

**TOWN OF NORTH HARMONY  
ZONING BOARD OF APPEALS  
WEDNESDAY, 7/27/2011, 7:30 PM**

**ZBA MEMBERS PRESENT:**      **James Levesque**                      **Greg Michalak**  
   **Dan Thomas, Alt.**                      **Louise Ortman**  
   **Helen Emick, Alt.**                      **Paul Silzle**  
   **Brad Lawson, Zoning CEO**  
   **Dave Stapleton, Attorney**

**Others Present:**      **Chuck Hutcheson**                      **Keri Belvorac**                      **Robert Burkholder**  
   **Mr. & Mrs. Wolanske**                      **Pat Jones**                      **Steven Donelson**  
   **John & Joan Glenzer**                      **Jay Kuntz**                      **Bob Pray**

**Mr. Levesque opened the hearing at 7:38 PM. Mr. Stapleton swore in all who expressed intent to speak regarding an application.**

**1. Jay Kuntz and Lori Benson requesting an Area Variance for demolition of an existing home and to build a new home closer to lake setback that allowed in Zoning Sec. 401 at property located at 3626 Watson Road, specifically Section 332.16-1-16 and 332.16-1-17.**

Mr. Kuntz said he has entered into a tentative agreement to purchase the Wiethorne property (2 lots) on Watson road contingent on the following: sale of his existing home on Watson and board approval of demolition and rebuild of the home at 3626 Watson Road. Mr. Kuntz said there is no building permit application because they cannot apply for one for property they do not own. Mr. Levesque noted that the Wiethorne property has not been used since 2006. Mr. Kuntz said there is a lot of mold and the house has a bee infestation. Mr. Kuntz stated that Mr. Stow had come to the site and generally supports the septic and well design (ref. County DOH letter dated 6/20/11). Mrs. Emick asked if 26' x45' is the size of the home including the deck. Mr. Kuntz said it is not a deck, it is a porch and yes that is the exact size including the porch. Mr. Kuntz said the current structure is almost entirely on the one lot and they intend to center the new home on the two lots. He said the new home will also be 8' further back from the lake than the existing house and the lot coverage will be approximately 12% including the existing shed.

Mr. Lawson noted that the requested variances are for:

- Two lots less than 40,000 square feet total
- Lot width less than 100 feet wide
- Setback from lake will be 36'

Mr. Levesque asked what the side setbacks would be. Mr. Lawson said they are both within code requirements. Mr. Levesque asked that the side setbacks be added to the final plans when the building application is complete. *There was general discussion of the possible addition of a garage in the future and the proximity of the well to septic.* Mr. Stapleton asked what the height of the house would be. Mr. Lawson said the house appears to about 24' from grade and code allows 32'. Mr. Kuntz said they hope to have the demolition done and foundation completed by October, 2011. Mr. Stapleton asked if there was a drainage plan submitted with the original application and if that had changed. Mr. Kuntz said it would be very similar but because of the size of the lot they have planned some rain garden type drainage. *There was general discussion of the CLMC Compact and its effect on new lake front construction.* Mr. Levesque reviewed the Site Plan Checklist for projects over \$40,000 for those present. Mr. Levesque asked if anyone had any questions regarding the application. Mr. Levesque reviewed Town Law Section 267 b.3. 1) no 2) no 3) yes 4) no 5) yes.

**Mrs. Ortman motioned to grant an Area Variance to Jay Kuntz and Lori Benson for demolition of an existing home and to build a new home requiring the following variances:**

- Lot size less than 40,000 square feet
- Lot width less than 100 feet wide
- Setback from lake will be 36'

**at property located at 3626 Watson Road, specifically Section 332.16-1-16 and 332.16-1-17 with the following stipulation:**

- Area Variance effective for one year from date of issuance of building permit

**Mr. Silzle seconded and the motion was carried unanimously.**

**2. David and Pat Jones requesting an Area Variance to build an addition closer to side setbacks than allowed in Zoning Sec. 401 at property located at 3794B Victoria Road, specifically Section 332.05-1-13.**

Ms. Belvorac, Architect for the project appeared to represent the applicant. Ms. Belvorac said the applicant would like to construct an 8' addition onto their home which would include enlarging a bedroom and adding a bathroom. The side setback would be 12.2' from the property line. She said the nearest building on that side would be over 47' from the addition. She indicated the plans also include a ground level patio with no roof in accordance with Section 508 which will be 8.2' from the property line. Mr. Lawson read into the record Sec. 508 b. and also indicated that the lot coverage is within the 25% allowed. Mr. Levesque asked if anyone wished to speak regarding the application. Mr. Levesque referred to Town Law Sec. 267 b. 3. 1) no 2) no 3) yes 4) no 5) yes.

**Mr. Levesque motioned to grant an Area Variance to David and Pat Jones to build an 8' addition closer to side setbacks (12.2') than allowed in Zoning Sec. 401 at property located at 3794B Victoria Road, specifically Section 332.05-1-13. Mrs. Ortman seconded and the motion was carried unanimously.**

**3. Charles Hutcheson requesting an Area Variance to construct a home on a substandard lot size; closer to side setbacks than allowed; and having a detached garage taller than allowed in Sec. 401 of the Zoning Code at property located at 3336 Highland Ave., specifically Sec 349-16-1-22 and 23.**

Mr. Hutcheson said he had received a variance in 2006 for a 3 story much larger home but had never begun the project. He said he has already installed a septic system. He said the original application was for pretty much the same footprint with the following variances requested on the new application:

- Setback will be 18' on south side
- Setback will be 10' on north side next to a 50' private ROW
- Setback from road on one corner of the garage will be 32'
- Height on 2 story garage will be 21' (required is 18')
- Variance needed for lot width which is 85' narrowing to 70' and does not meet 100' requirement

Mr. Hutcheson said the garage dimensions are 24x32' square and the house is approximately 50x35'. Mr. Silzle asked if Mr. Hutcheson intended to create livable space in the garage. Mr. Hutcheson said no, but there would be water and electric in the garage. Mrs. Emick asked about lot coverage. Mr. Lawson said the coverage was well within the 25% requirement. Mr. Lawson said that approval of the septic would be needed from the County Health Dept. in light of the new 40,000 square foot lot requirement. *There was general discussion of average grade and its creation by backfilling. Mr. Lawson said zoning is concerned*

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with “finished” average grade. Mr. Levesque asked if anyone wished to speak regarding the application. Mr. Levesque reviewed Town Law Sec. 267 b. 3. 1) no 2) no 3) yes 4) no 5) yes.

**Mr. Levesque motioned to grant an Area Variance to Charles Hutcheson to construct a home on a substandard lot size; closer to side and roadside setbacks than allowed; and having a detached garage taller than allowed in Sec. 401 of the Zoning Code at property located at 3336 Highland Ave., specifically Sec 349-16-1-22 and 23 as outlined in his application and in the preceding minutes with the following conditions:**

- **Applicant must provide County Health Dept. approval document for the septic on the sub-standard lot**
  - **No habitable space be created in the garage (no bathrooms)**
  - **Variance granted to applicant in 2006 is superseded by the current request**
  - **Applicant must complete project with 16 months of issuance of the building permit**
- Mr. Silzle seconded and the motion was carried unanimously.**

**4. Steven Donelson and Robert Burkholder requesting a Variance to build a garage apartment at property located at 2514 Panama-Stedman Road, specifically Section 364.09-2-12, which does not conform to District Zoning Code for Section 407 and 501.**

Mr. Burkholder said he would like to build an apartment in a portion of an existing garage at Mr. Donelson’s property. Mr. Thomas said he knows the location and the garage has four doors. Mrs. Emick asked how old the garage is. Mr. Donelson said it was built in 1965. Mr. Burkholder said the garage is approximately 40x56’ and two of the garage doors would be removed to create the apartment in approximately half of the structure. Mr. Burkholder intends to install new septic and well for the apartment. Mr. Lawson said Mr. Stow has the paperwork on his desk for the septic and it will be approved. Mr. Lawson said our zoning states that there should be only one dwelling on a parcel of land. He stated this is in the AG district close to the town line on 10 acres of land. He also indicated in the past the town had looked and approved a project at Woodcrest that would involve homes with garage apartments attached. He said it is a very different situation along the lake. *There was a general discussion of the density of use issues as they relate to the AG and Residential Districts. There was also discussion of the treatment of the application as an Area Variance as opposed to a Use Variance.* Mr. Levesque asked if anyone wished to speak regarding the application. Mr. Levesque reviewed Town Law Sec. 267 b. 3. 1) no 2) no 3) yes 4) no 5) yes. *There was further discussion of the need for septic approval and also the issue of two dwellings on one property as it would relate to setting precedent. Mr. Lawson said this is something that is currently being discussed by the Planning Board.*

**Mr. Levesque motioned to grant an Area Variance to Steven Donelson and Robert Burkholder to build a garage apartment in an existing structure at property located at 2514 Panama-Stedman Road, specifically Section 364.09-2-12, which does not conform to District Zoning Code for Section 407 and 501 with the following conditions:**

- **A new well will be provided for the structure**
- **Septic system approval paperwork be provided from the county**
- **No deviation is to be made from the square footage of floor plan submitted**

**Mrs. Ortman seconded and the motion was carried unanimously.**

*Nancy Thomas*  
**Town Clerk**