

**monTOWN OF NORTH HARMONY
ZONING BOARD OF APPEALS
WED., 5/25/11 7:30 PM**

ZBA MEMBERS PRESENT: **Greg Michalak** **Roger Vaillancourt** **Louise Ortman**
 Bill Adamson **Dan Thomas – Alt.** **Helen Emick – Alt.**
 Brad Lawson, Zoning CEO
 Dave Stapleton, Attorney

Others Present: **Jesse Lind** **Larry Anderson** **James Sedita** **Wesley Snyder**
 Jeff Ketterer **Yvonne Tovell** **David Lubsch** **Kayla Snyder**
 Katie Turnquist (Panama Central School)

Mr. Michalak chaired the hearing in the absence of Mr. Levesque.

Mr. Stapleton swore in all present who expressed intent to speak regarding the applications before the board.

1. Karen P. Snyder requesting an Area Variance to place an 8 x 12' shed closer to a setback than allowed in Zoning Code Sec. 406 at property located at 5147 Bly Hill Road, Specifically Sec. 367.00-1-55 (Old # 11-1-33.4).

Wesley Snyder said he was representing the applicant. Mr. Lawson asked to give some background on the application. He stated that the Snyder's application had originally been before the board in 2009. He said at the time there was an issue with another building on the property that had been built for storage and turned into habitable space. He said he had worked with the owners and subsequently a certificate of occupancy had been granted. He said the applicant now wishes to address the shed issue. Mr. Snyder said they had placed the 8 x 12' shed 30' from the road (50' is required) because the land is more level there. Mr. Michalak said he remembered the case and asked if the owners had reviewed options to move the shed further from the road. Mrs. Emick said based on the drawings there appears to be room to move the shed back. Mr. Snyder said the reason they had placed the shed at that location was because the land further away from the road is very steep. Mrs. Ortman asked how far from the neighboring property line the shed would be. Mr. Snyder said he believes it is 4-8' from the property line. Mr. Thomas asked Mr. Lawson if the ditch there is very deep. Mr. Lawson said the ditch is very deep and there is a lot of vegetation and he noted that the shed is barely visible in winter and not visible at all in summer. Mr. Lawson also commented that he was not sure if a shed of that size even has an assessment value. Mrs. Emick asked Mr. Stapleton if there was an issue with the application being dated 2009. Mr. Stapleton said the date was fine as long as none of the information had been changed. Mr. Thomas asked if any neighbors had expressed any concerns about the shed. Mr. Snyder said no. Mr. Michalak reviewed **Town Law Sec. 267b, items 1.-5. with the following determination by the board; 1.) no 2.) no 3.) no 4.) no 5.) yes.** Mr. Michalak asked if anyone wished to speak regarding the application.

Mrs. Ortman motioned to grant Karen P. Snyder an Area Variance to place an 8 x 12' shed 20' (50' is required) closer to a roadside setback than allowed in Zoning Code Sec. 406 at property located at 5147 Bly Hill Road, Specifically Sec. 367.00-1-55 (Old # 11-1-33.4). Mr. Thomas seconded and the motion was carried unanimously.

2. David Wahl requesting an Area Variance to demolish an existing deck and construct an addition closer to a setback that allowed in Zoning Code Sec. 401 at property located at 3336 Al Mar Drive, Specifically Sec. 349.16-1-39 (Old # 22-5-31).

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Larry Anderson, Contractor appeared to represent the applicant. Mr. Anderson said the Mr. Wahl would like to construct a one story addition on the front corner of the house where a deck (to be demolished) is currently located. Mr. Lawson noted that the property is a corner lot on Almar Drive and the new addition is on the east side of the home encroaching on the north roadway. Mr. Lawson stated that at approximately 30' from the road the proposed addition will have a smaller footprint and be further from the road edge than the existing deck. Neighbor, Yvonne Tovell, stated that she has no objections to the project. Mr. Michalak reviewed **Town Law Sec. 267b. items 1.-5. with the following determination by the board; 1.) no 2.) no 3.) no 4.) no 5.) yes.** Mr. Michalak asked if anyone wished to speak regarding the application.

Mr. Michalak motioned to grant David Wahl an Area Variance to demolish an existing deck and construct a 15 x 16' addition closer to the Al Mar Drive roadside setback and encroaching on the north side roadway. The addition will be approximately 30' from the roadside (50' is required) at property located at 3336 Al Mar Drive, Specifically Sec. 349.16-1-39 (Old # 22-5-31). Mrs. Ortman seconded and the motion was carried unanimously.

3. James A. Sedita requesting an Area Variance to demolish an enclosed porch and construct an addition closer to setbacks than allowed in Zoning Code Sec. 401 at property located a 73 Loomis Bay Road, Specifically Sec. 367.15-1-48 (Old # 34-1-1.24).

Mr. Lawson noted that the property is located in the C-1 district which is covered by Sec. 408 in the Zoning Code. Mr. Sedita said he had purchased the property in October, 2010. He said they would like to demolish the existing 18.5 x 11.3' porch and build a 14 x 24' sunroom addition. Mr. Thomas asked how close to Goose Creek he would be. He said the new addition will be approximately 26' from the closest edge of the creek. Mrs. Emick asked if there are any deed covenants the owner must abide by. Mr. Sedita said none that address the distance from the creek to the home, but he believes his deed states that they own to the middle of the creek. Mr. Lawson said he believes that Loomis Bay land owners own to the middle of the creek. Mr. Sedita said the addition would be the same height as the existing house. Mr. Michalak asked if anyone wished to speak regarding the application. Mr. Sedita said he had spoken to neighbor Lisa Roberts and she had expressed no issues with the addition. Mr. Lawson said that Loomis Bay is an unusual area because the town had approved it as a subdivision previously and required that all new projects come before the ZBA because the lots are non-compliant. Mr. Stapleton said that Loomis Bay had been required by the health department to install new roads, drainage, public water and septic because of previous health issues. Mrs. Thomas asked Mr. Lawson to provide specific setbacks for the record. Mr. Lawson said the setbacks would be south side 7.3'; north side 12.2'; creek edge 26'. Mr. Michalak reviewed **Town Law Sec. 267b. items 1.-5. with the following determination by the board; 1.) no 2.) no 3.) no 4.) no 5.) yes.** Mr. Lawson stated that the home with the addition falls within the 25% lot coverage allowance.

Mr. Michalak motioned to grant James Sedita an Area Variance to demolish an existing 18 x 11' deck and construct a 14 x 24.2' sunroom addition encroaching on the side setbacks (25' required) and creek side setback as indicated above at property located a 73 Loomis Bay Road, Specifically Sec. 367.15-1-48 (Old # 34-1-1.24). Mrs. Emick seconded and the motion was carried unanimously.

4. Jesse Lind requesting a Special Permit to place an above ground swimming pool at property located at 4805 Cedar Avenue, Specifically Section 384.15.1-11.

Mr. Lind said he would like to place an 18' round x 4 - 4 ½' deep above ground swimming at his property. He stated that he is handicapped and would like to discuss whether to attach a deck from the house

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to the pool (which would be easier for him) or whether to have it detached with a retractable ladder. Mr. Lawson said those issues could be discussed with him later and would be subject to Sec. 612 of the Zoning Ordinance. Mr. Michalak asked if there would be any issue involved with how close the pool is to the septic system. Mr. Lawson said that would not be a zoning issue, but would be the owner's issue as far as access. Mr. Lind said the pool would be at least 10' from the septic. Section 612 of the Zoning Code was reviewed. Mr. Lind said noise from the pump should not be an issue as the pool will be located quite a large distance from any neighbors. He said if the pool were to drain, it would be towards the woods in the rear. Mrs. Emick asked if there are any streams located in the area which might be affected by drainage. Mr. Lind said no. A letter was received from neighbors Dan and Kathy Kelly expressing no issue with the application. Mr. Michalak asked if anyone wished to speak regarding the application. Mr. Lawson noted that no referrals were sent because of the distance from any roads or properties.

Mr. Michalak motioned to grant Jesse Lind a Special Permit to place an above ground swimming pool in accordance with Sec. 612 of the Zoning Code and as outlined above at property located at 4805 Cedar Avenue, Specifically Section 384.15.1-11. Mrs. Ortman seconded and the motion was carried unanimously.

The hearing was adjourned at 8:50 PM.

Nancy Thomas
Town Clerk