

**TOWN OF SUTTON**  
**Zoning Board of Adjustment**  
Pillsbury Memorial Hall  
Meeting Minutes  
May 21, 2014

**Present:** Zoning Board of Adjustment Members: Bill Hallahan, Chair, Derek Lick, Dane Headley and Ed Canane, Members; alternate, Sue Reel (Carla Krajewski, alternate, was absent); Laurie Hayward, Land Use Coordinator(LUC); Barry Paddock, agent for owners Dan and Susan O'Connell and Thomas Schaumberg, interested member of the public.

Member Derek Lick left before the meeting was called to order and the Chair asked that alternate member Reel step forward in his place.

**The meeting was called to order** at 7:05 PM, by Bill Hallahan, Chairman.

**The Chair opened the Public Hearing.** The Chair asked the LUC to read the notice for Case 2014-05. The notice was read.

“You are hereby notified of a Public Hearing to be held on **May 21, 2014** at or around 7:00 p.m. at the Pillsbury Memorial Town Hall, 93 Main Street, Sutton Mills, NH, concerning a request: by Barry Paddock, **applicant** and agent for **Dan and Susan O'Connell, owners, 127 Penacook Road, Case ZBA 2014-05, Tax Map # 08-182,248** for a Variance to Article IV: C.4 to permit a small (40 square foot) addition, to an existing room that will be 9 feet from the abutter's property in a zone where the setback requirement is 15 feet; in a Residential Zone.

Documents are available for your review at the Town Office.”

The Chair read the Ordinance IV.C.4:

“Set Back Lines: No building or structure or any portion thereof, except steps and uncovered porches less than 10 feet in width, and fences, except solid fences more than 4 feet high, shall be erected within 46.5 feet of the center line of the traveled way of any 2 rod street or private right-of-way or within 55 feet of the center line of the traveled way of any State or Town road 3 rods wide or within 63 feet of the center line of the traveled way of any State or Town road 4 rods wide. No such structure shall be located nearer than 15 feet from an abutter's property line.”

The Chair further explained that the addition proposed is unique and a very small adjustment. He explained that they measured and think the closest point is a bit further from the property line, maybe 11 feet as opposed to the 9 feet noted in the application. The Chair further explained that there are already portions of the house that are nearer the property line than this small addition will be if approved and the reason that the house was originally built with this small section “missing” is that there were some large rocks there. The Chair asked Paddock to step forward. Paddock showed members a photograph of the building showing the area that will be remodeled with a small 40 square foot addition (5'X8'). Hallahan further pointed out that the house was already non-conforming and this does not add to the non-conformity. Paddock explained that all they are doing is “squaring up a corner” and this “new

corner” will be of slightly less distance into the setback that already exists at other locations on the house. Hallahan asked if anything else to be changed on the exterior. Paddock answered that there are no other changes on the exterior. Canane asked about interior changes and bedrooms. Paddock explained that there are changes in the interior; but, there is no change in number of bedrooms. The Chair asked for member questions. Reel asked about the road set-back and where the line is. It was pointed out that the issue is with a lot line rather than the road and the set-back in the Ordinance for all side setbacks is 15 feet. Road setback requirements are larger. Sweet asked Paddock about the “gnawed” appearance of the boulders at the corner in question. Paddock replied that he had someone working on removing some of that boulder to permit the construction of the small corner area as proposed, using the boulder as foundation. Canane asked if the fees had been paid. The LUC stated that the fees have been paid.

**The Chair moved to close the public hearing and go to deliberations on Case 2014-05. Headley seconded the motion and it was voted unanimously.**

Hallahan asked members for input. There was some discussion about how the request met the requirements for a variance. Hallahan asked if members had questions or concerns. There were none.

**Hallahan moved that they go back into session and complete their worksheets Headley seconded the motion and it was voted unanimously to do so.**

Reel asked about the property and how it met the criteria and the Chair suggested that it is the unique nature of this property that limits the options for the way that this small addition could be made. Sweet noted this is one of the only original cottages remaining from the old boys scout camp that was on Kezar Lake.

**The Chair moved to reopen the hearing; it was seconded, and voted unanimously to reopen.**

Sweet suggested that they should have DES Shoreland approval for this. Hallahan asked Paddock if DES Shoreland Approval had been obtained. He said that he had not done that. Hallahan asked Paddock if it would be a problem if that was made a condition of the approval. Paddock indicated that it would not. Hallahan suggested any approval be conditioned exactly as was the case in the 2012 appeal for the same property, that is: “That the applicants comply with the DES Shoreland permitting process”. Sweet noted that the applicant may not need to do,uch more than run the question by the people at DES because the concern is generally about disturbance of soil and addition of impermeable surfaces – in this case of a very small addition to be located on top of a boulder they might not need to do much. But the questions must be asked.

**The Chair moved to approve. Canane seconded the motion to approve the application as requested by the applicant with the condition that DES Shoreland approval be obtained as discussed and it was voted unanimously.**

The Chair explained that the LUC would send the applicant a letter notifying him of approval. Paddock thanked the Board. The Chair thanked Paddock for his participation.

The Chair moved to close the Public Hearing; Canane seconded and it was approved unanimously.

**This ended the public hearing on Case 2014-05, for a Variance to the Setback Ordinance.**

**Administrative:**

**Minutes from the last meeting:** Review of Minutes for April 16, 2014 the revised draft. Sweet moved to approve the minutes, Headley seconded and it was voted unanimously.

**Other Business:** The Board then took up the **Open Conditions Report** that the LUC had provided for them. The LUC explained that the report was organized such that her notes are in one column and the Code Enforcement Officer's, Matt Grimes' notes, are in another.

Hallahan opened the discussion, pointing out that Merrimack Telephone has not completed the late 2012 Condition regarding the screening of a small installation of equipment and they have had ample time to do so. There was discussion about having LUC contact and then report back to the Board at the next meeting; Hallahan also suggested the same for Kirk Chadwick who is to use erosion control methods at his site according to a late 2012 approval with conditions. There was discussion about what action to take in connection with other situations where applicants were given Conditional approvals and have ignored efforts by the Code Enforcement Officer and/or the LUC to convince them to complete the condition(s), including the 2012 Mapes appeal. Canane pointed out that this issue has existed for a long time and the Board has put a lot of effort into getting this resolved with no real response or effort to resolve the issues from the Mapes. There was also a discussion about the 2013 Palmer appeal where the condition has not yet been met. It was agreed that it may be that these issues should probably go to the Select Board for action. The LUC asked whether she should contact the property owners first to see if it can be resolved before being referred to the Select Board.

There was a short discussion about how well the members feel the work done by the Select Board is handled and especially the way that the Town Administrator Phillips handles the land use issues timely and very effectively for the Select Board. The Chair told Board members that he has seen letters that Phillips has sent out and they are consistently clear and accurate and they get responses and action.

After some additional discussion about how to best approach individual issues, Board members agreed that the Chair would get together with the LUC within the next week and decide case by case whether to have the LUC contact the property owner to see if the owner will agree to resolve the open issue in the immediate future or whether those types of efforts have been exhausted and the issue should go to the Select Board for resolution. The Board additionally asked the LUC to make sure that she meets with the Code Enforcement Officer regularly to review open items and that there is active effort to resolve or that they are notified where the Code Enforcement Officer is unable to get the property owner(s) to complete the condition in a timely manner. There was a very brief conversation about what is meant by "timely"? --- Within a year? --- Within a period that they can designate? --- Within 2 years? The LUC said that she would check for statutory requirements and report back.

Canane also mentioned that there is a property that he knows of where there is a trailer that has not been moved for a very lengthy period of time and asked if there was anything that would prevent the owners needing to move it. There was a discussion regarding the "travel trailer" section of the Ordinances and how trailers that are not registered for on-road use should be handled.

**Other Business:** The LUC explained that the Select Board had received a complaint and sent a Cease and Desist notice to Moulton Landscaping. Peter Moulton responded to the complaint and was referred to the LUC. He needs a Special Exception for an established landscaping business. Research did not turn up any indication that there was a Zoning Special Exception for the business. The LUC

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explained that she suggested and Moulton agreed to do a Preliminary Consultation with the Planning Board and then, assuming that the preliminary consultation supports it, to apply to the ZBA for the Special Exception and, concurrently, the Planning Board for a Site Plan Review. The LUC asked if the Members would be in favor of doing a joint meeting with the Planning Board on the 3<sup>rd</sup> Wednesday in June which would speed the process considerably and help in a situation where vacations are making scheduling a bit challenging. She noted that she would have just enough time to do the noticing after the consultation which is scheduled for May 27<sup>th</sup>. It was agreed that this could be considered as long as the Planning Board was OK with the date.

Canane asked about the status of the Bronstein/Ruppel appeal, ZBA Case 2014-02, and was told that application was withdrawn. There was a brief discussion about the case and whether the applicants would pursue this at a later time. Canane asked how a potential buyer would know that there was no approval for a rental unit. Hallahan explained that there is a disclosure requirement which is part of the purchase and sales process. There was a question as to where the Boards responsibility ends and it was agreed that the ZBA does not enforce their decisions once they are made. The responsibility for enforcement lies with the Code Enforcement Officer and, ultimately, with the Select Board.

There was a quick discussion about whether to proceed to a work session on possible Zoning Ordinance changes and it was agreed that they would not at this point. The LUC will put together a first draft of some changes for Board consideration and email the drafts to members for future discussion.

**Next meeting may include a Public Hearing and is to be held Wednesday, June 18th, 2014 at 7pm.**

**There being no further business, the Chair moved and Canane seconded and it was unanimously voted that the meeting be adjourned at 8:43 PM.**

Respectfully submitted,

Laurie Hayward  
Land Use Coordinator