Lasell closed the hearing again at 7:40 pm.

Board: S. Saunders said that 4 parking spaces, at 9 x 19, are required and no less green space than what is currently there, or the required minimum whichever is less.

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Motion: D. Greski moved to approve application # 2009-00033 for an area variance to change a single family residence to a two family.

The area variance is needed; the same amount of bedrooms will be there, whether this is a single family or a two family residence. The benefit cannot be achieved by another method but there are conditions regarding parking which would not meet the requirement of a 2 family residence, which is parking for 4 vehicles. That would need Planning Department approval. He also added a requirement that there shall be no less greenspace than what is currently there.

This will not be contrary to the public interest and no one spoke for or against the proposal. This is consistent with the spirit of the ordinance as long as the applicant meets the parking and greenspace requirements. If that occurs then changing this from a single family to a two family is fine.

Values of surrounding properties should increase as this property is being improved.

R. Tautkus seconded and the application was approved, 4-1, based on the following criteria:

a) Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

i. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property; There will be no increase to the number of bedrooms which currently exist in the residence and the property owner would like to keep the garage; **AND**

ii. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance; There is limited open space on the lot, and the lot is fairly small; **AND**

(b) The variance will not be contrary to the public interest; No one from the public appeared to speak for or against the proposal; **AND**

(c) The variance is consistent with the spirit of the ordinance; As long as the applicant can meet the parking and green space requirements as set in the conditions below, then changing the use from a single family to a double is fine and allows the applicant to put the property to full use; **AND**

(d) Substantial justice is done; Allowing the use of two family is consistent as there are others in the neighborhood; **AND**

(e) The value of surrounding properties will not be diminished; Values of the surrounding properties should be increased due to the improvements being made to the property.

The board also added two additional conditions:

- 1) The applicant must meet parking requirements of 2 per dwelling; the spaces will be 9 x 19.
- 2) The green space on the property cannot be less than what currently exists or the minimum requirement in the zoning ordinance, whichever is less.

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S. Saunders explained to the applicant what she needs to do. D. Ohanian said if she currently meets the greenspace then the wording is an issue. All agreed on the intent of their motion and said it would not be an issue.

**Application # 2009-00034
J. Babin**

**MSL # 403-317-38
24 Birchwood Way**

**RS Zone
Area Variance**

The applicant is requesting an Area Variance from 235-35 (B) in order to construct a deck with a ramp for emergency use. The ramp will extend approximately 4 ft into the 10 ft side setback.

Applicant: Marie Lahey appeared for her sister, Jane Babin. They had met with C. Roffo, from the Fire Department, who said they need an emergency exit, and the best place is off of the bedroom. She said that J. Babin is on a ventilator, and spends 90% of time in her bedroom. In order to get her out the door and make the turn, they need to go out 4' into the 10' setback.

P. Lambert asked what happens during the winter and M. Lahey said she will shovel from the walkway and up the ramp. P. Lambert said this is a long way from the driveway and road and M. Lahey said she has someone who will snow blow to the deck and she will shovel the deck itself. If a fire would start, odds are it would begin in the kitchen, garage or basement, all of which are in the direct path to exit the house. There is no door on the bedroom so they couldn't even close a door and put wet towels down, which is why the variance is needed.

Public: No one spoke for or against the application.

D. Lasell closed the hearing at 7:50 pm.

Board: P. Lambert mentioned conditioning this to lapse if the property changes ownership; if this party vacates the premise, the exit would be sealed off and ramp removed. There would still be an existing door with a deck. R. Tautkus asked if that could be made a condition. P. Lambert said if the ramp was not being used, it generally falls into disrepair. This is a tree covered area right now.

S. Perley verified this is for emergency exit use only and was told yes. P. Lambert said it would be hard to get to this area now. D. Lasell said it could made be a condition of approval that this is for emergency use only.

S. Perley asked about P. Lambert's comments on the current owner vacating and the ramp having to be removed as it then would serve no purpose; the door would still be there. D. Greski said if someone is looking at a home that is already handicapped accessible, this would be a plus.

Motion: P. Lambert moved to approve application # 2009-00034 for an area variance for an emergency ramp to be built on southeast side of the house. The ramp would project 4 ft into the 10 ft side setback;

The area variance is needed as the bedroom is on that side of house, and the ramp would serve as egress for that. There is no other method as it would be impossible to go through the house if a fire started. This won't be contrary to public interest as no one appeared to speak for or against

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the proposal. There are Life Safety issues which the ramp will resolve; this is consistent with the spirit of the ordinance. Substantial justice is done by granting the variance as the homeowner has the ramp needed for her safety. Values of property won't be diminished as there is heavy growth on this side of the house and the egress will be hidden.

S. Perley seconded and all voted in favor of approval, 5-0, with the following criteria:

- a) Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.**
 - i. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;** The applicant's bedroom is located on this side of the house and the ramp is needed for egress as it would be impossible to exit through the house in case of a fire; **AND**
 - ii. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance;** The applicant's bedroom is located on this side of the house so this is the place where the emergency access would have to be placed; **AND**
- (b) The variance will not be contrary to the public interest;** No one from the public appeared to speak for or against this proposal; **AND**
- (c) The variance is consistent with the spirit of the ordinance;** The ramp is necessary to meet Life Safety requirements; **AND**
- (d) Substantial justice is done;** Substantial justice is done as this will allow the homeowner the needed emergency access from the residence; **AND**
- (e) The value of surrounding properties will not be diminished;** Values of the surrounding properties would not be diminished as there is heavy growth on this side of the house and the ramp will be hidden from view.

Application # 2009-00035	MSL # 187-72-2	RS Zone
Gunstock Brook Construction	549 & 561 Endicott St E	Use Variance

The applicant is requesting a Use Variance from 235-41 (H) in order to allow 2 lots to have beach rights.

Applicant: Phil Brouillard appeared for the application. He stated that he was involved in getting this subdivision approved; he owns Gunstock Brook Construction.

This is a two lot subdivision and he wants to give each owner rights to the beach. He built 2 houses, sidewalks, and put in street trees. Both houses were sold and the buyers are in attendance this evening. There is now an existing beach lot. There is only one dock, and each owner will use one side of it and share the land. P. Brouillard feels this will increase the values of the lots. He showed the areas on the plans.

He asked the board to look at the photos in their packets. He showed the existing dock. The owners would have the right to use one side of the dock, and picnic tables. He said that Gatehouse Colony has the same setup with their land on the opposite side of road so this is a common use in the area.

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He said he feels that the definition of beachfront regulates large scale development, not this. This use had been discussed at TRC and at Planning Board, who had no issues with it. No fair and substantial relationship exists as this proposal will not harm anyone; there is only one dock, which already exists, and each owner will use one side. There will be no change to the dock and it will remain the way it is now.

Gatehouse Colony has a dock now. This is unique in size but consistent in use. This won't injure the public or private rights of others as this will be owned in fee by the applicant, who would be a half owner. No other party has right to use this and it won't expand the number of docks or boats or use of the property.

There had been discussion on if this was a use or area variance and use was decided.

The lots are 3480 sf and each house is less than 500 ft away so bathrooms are not needed; the same applies to parking. There will be no structures other than steps, and picnic tables. This provides an attractive area. This is a valid accessory use. This is consistent with the spirit of the ordinance as this is needed to access shoreland. This won't alter the character of the locality. Docks are allowed, and this won't threaten the public welfare as only a few properties have areas across the street. This won't alter the shorefront property use.

Values won't be diminished, as this is an insignificant change.

Also in attendance is Tom Toby, the realtor that has been handling this property.

P. Lambert asked if this is a separate lot and was told yes, a separate tax lot and map number. This is an existing non-conforming lot. P. Lambert said there is a state law saying if land exists across the street, then it is considered part of the lot. D. Lasell said these are all existing individual lots. S. Saunders said the type of road matters; on an older state road, you can own up to the road.

P. Lambert said to read the definition of common beach lot and S. Saunders said that comes into effect when creating the situation, and this doesn't meet the criteria. P. Brouillard said the Planning Board was told this. S. Saunders said she doesn't think it was made that clear. P. Brouillard said he was sure he mentioned it at TRC, and it was put on the plan. P. Lambert said the ordinance deals with 35 units, not 2.

S. Saunders said this is considered a subdivision so each owner would have one half an interest in the beach. An alternative is to sell the beach lot with one of the lots. P. Lambert said this is an existing lot, sell the lot to the property owners. Two parties own one piece of land, and this is done all the time.

D. Greski said if selling the property, and one person doesn't want to sell, that becomes a problem. The dock goes in and out every fall/spring. How would they handle that issue.

Public: Tom Toby, realtor. He sold the property to Gunstock Brook and they had long discussions on the best use of the land. There are two separate 2 single family homes, each about 3500 sq ft with artesian wells. They thought they would be conveying one half an interest to each

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property owner until recently. There would be one tax bill to each owner. He said he worked in banking for years, and sees a real problem with an appraiser coming up with a value if done as 1/2 the property. If each property has undivided ownership it makes it easier. There are 17 residents at Gatehouse, which abuts 549 Endicott. He feels there is more value as it relates to potential buyers in the future.

He stated both buyers are in attendance.

Ray Tetu, one of the prospective buyers, said he and his wife won't buy if they don't get access to waterfront property. He said the value of the property is greater, or maintained, as proposed with the dock.

D. Lasell closed the hearing to the public at 8:25 pm.

Board: S. Perley said she has no issues with the proposal and P. Lambert said he agrees.

Motion: S. Perley moved to approve application # 2009-00035 for a use variance in order to allow the 2 lots to share beach rights. This is needed as this is an existing shorefront lot which is separated by Route 11. This is a nice parcel, and was intended to be used by the 2 lot subdivision. The ordinance was geared towards larger subdivisions, not just 2 lots. There will be no additional impact on the lakefront.

The use is allowed in the zone. No one spoke for or against the use.

The use is allowed in the zone. They will be retaining green space and there will be no effect on the scenic areas on Route 11 and this won't interfere with views. The benefit achieved outweighs any negatives and there would be no diminution to property values.

P. Lambert seconded and all voted in favor of approval, 5-0, with the following conditions:

(a) Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

i. The zoning restriction as applied interferes with a landowner's reasonable use of the property, considering the unique setting of the property in its environment; The ordinance was geared towards larger subdivisions, not one made up of two lots; **AND**

ii. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property; Shorefront lots are intended to use the water and this property had waterfront to begin with; **AND**

iii. The variance would not injure the public or private rights of others; The applicant will be retaining the green space and the proposal will have no effect on the scenic area of Route 11 and won't interfere with any views; **AND**

(b) The variance will not be contrary to the public interest; The proposed use is allowed in the zone with the granting of the variance; no one spoke for or against the proposal; **AND**

(c) The variance is consistent with the spirit of the ordinance; Granting of the variance is consistent with the spirit of the ordinance as the ordinance was geared toward larger subdivisions, not one consisting of just 2 lots; this use is allowed in the zone; **AND**

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(d) Substantial justice is done; The benefit to the applicant outweighs any negatives. The lot is all greenspace and so will not negatively impact the water; **AND**
(e) The value of surrounding properties will not be diminished; Property values in the neighborhood will not be diminished as the dock already exists.

**Application # 2009-00036
Giannuzio/Rice**

**MSL # 17-155-2
2635 Parade Rd**

**RRI/RRII
Amendment to
Special Exception**

The applicant is requesting an Amendment to the approved Special Exception from 235-26, Uses Permitted by Right, in order to allow people other than the City of Laconia to use their composting operation.

D. Lasell let the applicant know this would be a short board as only 3 members who heard the original are present and gave them the option of waiting until September or continuing this evening.

Applicant: Regina Nadeau appeared for the applicant and said she feels they should continue this until September when the full board would be available. They will be heard at the September 21st meeting.

**Application # 2009-00037
B. J. Otten**

**MSL # 215-266-13
95 Prescott Avenue**

**CR Zone
Area Variance**

The applicant is requesting an Area Variance from 235-35 (A) & (B) in order to reconstruct a house. The proposal makes the structure more conforming and resolves encroachments over the property line.

Applicant: B J Otten appeared for the proposal. He wants to put up a new structure on the lot. The original overhung the property lines on Effar Street. He is using a smaller foundation, increasing the greenspace, and will go up to the maximum allowed height of 35' for the roofline. They will cantilever the deck. This is a very small lot.

S. Perley asked why the variance is needed and was told because he is adding a second story on a non-conforming structure. B J Otten showed the building setback line. The house was torn down recently. S. Saunders said the existing house didn't have a full second floor and this one will. He submitted photos to the board. D. Greski asked if this will impact views and B J Otten said not that he could tell. There is a huge oak tree behind the house.

This will not exceed the height requirements of 35'. R. Tautkus asked about meeting the setbacks and B J Otten said he shrunk this as much as possible, and this one will be inside the property lines. All setbacks are violated now but this proposal will make that better.

D. Lasell asked if this is located in a village and was told it used to be an association, which was dissolved. B J Otten said this is called a private street, but no one claims ownership; he did research on it. He has a friend who plows Effar St for free and has been doing that for some time.

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P. Lambert asked who owns the area between this lot and the street and B J Otten said no one lays claim to this land but said he is not said not concerned with that right now. He will address that at another time.

Public: Jerry Hunt, 89 Prescott, stated he is the only abutter and is not for or against the proposal. The building was an eyesore, so anything built will be an improvement. He said this lot is so small that it is ridiculous to talk about putting a house on it. The building was right up to the property line. The other side was on the town's property. This is a small lot and he doesn't think Otten should be allowed to build as he has to meet today's codes.

B J Otten said the house was very close, but it was not on the line.

Jerry Hunt said there is no well or water here. B J Otten said there is no city water and he needs to drill a well. This has city sewer. He said he doesn't think there was ever water to the house; they used a garden hose going to their neighbor's house. There was originally a water tower in the association.

S. Saunders said this is an existing lot, with an existing building, and that the owner could raze and rebuild in kind. This is a grandfathered lot. P. Lambert asked if they should take the well issue into consideration and S. Saunders said that the DES will consider the hardship of eh lot when permitting the well.

S. Perley said the drawings submitted appear to be good plans.

D. Lasell closed the hearing to the public at 8:45.

Board: S. Saunders said the applicant has been very upfront and came into Planning before tearing the structure down. He submitted pictures, a survey, and architectural plans. D. Greski said he is making this less non-conforming than the original. S. Perley said she had no problems with the proposal.

Motion: R. Tautkus moved to approve application i# 2009-00037 in order to re-construct a house. The applicant is making this more conforming.

The lot is very small, and he is making it more conforming. The applicant is doing the best he can with the size of the structure and making it work on the lot.

An abutter did speak, stating he was not for or against the proposal; his problem was with the size of the lot.

The applicant is making this more conforming and improving the appearance of the building. The property will be more pleasing and values won't be diminished, but should increase as a new structure will be built.

D. Greski seconded the motion and all voted in favor of approval, 5-0, with the following criteria:

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- ii. **The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance;** The lot is small and the applicant is doing the best he can with the size of the structure and making it work with the lot; **AND**
- (b) **The variance will not be contrary to the public interest;** One person from the public spoke, stating he was neither for or against the proposal; his issue was lot size; **AND**
- (c) **The variance is consistent with the spirit of the ordinance;** The proposal is consistent with the spirit of the ordinance as the applicant will be building a new structure which will be more conforming than the previous; **AND**
- (d) **Substantial justice is done;** Substantial justice is done as the property will be more pleasing; **AND**
- (e) **The value of surrounding properties will not be diminished;** Values of surrounding properties won't be diminished; they should increase as there will be a new structure.

NEW BUSINESS: K. Snow explained the issue with 49 Eastman Shore Rd. The applicant applied for a variance in 2001 for a second story and a deck. After board discussion, the applicant agreed to drop the portion of the application for the second story and just proceed with the deck, which was approved. One of the conditions of approval was no roof structure would be permitted without a further variance. Code Enforcement was not aware of that and issued a building permit for a knee wall. Code has inspected it and stated that right now there is no electrical done but that the applicant could certainly turn the area into two bedrooms in the future.

The board will take the information which has been passed out to them and they will discuss their finding at the September meeting. P. Lambert said he feels we need to hear from the Wrights on this.

D. Greski said the septic could become an issue with the addition of two bedrooms and S. Saunders said she will find out about the septic.

S. Saunders showed the board a picture of the interior of the second floor of **279 Lakeside** and asked if the picture shown was of a bar or not. She explained the history of the permitting on the lot. The owners states there are no bar stools, so this is considered a service area. The board agreed they all feel this is a bar and that this is not in agreement with the intent of their motion but P. Lambert said we need to re-read minutes before making a determination. S. Saunders said she will also check with legal counsel. K. Snow will e-mail minutes of the meeting to the board members.

S. Perley raised the issue of the motion made at the July meeting to stop hearing applications after 10 pm. She did not think this was fair to people who were waiting. It was decided that we will add a line to the agenda stating no application will be opened after 10 pm. S. Saunders said sometimes the Planning Board does 2 meetings in a month and we could do that if necessary. We will also have the chairperson make announcements throughout the meeting if it looks like it will be going to go after 10 pm.

S. Perley thanked Don Lasell for serving on the ZBA and said she has enjoyed working with him.

**MINUTES OF ZBA MEETING OF
AUGUST 17, 2009
APPROVED BY BOARD SEPTEMBER 21, 2009**

OLD BUSINESS: P. Lambert asked about the parking situation at 1187 Weirs Blvd and S. Saunders explained what is going on there. After the new building is constructed and finished, the owner will add the greenspace in the front and fix the parking there.

MINUTES: It was decided to wait until the September meeting to go over minutes from the June 15 and July 20 meetings.

ADJOURNMENT: The motion to adjourn was made by P. Lambert with S. Perley seconding. All voted in favor and the meeting adjourned at 9:15 pm.

Submitted by:

Kristine Y. Snow, Zoning Technician