

PUBLIC HEARING AND BUSINESS MEETING

- A. Call to Order - 7:00 PM:** E. Berkowitz called the meeting to order.
- B. Roll Call:** E. Berkowitz, Chairman; R. McDermott, Vice Chairman; F. Ferreira, Jr., B. Richards, P. Young, Members; K. Graham, Alternate Member; L. Ruest, Secretary; R. Vigneau, Building Inspector
Not Present: R. Foster, Alternate Member
- C. Review Of The Minutes Of The Previous Meeting:**

MOTION: To approve the minutes of the December meeting as written.

MOTION: R. McDermott
SECOND: F. Ferreira, Jr.
Unanimous

D. Public Hearings

- 1. Case 04-01:** Application from **Arleigh Greene** for an Equitable Waiver of Dimensional Requirements to the terms of Article I, Section 3.2.6 to permit a pool house to be within three tenths of a foot to a lot line. (Map 2, Lot 4-10)

Attorney Mary Ganz and Arleigh Greene were present. E. Berkowitz informed the applicant that the article referenced on the application is incorrect. Attorney Ganz requested to amend this to read Article 11.

MOTION: To approve the applicant's request to amend the application to read Article 11.

MOTION: F. Ferreira, Jr.
SECOND: R. McDermott
Unanimous

Attorney Ganz reported that based on a recent survey, the applicant discovered that the pool house constructed in 1995 is within inches of the lot line. She explained that Mr. Greene has walked the lot lines with then Building Inspector Dan DeWitt. The property marker at the front of the lot was found but the property marker at the rear of the lot was not. It has now been identified that the marker used at the rear location was incorrect.

Attorney Ganz noted that the direct abutter (Abbey) has no objection to the location of the pool house, that the location does not cause nuisance or diminish value or future use of the property in the area. She noted that the cost to relocate the pool house is high and that she feels she has satisfied the criteria for granting an equitable waiver.

In response to E. Berkowitz's questions, A. Greene identified the location of the neighboring home as approximately 150-180' away with a wooded, possible buildable, area in between. Mrs. Abbey noted that she purchased the home after the pool house was constructed. A. Greene stated

PUBLIC HEARING AND BUSINESS MEETING

that the plan presented with the application is a recent survey (October) showing true and actual property lines.

E. Berkowitz opened discussion to members of the Board. B. Richards inquired as to whether the applicant obtained a building permit. A. Greene stated he did. It was noted that Mr. Greene did attempt to purchase a portion of the neighboring parcel, but found doing so would leave that parcel non-conforming. Millenium Engineering is still looking into this possibility without making the neighboring lot more non-conforming. Discussion was opened to abutters and members of the public. No comments or questions were heard. E. Berkowitz closed the public hearing.

MOTION: To approve the application from **Arleigh Greene** for an Equitable Waiver of Dimensional Requirements (as amended) to the terms of Article 11, Section 3.2.6 to permit a pool house to be within three tenths of a foot to a lot line. (Map 2, Lot 4-10)

MOTION: **B. Richards**
SECOND: **R. McDermott**
Unanimous

E. Other Business:

1. Request for Rehearing by Attorney Michael McCarthy
Case #03-01 – Charlotte C. Rosati, Map 4, Lot 29-1

E. Berkowitz opened discussion of a request for rehearing received from Attorney Michael McCarthy on behalf of abutters Richard and Elaine Winn and Joel Hirsch. Richard Winn and Russ Hilliard were present. No other members of the public were present.

E. Berkowitz identified two documents for the record; one being the request for rehearing with cover letter from Attorney McCarthy and the other being a letter from Attorney John Colliander outlining objection to the motion for rehearing.

E. Berkowitz opened discussion to members of the Board. P. Young stated that she agrees with the statements in the letter from Attorney Colliander, specifically, that the petitioner has not presented new evidence which was unavailable at the original hearing(s). There is nothing presented to the Board to counter the information provided by soil scientists. R. McDermott agreed with this position and noted that the motion for rehearing rehashes all that's been done to date. No further comments were heard from the Board.

E. Berkowitz reviewed the four items listed in the motion for rehearing and responded to each as follows:

1. **Failure to follow Conservation Commission recommendation.** The Zoning Board of Adjustment has no obligation to follow recommendations of the Conservation

PUBLIC HEARING AND BUSINESS MEETING

- Commission; however, the Conservation Commission has the right to state its recommendations.
2. **Failure to obtain an independent opinion from a soil engineer.** The Zoning Board of Adjustment did entertain and/or procure an independent soil consultant, at the applicant's expense, to provide information. A site walk was held with the soil scientist and Board members and a report has been received.
 3. **Failure to properly consider adverse effect on adjoining lots.** No information was provided to the Board showing adverse effect to adjoining lots. This matter was on the agenda for approximately one year with great discussion and was opened to two public hearings.
 4. **Failure to consider increased flow of Taylor River and effect on lot.** The Board did consider this and asked the soil scientist specifically. The soil scientist informed that this is not a great lot but that the river will not affect the lot.

MOTION: To deny the request for rehearing based on the application submitted by Attorney Michael McCarthy.

MOTION: E. Berkowitz
SECOND: R. McDermott
Unanimous

F. Comments or Questions from the Floor:

No comments or questions were heard from the floor at this time. Referring to the monthly Building Inspector's report, P. Young inquired as to how the assessment and payment of impact fees is done. R. Vigneau provided the Board with an overview of the process. Board members also inquired as to the status of the construction of the home on Stard Road (Map 2, Lot 1-1). R. Vigneau indicated that he has not visited this site recently. It was noted that driving by it appears work is not progressing.

G. Adjournment:

MOTION: To adjourn the meeting at 7:25 p.m.

MOTION: F. Ferreira, Jr.
SECOND: P. Young
Unanimous