

# MINUTES TO THE ZBA VARIANCE HEARING

## TOWN OF CHARLEMONT

February 27, 2006

### Members Present:

Eric Dean  
Mark Ledwell  
Bill Coli  
Craig Leonard

### Others Present:

Frank Mooney  
Phil Banks

### Meeting highlights:

- The Board grants a variance from the 75 foot setback bylaw to Crab Apple Whitewater.
- The Board reviews the Administrative Appeal filed by Phil Banks and makes a hearing date for the appeal.
- The Board enters into Executive Session, to discuss pending litigation.

The meeting was called to order at 7:25 p.m. by Eric Dean.

Eric read the variance announcement as it appeared in the Recorder newspaper, and asked Frank Mooney to explain his plan. Frank showed the Board his current plan, and explained that he would be squaring off the Crab Apple building and building upwards. Frank is not actually building any closer to the road, but because the building is already nonconforming, in that it is within the 75 foot setback of Route 2, the variance was needed. Frank said this is the first of two phases he has planned for the building. Mark Ledwell commented that because the building is already a non-conforming building, Frank is allowed to add on as long as he does not make the building more non-conforming.

Mark asked Frank if he had obtained a building permit. Frank said he did not, as he is still checking to see if the project is financially possible.

Bill Coli asked about the second phase, as the Board has no details on that yet, therefore, they could not approve a variance for that also. It was determined that Frank would need to come back again once the second phase is ready to be implemented.

The Board reminded Frank that he has one year to commence the work once the variance is granted.

The Board made a motion to grant Crab Apple Whitewater a variance to expand the existing footprint of the building located at 2056 Mohawk Trail that falls within the 75 foot setback bylaw, per attached plans submitted by Joseph Mattei and dated 2-25-06, contingent upon applicable zoning regulations and approval by other Boards.

The motion was moved and seconded, and after no further discussion, passed unanimously.

The Secretary reminded Frank that she needed a copy of his plans within two weeks, so that they may be included with the variance for filing with the Town Clerk.

Next, the Board reviewed an Administrative Appeal filed by Philip and Mary Ellen Banks. Phil is appealing the decision by the Building Inspector to deny Phil's request that he issue a Cease and Desist Order to the gravel pit on Zoar Road, owned by New England Investment Holding Co.

The Board decided on a date of March 27, 2006 at 7:00 p.m. for the hearing. Mark asked of Phil to bring color photographs to the hearing, as the black and white were difficult to read. Phil said he would.

The Board reviewed their mail and signed their minutes.

The Board discussed whether or not ZBA rules and regulations were needed. Mark felt that the Board currently operates under the State's guidelines, and he wasn't comfortable overlaying any of their regulations. Mark said that he would take some copies of sample ZBA rules and regulations, review them, and let the Board know what he thought.

Phil Banks asked the Board if the 75 foot setback bylaw applies to the center of the road. Mark informed Bill that for building, the setback is measured from property lines, and for zoning, the setback is measure from the middle of the road. Phil thanked the Board and left.

Bill moved that the Board enter into Executive Session to discuss pending litigation, and that the Board will return to regular session when they are finished. The motion was moved and seconded, and after a roll call vote, passed unanimously. The Roll Call vote reads as follows; Eric-yes, Craig-yes, Mark-yes, and Bill-yes. The Board entered into Executive Session at 8:39 p.m.

The Board reconvened in regular session at 9:12 p.m., and having no other business to conduct, adjourned at 9:12 p.m.

Respectfully submitted,

Carlene Millett  
Secretary to the Boards