

**TOWN OF CENTER HARBOR
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
Monday, August 12, 2013**

Co-Chairman John Foley called the meeting to order at 7:00 p.m. Present were Palmer Smith, Bernie Volz, Karen Peranelli, Richard Hanson. Co-Chair Jean Meloney, Chris Williams, Steve Condojani and Clerk Janet Stitt. Also attending were John Jordan, Chuck Burns, David Reilly, Brian Bushman, Carl Johnson of Advanced Land Surveying, Myra Gordon, Dave & Elaine Chandler, Karleen Schwartz, Eric Cogswell, Ken Ballance, Richard and Diane Drenkhahn, Dennis McCarthy, Selectman David Hughes, Alan Michael, Roberta Clark, Elizabeth Bierer, Buddy Greene and Aaron Michael. George Lamprey was absent with notice.

APPROVAL OF MINUTES:

Chris Williams motioned to accept the minutes for November 19, 2012 and it was seconded by Karen Peranelli. All were in favor and the minutes were accepted. Bernie Volz motioned to accept the minutes for July 8, 2013 and it was seconded by Richard Hanson. All were in favor and the minutes were accepted. Steve Condojani abstained from voting.

UNFINISHED BUSINESS:

Continued: John Jordan: Application for an Appeal from an Administrative Decision

This is in regards to Center Harbor Zoning Ordinance, Section 9:4:3 as it pertains to the site plan approval and construction permit for Brian Bushman's property located at 51 Bartlett Hill Road, Tax Map 226 Lot 14.3.

Co-Chair John Foley announced the voting members for the hearing to be as follows:

John Foley – Co-Chair; Karen Peranelli – member; Palmer Smith – Alternate; Bernie Volz – Alternate; Richard Hanson - Alternate

Chairman Foley stated that the appeal of John Jordan had been discussed at the July 8, 2013 hearing. Two sample motions written by himself with the assistance of Atty. Doug Hill were presented for review. Karen Peranelli made the following motion addressing item 1 (one) of the appeal:

'I move that the ZBA deny item 1 (one) in the Jordan Appeal based on the fact that Mr. Ballance rightfully granted the building permit to Mr. Bushman for the conforming structure, making it very clear that any commercial, rather than personal, use would have to conform to site plan requirements under the jurisdiction of the Planning Board.'

It was seconded by Palmer Smith. All were in favor to accept the motion to deny item 1 (one) of the appeal.

Bernie Volz made the following motion addressing item 2 (two) of the appeal:

I move that the ZBA deny item 2 (two) in the Jordan appeal. The ZBA interprets our zoning ordinance 9:4:3 to mean that automotive service or repair would include all motor vehicles including trucks as specified in 2:2:2. The ZBA recognized this in the appeal by Stuart Paquette in 2006 by granting a variance for a truck maintenance and repair facility in the same zone. While the State definition of motor vehicle is useful, it is not controlling. The ZBA concludes that “motor vehicle” is a larger category than passenger “auto”.

It was seconded by Palmer Smith. The results of the vote were John Foley, Karen Peranelli, Palmer Smith and Bernie Volz all in favor. Richard Hanson voted no. The motion to deny item 2 (two) of the appeal passed 4 to 1.

The appeal was denied. John Jordan stated that he would appeal to Superior Court.

NEW BUSINESS:

David Hughes swore in ZBA members Christopher Williams and Jean Meloney.

Election of Officers:

Karen Peranelli nominated John Foley as Chairman. Bernie Volz seconded the motion and all were in favor. John Foley nominated Jean Meloney as Vice-Chairman. Karen Peranelli seconded the motion and all were in favor. John Foley appointed Janet Stitt as Clerk.

Roberta Clarke: Special Exception – Storage shed within Shoreline Setback

John Foley explained the procedure for the hearing. The Board will adhere to certain rules in the by-laws i.e. no running dialog between audience members. All comments must be directed through the chair. Those speaking will identify themselves by name.

Clerk Janet Stitt read the appeal aloud.

Roberta Clarke provided photos showing the location of the proposed shed and also a photo of the actual shed. The shed will contain life jackets and lawn chairs and sit 21’ off the shoreline. The shed is 84” x 84” x 40” (23 sq. feet) and is in a natural wood finish with three solid sides with an overhang. A solid side will face the lake. The pictures showed the applicant standing in the foliage where the actual shed would be located. She feels that it will not be visible from the lake. The shed would be closer than the garage they have which is 75’ away and uphill. Ms. Clarke acknowledged that if they wanted to enlarge the structure in the future, they would have to come back for another exception. There will be no hazardous materials

stored in the shed. No vegetation will be cut. Ken Ballance clarified that placement at 20' is allowed and the proposed shed is at 21'.

Co-Chair Foley opened the floor for discussion from the opposition. Myra Gordon, an abutter, feels that the requirements and ordinances put in place by the Planning and Zoning Boards are to protect everyone on the lake and should be upheld by the Board. She is concerned with the impact on the environment, ecology and views. Myra Gordon and Karlene Schwartz read and presented letters that are part of the record and attached to the minutes on file. Opposing comments were expressed by Elizabeth Bierer and Dave Chandler. All urged the Board to deny the special exception.

Chris Williams asked if the drip line of the overhang is within the 21'. Ms. Clarke confirmed that it was.

The public discussion was closed at 7:48 pm and the deliberative session by the Board began.

Chairman Foley explained that a special exception is only granted by the Board if it is allowed in the ordinance. The ordinance specifies a storage unit of no larger than 80 square feet and not within 20' of the shoreline.

Richard Hanson stated that the language falls within the category of what is permitted to be granted by special exception. Chris Williams referred to the Water Quality Protection Act which clearly allows accessory structures within 50' of the lake. The structure is allowed in the ordinance and in order to deny the exception, it is the responsibility of the Board to prove that it is a detriment to the entire community. He asked if it were possible to move the shed further back from the shoreline.

Alan Michael explained that the location chosen was the most inconspicuous and level parcel with no need of cutting of vegetation and that any location further off the shoreline is on an uphill grade and would require cutting of trees and shrubs and the leveling of land.

Jean Meloney asked if any electrical wiring would be brought into the shed. The reply was negative.

Voting members will be John Foley, Jean Meloney, Chris Williams, Karen Peranelli and Richard Hanson.

Karen Peranelli made a motion to approve the request for Special Exception with the following conditions:

1. There will be no electricity in the shed
2. The drip line will be 20' back
3. No vegetation will be cut or disturbed
4. The size of the shed will not exceed 84" x 84" x 40"
5. That the prohibited uses in 11:8:2 be strictly adhered to

The motion was seconded by Richard Hanson. All voted in favor of granting the Special Exception.

ADJOURNMENT:

**At 8:25 p.m. John Foley adjourned the meeting.
The next meeting is scheduled for September 9, 2013.**

Respectfully submitted,

**Janet Stitt
Clerk**