

Mr. Levesque motioned to grant a Use Variance to Robert Kanouff owner of Lakeside Campground (on behalf of Gary & Connie Carlson) to use an existing bill board located at the corner of 3280 Hadley Bay Road and Route 394, as advertisement for the Hadley House Restaurant, Specifically Section 322.20-1-69 (Old# 21-1-44.5) with the following conditions:

- **One year from the date the sign is completed (unless there is an earlier complaint), the Zoning C.E.O. will review the sign for compliance**
- **Lighting of the sign and size of the sign must be maintained in its current status.**
- **If the business is terminated prior to the completion of the lease period, the Use Variance is void.**

Mr. Barton seconded and the motion was carried unanimously.

2. Ashville Free Library requesting a Special Permit to replace an existing 4x4' sign with a new 4x6' sign located 15' from the road edge at property located at 2200 North Maple St., Specifically Section 384.11-1-94.2; 94.3 and 95 (Old# 31-1-1-2.2; 2.3; 31-1-16).

Mr. Lawson said he would speak for the Library. He said he had several discussions with Don Butler of the Library Board and they would like to replace the existing 4x4' sign which is located 15' from the road edge with a new 4x6' sign. He said the additional 2' would extend toward the building and there would be no further encroachment toward the road. He said the required distance of a sign from the road edge is 25' but at that distance the sign would not be visible at all. Mr. Barton agreed. Mr. Lawson said he did not believe there had been a permit issued for the original sign and they wanted to make certain this one was permitted. He said an Area Variance would also be required because of the distance from the road. Mr. Levesque asked if anyone wished to speak regarding the application.

Mr. Levesque motioned to grant a Special Permit and Area Variance to the Ashville Free Library to replace an existing 4x4' sign with a new 4x6' sign located 15' from the road edge at property located at 2200 North Maple St., Specifically Section 384.11-1-94.2; 94.3 and 95 (Old# 31-1-1-2.2; 2.3; 31-1-16). Mr. Michalak seconded and the motion was carried unanimously.

3. Chris and Kim Strok requesting an Area Variance to construct an addition closer to roadside setback than allowed in Section 401 of the Zoning Code at property located at 3636 Watson Rd., Stow, NY, Specifically Section 332.16-1-11 (Old #20-6-2.2).

Mr. Levesque asked what the applicant would like to do. Mrs. Strok said they were requesting a 3' variance which would put them 43' from the property line on the front of their property. She provided photos which show that the hot water tank is outside and said they would like to build a small squared off addition in order to house their utilities. The addition would extend 3' further than the existing porch and would be squared off to the width of the house. Mr. Strok said he had talked to neighbor David Groth and they had no issue with the addition. He said he had e-mailed other neighbors and received no response. Mr. Lawson said the setbacks for the addition will be 13' on the northwest corner to side property line; 43' on west property line; and 23' on the east property line. Mr. Levesque asked if anyone wished to speak regarding the application. The board reviewed *Town Law Section 267-b. 3. Area Variances (a) (b) items 1. – 5. with the following answers 1) no 2) no 3) no 4) no 5) no.*

Mr. Levesque motioned to grant Area Variances to Chris and Kim Strok as outlined above to construct an addition closer to the front and side setbacks than allowed in Section 401 of the Zoning Code at property located at 3636 Watson Rd., Stow, NY, Specifically Section 332.16-1-11 (Old #20-6-2.2).

4. Robert Kanouff (Fred and Ann Gadomski) requesting a Special Permit to place a covered roof over, and deck addition onto an existing trailer located at Lakeside Campground 3280 Hadley Bay Road, Specifically Section 332.20-1-37 (Old# 21-1-31).

Mr. Levesque asked the applicant to explain what he wished to do. Mr. Gadomski said he would like to place a roof over the trailer and an open deck with a railing. Mr. Levesque asked him to explain the measurements. Mr. Gadomski said the roof and deck would measure 34x22'. Mrs. Emick asked what the height of the roof would be. Mr. Kanouff said usually the roof peak is 32" above the trailer which would make it about 10-11'. Mrs. Emick asked if the roof would obstruct the view of any neighbors. Mr. Gadomski said no. Mr. Kanouff said he will monitor the construction. Mr. Lawson said any construction must meet NYS Code. Mr. Lawson asked what the typical lot size is. Mr. Kanouff said lots are a minimum of 1,500 sq. ft. He said their lot size is smaller than what is code (2,500 sq. ft.) because it was grandfathered in by Chautauqua Co. DOH. There was general discussion of Health Department requirements and inspections. Mr. Gadomski said they have no intention of enclosing the deck. Mr. Levesque asked if anyone wished to speak regarding the application.

Mr. Levesque motioned to grant a Special Permit to Robert Kanouff of Lakeside Campground (on behalf of Fred and Ann Gadomski) to place a covered roof over, and deck addition onto an existing trailer located at Lakeside Campground 3280 Hadley Bay Road, Specifically Section 332.20-1-37 (Old# 21-1-31) with the condition that nothing be enclosed and no habitable space be created. Mrs. Emick seconded and the motion was carried unanimously.

5. Darrick Sweeney requesting a Special Permit to install an above ground swimming pool at property located at 2375 North Maple St., Ashville, Specifically Section 384.06-1-67 (Old# 15-1-39).

Mr. Levesque asked the applicant what he wished to do. Mr. Sweeney said he would like to install an above ground pool (4' height and 21' around) for his children. He provided GIS aerial photos of his property and indicated that the pool would be placed where the trampoline shown in the photo currently sits. Mrs. Ortman indicated that she had viewed the property and it appeared to her that the applicant has a lot of land and there was no need to be so close to the neighbors land. Mr. Sweeney said he had chosen that spot because it is about the only level spot on his land which slopes. Mrs. Ortman asked what would happen if the pool was moved closer to the house and further from the property line. Mr. Sweeney said the tree that is located there would drop a lot of leaves into the pool and would prevent the sun from getting to the water. Mrs. Emick asked about removing the tree. Mr. Sweeney said it would probably cost \$2-3,000.00 to have the tree removed and he didn't think the pool would be up for more than a few years until his children are out of high school. Mr. Lawson said the property is zoned R-2 and side setbacks for accessory uses is 5'. *There was general discussion of the contour and slope of Mr. Sweeney's property.* Mr. Rhinehart, who is an engineer and also Mr. Sweeney's brother-in-law, said the property slopes to the west down the hill and perpendicular to the road. He said the slope going to the west is a steeper grade than the road and any water runoff would go away from the neighbor's property and into Mr. Sweeney's woods. Mr. Lawson said the pool would have to be inspected and meet NYS Code (electric, safety, etc.). There was general discussion of the deck attached to the pool. Mr. Stapleton said the record needed to reflect the letter of objection to the

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project from Mr. and Mrs. Berry. Mr. Levesque read into the record the letter and Mrs. Thomas indicated it would be attached to the minutes recorded. Mr. Levesque said the facts in this case are: the pool will be located 20' from the property line between the Sweeney's and Berry's; the pump will not be enclosed as is standard. Mr. Stapleton said *Section 402 A. Purpose states R-2 Districts are established to protect established residential neighborhoods from adverse conditions resulting from inserting incompatible uses.* Mr. Stapleton said the letter references a lawsuit based on trespass and injuries and asked Mr. Sweeney to explain what the facts are from his point of view which resulted in the lawsuit. Mr. Sweeney stated for the record that he disagrees with the entire content of Mr. Berry's letter. Mr. Sweeney said in the original suit Mr. Berry was charged, but those charges were dropped. Mr. Sweeney said friends of his were hunting on his (Sweeney's) land and Mr. Berry attacked his friend's father, took the gun out of his hands and pointed it at them. He said his friend's father took the gun back and hit Mr. Berry with it. He said the ambulance took Mr. Berry from his property (Sweeney's). He said there is still a court action pending between the friend's father and Mr. Berry which will probably never be resolved as Mr. Berry keeps postponing because he knows he lost. Mr. Sweeney said as far as him being included in the lawsuit, his attorney became tired of driving from Buffalo every week for affidavits, so he was given \$2,500.00 to remove Mr. Sweeney's name from the suit. Mr. Stapleton asked if it was a civil action. Mr. Sweeney said yes. There was discussion of the acreage of land involved and what hunting regulations in the R-2 District are. Mr. Lawson said NYS DEC Law requires you be 500' from a house before discharging a firearm, unless it is your property. Mr. Stapleton asked if there are any restrictions for operation of ATV's or snowmobiles in the R-2 District. Mr. Lawson said there is nothing in our zoning law, but obviously when it becomes a nuisance someone can call the Sheriff's Department. Mr. Sweeney said the trails on his property that his children drive on were created by Mr. Berry. He said since the lawsuit, Mr. Berry has placed a length of string down the property line and created trails to drive on in his own apple orchard. He also stated that the previous owner of his property indicated that she had trouble with Mr. Berry trespassing onto her land to use the trails even after he had been requested not to. Mr. Sweeney said they own 3 ATV's, one for himself and one each for his two children. He said his children hardly use the ATV's anymore. He said they probably used them 4 times last year and maybe 2 times this year. Mr. Sweeney said the pool will be located on part of what was the ATV trail and that will diminish the use of the ATV's. Mr. Sweeney said as far as the noise from the pool pump; it was not anywhere near as loud as the central air unit at the Berry's which he can hear with his windows shut. Mr. Levesque said all of this would be considered as a part of the record. Mrs. Emick asked how many people the pool will hold. Mr. Sweeney said 4-5 at the maximum. Mr. Barton said he lives across the road from Mr. Sweeney and he has not heard any unusual noise levels from Mr. Sweeney's. Mr. Stapleton gave a brief overview of *Section 905 – Special Use Permits*. Mrs. Emick asked if there would be any new lighting for the pool. Mr. Sweeney said no. Mr. Thomas read into the record *Section 905 C. Standards, which states Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or lights, than would be the operations of any permitted use.* Mr. Levesque clarified that the board is trying to determine if the pool is being placed in the best spot to control catastrophic failure; noise; wiring; permits and things of that nature. He said we can assume that people in a pool will make noise but cannot assume what level that noise will be as all outdoor play activities create an opportunity for noise. Mr. Levesque cautioned Mr. Sweeney that if the pool ever dropped below 4' from the railing it must be either fixed or fenced immediately. Mr. Levesque said regarding noise; the board would request that the neighbor's be respected. He asked if anyone wished to speak regarding the application.

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Mr. Levesque motioned to grant a Special Use Permit to Darrick Sweeney to install an above ground swimming pool as outlined above at property located at 2375 North Maple St., Ashville, Specifically Section 384.06-1-67 (Old# 15-1-39) with the following conditions:

- **The pool is to be maintained at 4' above ground for safety reasons**
- **Proper inspections of electrical system be performed by a third party inspector as required in town and NYS Code**
- **Run off area for pool to drain to applicants woods as stated in the application be maintained with whatever type of grading, etc. necessary**

Mr. Silzle seconded. Mr. Levesque, Mr. Thomas, Mr. Silzle, Mr. Michalak, Mr. Barton, Mrs. Emick; Yes. Mrs. Ortman; No. The motion was carried.

The hearing was adjourned at 9:10 PM.

Nancy Thomas
Town Clerk