

# Town of Weare

ZONING BOARD OF ADJUSTMENT  
15 Flanders Memorial Road  
PO Box 190  
Weare, NH 03281  
Phone: 603.529.2250  
Fax: 603.529.7527

## ZONING BOARD OF ADJUSTMENT MINUTES Tuesday November 1, 2011 \*\*FINAL COPY\*\*

**PRESENT:** Jack Dearborn, Chairman; Forrest Esenwine, Member; June Purington, Member; Malcolm Wright, Member; Stu Richmond, Alternate; Elwood Stagakis, Alternate; Neal Kurk, Alternate; Chip Meany, Code Enforcement Officer; Sheila Savaria, Recording Secretary

**GUESTS:** Ginger Esenwine, Charles Buffum, Susan Perine, Daniel Muller, Glenn Price, Charlotte Price, Lee Marcroft, Jerry Haynes, Charles Cleary

### I. INTRODUCTION:

Chairman Jack Dearborn called this meeting to order at 7:35 pm at the Weare Town Offices and asked the members present to introduce themselves.

### II. PUBLIC HEARINGS:

( ) Case #0511 Continued United States of America: Variance from Article 14-1, Lot Size Reduction  
506 Mount Dearborn Road  
Tax Map 407-92  
Residential Zone

Jack Dearborn appointed Stu Richmond, June Purington, Forrest Esenwine, Malcolm Wright, and himself as voting members for this case.

Chairman Dearborn moved to continue Case #0511 until the December 6, 2011 meeting; Malcolm Wright seconded, all voted in favor.

Case #0811 Roger Hardy Construction, LLC  
Special Exception from Article 19.10  
Construction in an Aquifer Zone  
South side of Colby Road  
Tax Map 412-170  
Industrial Zone

June Purington moved to continue Case #0811 to the December 6, 2011 meeting; Malcolm Wright seconded, all voted in favor.

Case #0211 21 B&B Lane LLC

The Board had a request by Attorney Mueller, the Attorney for the Graves', to reopen the hearing that had been tabled at the previous meeting. Jack Dearborn recused himself as Chairman for this case and appointed Forrest Esenwine as acting Chairman. Neal Kurk also recused himself from this case. Mr. Esenwine appointed Ian McSweeney, Stu Richmond, June Purington, Malcolm Wright, and himself as voting members for this case.

Mr. Esenwine stated that due to there being a court case that is dealing with this, he does not feel the



Chairman Dearborn closed the public meeting at 8:41pm.

Forrest Esenwine moved to grant the variance for case #1209; Ian Mcsweeney seconded. Discussion: Mr. Esenwine said the ordinance in question was written many years ago, and as times change, the usage of land changes with it. Just because an ordinance was set 35 years ago, does not mean it needs to stay that way. Mr. Esenwine continued by saying he feels the Board may be setting a precedent by ignoring what the town has told them to do by allowing these things. Even if the land is okay to build on, it is still up to the Board of Selectmen if they can build on a private road.

The conditions of the approval for this variance are the posting per the Town of Weare sign policy and a waiver filed at the Hillsborough County Deed of Records in Nashua, a compliant driveway, setback of wetlands, building suitable for wetlands, and the Board of Selectmen's approvals.

Forrest Esenwine moved to approve point 1; June Purington seconded. Malcolm Wright, Jack Dearborn, June Purington, and Ian Mcsweeney voted in favor; Forrest Esenwine was opposed.  
Forrest Esenwine moved to approve point 2; June Purington seconded. Malcolm Wright, Jack Dearborn, June Purington, and Ian Mcsweeney voted in favor; Forrest Esenwine was opposed.  
Forrest Esenwine moved to approve point 3; Ian McSweeney seconded, all voted in favor.  
Forrest Esenwine moved to approve point 4; June Purington seconded, all voted in favor.  
Forrest Esenwine moved to approve point 5; June Purington seconded. Malcolm Wright, Jack Dearborn, June Purington, and Ian Mcsweeney voted in favor; Forrest Esenwine was opposed.

The Variance from Article 17.1.1. for Case #1209 was granted by the Zoning Board of Adjustments.

Case #0711                      Alma Schmid Trust  
   Variance from Article 14.3.1  
   Lot Size Reduction, East Road  
   East side of East Road  
   Tax Map 203-93

Ian Mcsweeney recused himself from this case. Chairman Dearborn appointed Stu Richmond, June Purington, Malcolm Wright, Forrest Esenwine, and himself as voting members on this case.

The applicant, Mr. McSweeney, is asking for the Board to allow 7-49 acres of open field on lot 203.93 to be part of a 137.3 acre partial on lot 408.123. The town will purchase lot 408.123 as part of a conservation easement, and the development rights would be owned by the Forest Society. The 7-49 acres is needed to help secure money needed for a conservation project through grant funds. Active agricultural lands have grant resources available, forested land does not.

There will be 3.55 acres left on lot 203.93, if the variance is approved. The 3.55 acres left on lot 203.93 will meet state requirements for septic loading calculations according to Mr. McSweeney's surveyor, Mike Dahlberg. The 7.49 acres is currently part of lot 203.93 that has a 5-unit apartment building on it. Mr. Esenwine pointed out that in the RA Zone, for multi-family housing, the requirement is 2 acres for each dwelling unit, so there is 10 acres needed for this lot to comply since there are 5 units. If Mr. McSweeney's variance is approved, he will be reducing the lot size from what should be 10 acres to 3.55 acres, making the lot more nonconforming.

Mr. McSweeney read the 8 points of hardship from his application in total and Chairman Dearborn closed the public meeting at 9:13pm.

Forrest Esenwine moved to approve point #1; June Purington seconded. Jack Dearborn, June Purington, Malcolm Wright, and Forrest Esenwine voted in favor; Stu Richmond was opposed.  
Forrest Esenwine moved to approve point #2; June Purington seconded. Discussion: Malcolm Wright commented that the size of the remaining lot 203.93 is an issue because the ordinance is specific about

the requirements. Although it is an excellent plan and would be good for the Town, the Board would be setting a precedent that people will say they did this for the town, but won't do it for an individual. Jack Dearborn, June Purington, and Forrest Esenwine voted in favor; Stu Richmond and Malcolm Wright were opposed.

Forrest Esenwine moved to approve point #3; June Purington seconded. Jack Dearborn, June Purington, and Forrest Esenwine voted in favor; Stu Richmond and Malcolm Wright were opposed.

Forrest Esenwine moved to approve point #4; June Purington seconded. Jack Dearborn, June Purington, Forrest Esenwine and Malcolm Wright voted in favor; Stu Richmond was opposed.

Forrest Esenwine moved to approve point #5; June Purington seconded. Jack Dearborn, June Purington, and Forrest Esenwine voted in favor; Stu Richmond and Malcolm Wright were opposed.

The variance from Article 14.3.1 was granted. Ian Mcsweeney stepped back in as a Board member.

**III. OTHER BUSINESS:**

Variance Extension: Chip Meany presented a variance extension for Robert Bailey, Case #2707, that was originally granted October 5, 2010. Jack Dearborn appointed all ZBA members as voting members.

Forrest Esenwine moved to grant the extension for Robert Bailey, Case #2707; June Purington seconded, all voted in favor.

Minutes: Forrest Esenwine moved to accept the amended minutes of the August 2, 2011 meeting; Ian Mcsweeney seconded, all voted in favor.

Forrest Esenwine moved to accept the amended minutes of the September 13, 2011 meeting; June Purington seconded, all voted in favor.

**IV. ADJOURNMENT:**

( .. As there was no other business to come before the Board, Forrest Esenwine moved to adjourn at 9:30 pm; Stu Richmond seconded, all voted in favor.

Respectfully Submitted,

Sheila Savaria  
Recording Secretary