

# TOWN OF GROTON ZONING BOARD OF APPEALS

Minutes of Public Hearing/Meeting – Monday, 7 May 2007 – 7:30 PM  
Groton Town Hall – 101 Conger Boulevard – Groton, NY

## **Board Members** (\*absent)

Lyle Raymond, Co-Chairman  
Steve Thane, Co-Chairman  
Patricia Gaines  
\*Thomas Tylutki  
Carolann Darling

## **Others Present**

Joan Fitch, Recording Secretary  
Gary Coats, Code Enforcement Officer

## **Applicants/Public Present**

Nicholas Brown, Applicant; Lynnea Minor.

## **PUBLIC HEARING**

### **Nicholas Brown, Applicant/Reputed Owner – 221 Groton City Road – TM #18.-1-35.1 – Front Yard Setback Less Than Allowed**

The Public Hearing was opened at 7:32 p.m. by Co-Chairman Steve Thane who read aloud the Notice of Public Hearing as duly published in *The Groton Independent* on 2 May 2007. Proof of Publication has been placed on file for the record. Co-Chairman Thane advised the Board members that the required fee had been paid by the applicant. Members of the ZBA in attendance were introduced by the Co-Chairman Thane.

Co-Chairmen Raymond and Thane acknowledged that no oral or written communications had been received regarding the application.

Co-Chairman Raymond recognized Gary Coats, Town of Groton Code Enforcement Officer, who stated that the appeal was “pretty straightforward.” The applicant appeared before the Planning Board in April and received approval to combine his three small parcels into one parcel. This was necessary to place the proposed pole barn on the lot occupied by his residence, and also to meet the acreage requirements. The frontage and acreage now meet the requirements for the lot. The problem arose excavating for the foundation of the proposed 28 ft. by 24 ft. pole barn when they “hit a spring.” The pole barn/garage, which will be used for storage, now has to be moved to get away from the spring. The NYSDEC requires that the placement of the barn be a certain distance from Fall Creek which runs on the property. The applicant now proposes to go farther away from the creek, but five feet closer to the road to get away from the spring. This, in turn, places the barn closer to the road than allowed. Dale Barhite was the excavator, and the proposed building is a Canastota. The proposed siting of the barn would conform to all setback requirements except for the front. Moving the barn as proposed would miss having the spring where a footing would be placed. CEO Coats stated that this was an active spring, almost gushing. The height of the road is above the parcel where the barn will be, but there will be no excavation of the embankment.

The Board discussed possible alternatives. CEO Coats stated that the footing for the proposed building should not be placed on a spring. Co-Chair Raymond asked if it would be possible to excavate below the spring, maybe six feet. This was an uncertain alternative; how deep is the spring? The excavator has installed fabric and field drains to relieve any pressure caused by the spring. Mr. Brown stated that if the pole was placed in the spring, it would undermine the pole and the pole would settle. He can't go back any farther because of the creek. The only solution was to move the building five feet closer to the road, thus requiring a variance. Making the building narrower, but longer, was not practical as the proposed building has standard sizes (pre-fab); anything different would be custom and costly.

**At the conclusion of discussing alternatives to the problem, and the problem itself, and with everyone being heard who wished to be heard, Co-Chairman Thane closed the Public Hearing at 8:02 p.m.**

DISCUSSION/DECISION

At 8:03 p.m., Co-Chairmen Raymond and Thane proceeded with the required questions (balancing test), with the responses being given by the ZBA members, after a brief discussion of each, as follows:

- 1. Can the benefit be achieved by other means feasible to the applicant without requiring a variance?

Discussion: Co-Chair Raymond not convinced it was impossible to put the subject pole in where the spring is, going to bedrock using a special drill. Equipment would be extremely costly. Co-Chair Thane concerned with water flow from spring around the pole and agrees with CEO Coats. Board members stated that when all is said and done, the building could not be moved back because of the creek, it couldn't be moved north because of the boundary, and it couldn't be moved south because of their well. In addition, there was no adjacent land available for purchase.

Finding: No, there's no other feasible way.

- 2. Will it cause an undesirable change in neighborhood character or nearby properties?

Discussion: Proposed pole barn meets all other requirements of the Town.

Finding: No, it will not cause an undesirable change in the neighborhood. All were in agreement.

- 3. Is the request substantial?

Discussion: Percent of setback variance discussed (5%), so it is not substantial. The other Board members agreed.

Finding: No, the request is not substantial.

- 4. Will it have physical or environmental affects?

Discussion: The NYSDEC has "passed on" the proposed location of the building. Co-Chair Thane thought it would not alter the environmental affect by moving farther away from the creek

Finding: No. All Board members present agreed.

- 5. Is the alleged difficulty self-created?

Discussion: The location of the spring was not known in advance.

Finding: No, the difficulty is not self-created.

**A motion was then made by Member Gaines that, based on the findings, the Zoning Board of Appeals grant the variance for the pole barn as requested. The motion was seconded by Member Darling, with the vote recorded as follows:**

**Ayes: Co-Chairman Raymond  
Co-Chairman Thane  
Member Gaines  
Member Darling**

**Nays: None**

**Absent: Member Tylutki**

**Motion carried**

**This becomes Action #2 of 2007.**

**APPROVAL OF MINUTES – 11 APRIL 2007**

**A motion was made by ZBA Member Pat Gaines to approve the ZBA Minutes of 11 April 2007. The motion was seconded by Member Carolann Darling, with the vote recorded as follows:**

<b>Ayes: Co-Chairman Raymond</b>	<b>Nays: None</b>
<b>Co-Chairman Thane</b>	
<b>Member Gaines</b>	
<b>Member Darling</b>	<b>Absent: Member Tylutki</b>

**Motion carried**

**This becomes Action #3 of 2007.**

**BUSINESS MEETING**

- At 8:22 p.m., the Zoning Board of Appeals discussed the required training of ZBA/Planning Board members. Co-Chair Raymond stated that Member Tom Tylutki, who had agreed to do the training, asked that the Board set a date to start this. With Member Tylutki’s other commitments, the Board members felt that he should set the dates, or give the Board several dates when he would be available. Co-Chair Raymond stated that he, and Member Darling, have already completed the required training, as has Member Tylutki. They have attended the course offered by the NY Planning Federation. The training is available online, but Member Gaines felt it would be better to have Member Tylutki do this so there could be some discussion. The ZBA agreed to invite the Planning Board members in hopes that they can attend.
  
- CEO Coats advised the Board that there would be another variance (on Sharpsteen Road) coming before the Board regarding installation of an in-ground swimming pool too close to the side property line, but this was not definite as yet. There also may be a “couple of others.”

**ADJOURNMENT**

At 8:30 p.m., Co-Chairman Raymond closed the meeting.

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Joan E. Fitch  
Recording Secretary

E-mailed on 5/22/07.  
Originals & tape mailed.