



## COMMUNITY DEVELOPMENT

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### Draft Meeting Minutes July 10, 2012

#### Board Members:

Mark Samsel, Chairman - Present  
Heath Partington, Vice-Chairman - Present  
Elizabeth Dunn, Member - Present  
Jim Tierney, Member - Present  
Jay Yennaco, Member - Excused  
Mike Scholz, Alternate – Present  
Mike Mazalewski, Alternate – Excused  
Tony Pellegrini, Alternate - Present

#### Staff:

Nancy Prendergast, ZBA/Code Enforcement Administrator  
Cathy Pinette, ZBA Minute Taker

#### Call to Order/Attendance

Chairman Samsel called the meeting to order at 7:33 pm, introduced the Board Members and staff, and explained the meeting process.

The Chairman seated Mr. Scholz for Mr. Yennaco.

#### Public Hearings

##### Lot 17-A-1634, Case #25-2012

Applicant – Edward N. Herbert Associates, Inc.

Owner – Richard & Judith Blinn

Location – 67 Blossom Road

Zone – Rural District

The applicant is proposing to install a swimming pool with surrounding pad and fence in the backyard of an existing home. A portion of the pad and fence are proposed within the Wetland and Watershed Protection District (W.W.P.D.). A portion of the driveway also exists within the W.W.P.D. The following variances are requested from the Zoning Ordinance: **Section 601.3** – to allow for the installation of a pool, pad and fence of which a portion encroaches into the W.W.P.D.; and **Section 601.4.8** to allow relief from submittal of a special permit for the existing driveway infringement into the W.W.P.D.

Ms. Dunn read Case #25-2012 into the record. She read the abutters list and also a letter from Richard & Judith Blinn stating Edward N. Herbert Associates, Inc. would be representing them.

- Mr. Wes Aspinwall of Herbert Associates addressed the Board. He stated he has filed an application for the applicant to install a pool, with surrounding pad and fence in the backyard of an existing home, the subdivision was created in 1986. There is a wet area that comes up on the Westerly side of the street, a 24" culvert that goes South West across the street, and there is a second wetland, that is not designated WWPD, that he pointed out on the plan on the wall board. The existing driveway does encroach on the WWPD and there is no change to that and they are asking the Board to allow it to exist in its current state. They tried to put the pool in the safest place. The existing well is approximately 12 – 13 feet away. They did not want to disrupt the existing water line that runs to the house or go closer to the other wet area. There is a brook and a flow there and it is more practical to maintain distance of the existing close wet area which is approximately 30 feet. Mr. Aspinwall read the 5 criteria for the variance into the record. In addition to the 5 criteria he stated there is also no space in the front yard as it would only be 50 feet to the street and the same on the side which is only 30 feet. He also noted that there is an allowance for water empowerments in the WWPD ordinance.
- The Chairman asked Mr. Aspinwall if there is any reason they did not go for an equitable waiver. Mr. Aspinwall stated that they could do that if the Board wanted them to but they grouped it together. Mr. Tierney explained how the Board could vote on an equitable waiver as the variance is more stringent.
- Ms. Dunn asked Mr. Aspinwall when they found out the driveway was in the WWPD. Mr. Aspinwall stated in early May of 2012. He stated that when the subdivision was built they only did this as a build and sometime early on the driveway was put in.
- Mr. Tierney stated that it was possible the wetland could have been expanded. In 1986, it would be grandfathered. Mr. Aspinwall stated that the 1986 subdivision shows the wet areas.
- The Chairman stated that the pool could be relocated. Mr. Tierney stated that the pool is not in the WWPD, it is the fence.
- The Chairman asked Mr. Aspinwall if there is a specific reason why the pool couldn't go the other way. Mr. Aspinwall stated that this is the specific shape the Blinn's chose and also the well location.
- Mr. Tierney asked if the pool company did a site assessment to see if there is ledge by doing test pits. Mr. Aspinwall stated he did not know and the land appears suitable.
- Mr. Tierney stated looking at photos 3 & 4 of the packet, one showing the driveway with a car and one showing a slope. It looks like a natural berm at the wooded edge. There is no topography plan to show, it looks like it will slope towards the house. Mr. Aspinwall stated that the gentle ridge from the WWPD comes up hill then down hill. Mr. Tierney stated it appears like the rest of the yard side slopes to the other wet area. Mr. Aspinwall stated that most work that is done for drainage will be outside the WWPD.
- Ms. Dunn asked how many feet of encroachment with the pad into the WWPD? Mr. Aspinwall stated 10 feet. The Total area is less than 286 square feet.

- Ms. Dunn stated that she understands that this is the preferred shape of the pool but asked why it can't be rotated counterclockwise to stay out of the WWPD? Mr. Aspinwall stated it would push it into the wet area and closer to the well. He stated by pivoting the pool it would end up with a similar encroachment into the WWPD. The Chairman stated that was one of his concerns but understanding the slope that Mr. Tierney was referring to.
- There was a discussion from the Board about the natural berm and the layout of the pool. Mr. Tierney stated it was not the pool which is inside the WWPD that was the issue; it was the fence and the pad.
- Mr. Partington asked if there was a special permit for the pool, pad and fence. Ms. Prendergast stated yes. Mr. Aspinwall stated he would need to go to the Planning Board for that. Mr. Partington asked if he didn't want to do that for the driveway. Mr. Aspinwall stated correct, as it had been there for a long time.
- Mr. Scholz asked if they were looking for relief from Section 601.3. Mr. Aspinwall stated yes, the pool is outside the WWPD but the other structures are in the WWPD. Mr. Tierney stated the fence and the pad are in the WWPD. Mr. Aspinwall stated that a certain distance is need between the pool and the fence.

The Chairman opened the hearing to the public at 8:05 pm, hearing no comment; the public comment period was close.

- Ms. Dunn read a letter from the Conservation Committee opposing any encroachment into the WWPD as this parcel should have had sufficient space for these items when subdivided.

The Chairman entertained a motion to go into Deliberative Session.

**Motion by Mr. Partington, seconded by Mr. Scholz. Motion passed 5 – 0.**

- Mr. Scholz stated that he is not inclined to grant a variance when an equitable waiver could suffice and they can go to the Planning Board regarding the driveway for Section 601.4.8.
- Mr. Tierney stated if they already have to go to the Planning Board for the pool they can show the grading and amount of encroachment. He agrees with Mr. Scholz. He doesn't see an issue with the slope.
- Mr. Partington stated he agrees with Mr. Tierney, they have to go to the Planning Board anyways.
- Ms. Dunn stated maybe an equitable waiver would fit, but it meets the criteria.
- The Chairman stated that they could do an equitable waiver. They need to go to the Planning Board anyways.

**Mr. Scholz motioned to deny without prejudice, in consideration of the 5 points, Section 601.4.8 to allow relief from submittal of a special permit for the existing driveway infringement into the WWPD, seconded by Mr. Tierney. Motion passed 5 – 0.**

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- Mr. Tierney stated that Section 601.3 is just for the pad and fence and the pool does not encroach into the WWPD. There is no harm to the wetland, and he has no issues with it. Hopefully they can minimize the 286 sq. ft.
- Ms. Dunn asked Mr. Tierney how you can find a hardship if the pool can be moved. She stated if the pool could be moved then the pad and the fence would not encroach. Mr. Tierney stated that even if you turn the pool there will be an encroachment
- Mr. Scholz stated he was struggling with the hardship criteria. He stated the proposal is self proposed, it's a desire shape from the applicant, and he hasn't seen anything showing that there isn't an alternative plan.
- Mr. Tierney disagrees with Mr. Scholz. He stated the shape of the pool is what the owner is looking for. Anyone can say what size of pool but it wouldn't fit in that space with the hardship of the land, the other wetland that doesn't have the WWPD designation, WWPD, the slopes and location of the well. He stated the applicant didn't speak to that in the hardship and if there were no pictures he wouldn't see it that way, the pictures show the lay of the land.
- The Chairman agreed with Mr. Tierney. He stated that with this pool shape they are going to need 6 – 7 feet around the pool for a safety issue.
- Mr. Tierney stated that the WWPD designation is to protect the wetland. The wetland that doesn't have the WWPD designation associated doesn't need protection because of the slope of the land. He stated that it would have been clearer if the Board had a topography plan. The whole back yard funnels to the wetland that doesn't have the WWPD designation. He sees a hardship with this plan.
- Ms. Dunn is unconvinced the entire pool can't be pivoted without bringing it closer to the well, and without encroaching on the WWPD. It hasn't been proven that it can't be pivoted. She stated it doesn't meet the criteria.
- The Chairman stated the Board has granted entire pools in the WWPD. Ms. Dunn stated where they have found hardship.
- Mr. Partington stated he sees plenty of uniqueness here, the well and the wetland on the other side, it is reasonable because of the slope. He stated the Board does not have a topo here, just pictures. Mr. Tierney stated pictures 3, 4 and 5 are the best pictures to see how high the house is.
- The Chairman commented that if anything, the pool slows down the drainage to the wetland.
- Mr. Tierney stated it is approximately 42 feet from the corner of the house and clearly not even going to hit the edge of the woods.

- Mr. Scholz stated it could be impacted by the location of the well. He stated it is sandwiched between the wetlands and stated the wetlands will not be impacted because of the slope.

The Chairman entertained a motion.

**Mr. Scholz motioned in considerations of the 5 points, to grant Case 25-2012, Section 601.3 – to allow for the installation of a pad and fence of which a portion encroaches into the WWPD, seconded by Mr. Tierney. Motion passed 4 – 1 with Ms. Dunn not in favor.**

Ms. Dunn stated the hardship criteria was not met.

**Lot 21-V-250, Case #26-2012**

Applicant – Hallmark Home Improvement, Inc.

Owner – Scott & Cynthia Roy

Location – 18 Fish Road

Zone – Residential A District

The following variances are requested from the Zoning Ordinance to permit one of two existing year-round structures to be razed and to allow a new single-family dwelling to be constructed further from the pond; and to relocate an existing shed: **Section 401** – to allow for the increase in the extent of the non-conformity of the structure **Section 405.2** – to allow for the increase in the area or volume of the structure; **Section 405.3** - to allow for the increase in the non-conformity of the structure; **Section 405.5** - to allow for the replacement structure to be less conforming to the required setbacks; **Section 603.1.1** - to allow two single family dwelling units per lot where one is allowed; **Section 616.10.2** to allow 37% impervious area of a building lot; **Section 616.10.3** – to allow relief from submittal of a storm water management and erosion control plan to the Planning Board; **Section 702** and **Appendix A-1** – to allow a lot area of 16,161 +/- sq. ft. where 50,000 sq. ft. is required; to allow a front setback for the new structure of 30' where 50' is required; to allow side setbacks for the new structure of 12' and 22' where 30' is required, and to allow a side setback for the relocated shed of 4' where 30' is required, and to allow maximum building coverage of 24% where 20% is required.

The Chairman appointed Mr. Pellegrini to replace Mr. Scholz who was seated for Mr. Yennaco.

Ms. Dunn read Case #26-2012 into the record and the list of abutters.

- Mr. Tierney stated the applicant does not need relief from Section 603.1.1 because they are raising the house and reconstructing, therefore, it is an existing non-conforming.
- Mr. Stuart Pappas, Hallmark Home Improvement, Inc., Hooksett, NH, the contractor, addressed the Board. He stated the applicant wanted to take down an existing dwelling that is in poor shape and replace it with a new dwelling. The old structure is 15 feet from the pond and the new structure will be 100 feet from the pond and 12 feet from the lot line. The existing structure is 33 x 38 feet and the new one will be 26 x 32 feet. He stated they are reducing the square footage of the house by 422 sq. ft. The existing structure is a rental property and will remain a rental. Both homes are year round. It is on a non-conforming lot. The house they are taking down is in need of major repairs. Mr. Pappas read the 5 criteria into the record.

- Ms. Prendergast stated she comes up with 188 sq ft. Mr. Tierney stated the difference was because of the jogs in the existing house.
- The Chairman asked if the building cover is 28%, is that everything on the lot? Ms. Prendergast stated yes.
- Mr. Tierney asked Mr. Pappas if by relocating the shed that would be on the lake side and encroach? Mr. Pappas stated yes.
- Mr. Tierney asked about the well, if it was inside or outside the house. Mr. Pappas stated it was 3 feet from the house.
- Mr. Pellegrini asked if State approval was needed for the shed to move it closer to the water. Mr. Tierney stated yes, the Shoreline Protection Act.
- Mr. Partington asked what the new basement would be. Mr. Pappas stated a 4 foot cross wall.
- Mr. Tierney stated that if you apply any setbacks they couldn't do anything.
- Ms. Dunn asked when the septic was installed. Mr. Pappas stated it is for 6 bedrooms and constructed in 2004.
- Ms. Dunn asked about the height of the new house. Mr. Pappas stated 27 – 28 feet. Ms. Dunn asked if it was a garage level, first level and top level. Mr. Pappas stated yes, the bedrooms are down the middle on the top floor.

The Chairman opened the hearing to the public at 8:53 pm.

- Ms. Susan Freshman, 16 Fish Rd., addressed the Board. She stated she appreciates Mr. & Mrs. Roy trying to improve their property but the Town has rules and regulations in place. She read her prepared statement and submitted pictures which were admitted as Exhibits. She stated that the height is level with the septic hump. She stated the new house would be one foot away from her well. She spoke regarding the water run off. She is not in favor of granting these variances. Her statement is part of the file located in the Community Development Office. Photo #1 is Exhibit A, Photo #2 is Exhibit B, Photo #3 is Exhibit C, Photo #4 is Exhibit D, Photo #5 is Exhibit E, and the letter that Ms. Freshman read into the record and submitted is Exhibit F.
- Mr. Partington asked Ms. Freshman if her house was on the lot line. She stated yes.
- Ms. Dunn stated the Conservation Committee commented that they would like to see a reduction in the impervious.
- Ms. Cynthia Roy, the applicant, 18 Fish Road, addressed the Board. She stated that the pictures Ms. Freshman showed the Board were of her house that is already there. There are other houses on the pond that are three stories. This is her home, not a vacation place, other people just vacation there. She read a letter from her husband, Scott Roy, who was unable to attend. The house is in need of major work, it would be cheaper to tear it down and rebuilt

instead of remodeling. The following items were included as need on the house: roof replacement, electrical rewiring, heating system, floors needed to be leveled, house is collapsing due to rotting supports and replacement is needed, crawl space is only 2 feet high and below grade causing water to pool and mold, exterior walls under siding are rotting, window supports are rotting, the house needs a foundation and whole house needs to be reinsulated. Packet of pictures is Exhibit F and Letter from Scott Roy is Exhibit G and is in the file located in the Community Development Office.

- Mr. Tierney asked Ms. Roy if there were house located at 12, 14 and 16 Fish Rd. Ms. Roy stated yes and they are seasonal. He asked about 6, 8 and 10 Fish Rd. She replied, yes and they are seasonal also.
- Ms. Roy showed the Board pictures of other properties like her's and her property. She stated the neighbors already encroach on her property 7' and she doesn't have a problem with that and respects that. When she bought the property she knew she would like to improve it.
- Mr. Tierney asked Mr. Pappas about the roof and water flow. Mr. Pappas stated they will be adding gutters and grading the property so it does not go onto the neighbor's property. Mr. Tierney stated they would need DES approval.
- Mr. Scholz asked how close the two houses are in proximity to each other. Mr. Pappas stated 12 feet. Mr. Scholz asked if the current shed was being moved towards the water. Mr. Pappas stated yes.
- Mr. Tierney stated that parallel, house to house is 14 feet and the jog is 8 feet.
- Mr. Scholz asked if on the existing house, is the figure of 188 sq ft without the jogs. Mr. Pappas stated yes.
- Ms. Roy stated that they have decreased the impervious on the property having 4 sheds before and only having one now. She would like to use the property to its full potential. Because they are on a private road and they are year round they take care of the road. They have a state approve septic and lots of houses around have unknown septic systems.
- Mr. Scholz asked if both properties were year round. Ms. Roy stated yes.
- Ms. Dunn asked Ms. Prendergast if she had checked with the Building Department to make sure the second home is year round. Mr. Prendergast stated it was. Ms. Dunn asked Ms. Prendergast to see the file for the variance in 2004 in which they were denied a variance.
- Mr. Scholz asked if the Board needed to approve Section 401 if it was already non-conforming and they are improving it. Ms. Dunn stated that non-conforming has to do with more than just the setbacks. Mr. Tierney stated if they were keeping the house in the current location it would be okay but they are moving it.
- Mr. Scholz questioned how Section 603.1.1 was needed if they are grandfathered. Mr. Tierney agrees.

- Mr. Partington questioned the need for section 616.10.2 if the impervious was decreasing. Mr. Scholz agreed that if the impervious was decreasing you wouldn't need that. He doesn't see any restrictions on the two houses as they are grandfathered.
- Mr. Scholz asked why Section 616.10.3 was needed. Ms. Prendergast stated that they discussed the overlay and Mr. Pappas needs to go to the Planning Board and go forward with going to DES. Mr. Scholz asked if the State requires some kind of erosion control. Ms. Prendergast stated he would need a plan from DES.
- Ms. Roy stated that there are homes around the lake that are in the same situation as hers with two homes. Ms. Freshman stated that when Ms. Roy speaks to houses around the lake, no one knows what their circumstances were.
- Mr. Tierney commented that the latest plan says the existing home is two bedrooms but has a six bedroom septic system.
- Ms. Freshman questioned regarding Section 616.10.2, they want 37% and what is the regulation? Ms. Prendergast stated that the Town's ordinance states that they would like 30% but the applicant is reducing the impervious.

The Chairman entertained a motion to go into Deliberative Session.

**Motion by Mr. Partington, seconded by Ms. Dunn. Motioned passed 5 – 0.**

The Chairman polled the Board for determination whether relief is needed on the list of Ordinances.

- Section 603.1.1
- Mr. Partington asked Mr. Tierney if they have two structures on one lot they can knock one down and move it as long as it meets the setbacks. Mr. Tierney stated yes, if they replaced in kind they wouldn't need to come in for relief. Ms. Dunn disagrees stating that at present there is a pre-existing non-conforming use for two structures but, the concept here is not to continue the second structure that is non-conforming in its present place to move it someplace else where it is no longer non-conforming. It is not simply a continued use, it is an expansion. If you have an expansion of a non-conforming you need a variance. The Chairman stated only one single family is allowed per lot per ordinance but this is preexisting and the ordinance wasn't in effect when it was built. Mr. Partington questioned whether a grandfathered use can change. The Chairman read 603.1.1 and stated that it doesn't address this. Mr. Tierney stated it is the location is why they are in front of the Board. Ms. Prendergast stated that Section 400 states a non-conforming use can continue provided that; and then you go through all of the Sections and that is where she starts.
- The Chairman suggested the Board vote on this Section for relief or no relief on this section.

The Chairman entertained a motion

**Mr. Partington motioned that no relief is necessary from Section 603.1.1 as the two dwellings on the lot are pre-existing non-conforming lots, seconded by Mr. Tierney. Motion passed 4 – 1 (Ms. Dunn against)**

- Section 616.10.2
- Mr. Tierney question if the impervious comes into play. Ms. Dunn stated it appears it is decreasing.

The Chairman entertained a motion

**Mr. Tierney motioned that no relief is necessary from Section 616.10.2 because they are decreasing the impervious area per plan submitted, seconded by Mr. Pellegrini. Motion passed 5 - 0**

- Section 616.10.3
- Mr. Tierney stated when he read the ordinance that this still falls under non-conforming and they are not changing the impervious surfaces. Ms. Prendergast stated it concerns the entire lot and any type of work that is being done, whether a major or minor. Ms. Dunn stated it is going to be in a different area of the lot. Mr. Tierney stated it is the use. The Chairman stated that going by the plain language, the use is not changing here. Mr. Pellegrini stated that the Planning Board would have to be shown that this was being addressed. Ms. Prendergast stated that the Planning Board wants to know exactly what is going on on the lot, whether a minor or major. They want to see how water control is managed on the property. There was a discussion by the Board about the current impervious area and the merits of this application and section. Mr. Partington stated he is not willing to say relief is not needed for that section.

**Section 616.10.3 will be heard to grant relief.**

- The Chairman stated the Board will be discussing Sections 401, 405.2, 405.3, 405.5, 616.10.3, 702 and Appendix A.
- Mr. Partington stated that moving the structure away from the pond is great but with the abutter's house being that close and the difference in heights.
- Ms. Dunn stated that one of the criteria, diminution of surrounding properties is an issue. If you are 12 feet away from a 3 story structure your property value will decrease. The purpose of the Ordinance is to provide less congestion and overcrowding. This is a congested area and there is no doubt the present structure is less than ideal where it is, but it doesn't meet the spirit and intent and also the value of the surrounding properties will be affected.
- Mr. Pellegrini stated that the alternative is they can go back and build in the same location without a variance without affecting someone else. It is good it is coming off the lake.
- Ms. Dunn stated that there is an existing house and what they are asking for would diminish the surrounding properties. Mr. Pellegrini disagreed and stated that was an assumption. He

stated the house is getting further away from the lake. Ms. Dunn stated she can only vote on what the law says and reiterated it didn't meet the criteria.

- Mr. Tierney stated that the current structure is only 7 – 8 feet off the abutting property line. This is still an improvement because they will have 12 feet. Ms. Dunn asked where it says they can vote for a variance because they prefer something. Mr. Tierney stated he is looking at what it is before him. Ms. Dunn stated they are trading one undesirable situation for another one.
- Mr. Tierney stated there is a hardship on they lot. They have no control over anyone else's lot. What they are trying to do is improve their lot. Ms. Dunn stated they look at the criteria, and if they find it does not meet any one of the criteria they must vote no.
- The Chairman stated this was a very difficult case, looking at the Ordinances, governed by the RSA's, and the Board will apply the rules accordingly. He agrees and disagrees with the Board's comments. There is hardship and hardship can be financial and that was discussed by the applicant. The condition of the house is a teardown, so that is a hardship. He stated if you look at the proposed height and the surrounding properties relocating to the back, diminishment of surrounding properties does come into play. The Board does need to keep in mind substantial justice and diminution. Any loss to individuals is not outweighed by the benefit to the general public. There is the neighbor and also a broader group that would benefit from this, the Pond.
- Mr. Pellegrini asked how the Board knew it would reduce neighboring property values. The Board discussed this and they are to use their best judgment the Chairman stated. Ms. Dunn stated it might make a difference if it was a two story structure but as a 3 story building there is no question of the diminishment. The Chairman asked for thoughts on diminution. Ms. Dunn stated height, volume and 12 feet away. She stated the spirit and intent is to lessen congestion, promote light, safety, air, etc. Mr. Tierney stated it is better than what is currently there and it will be closer to the road and promote safety. The Chairman stated with this size building you can't get better setbacks.
- The Chairman stated the Board could vote, there could be a vote to deny without prejudice giving the applicant to do what the board suggested, maybe use the existing footprint, reduce the height, and there are some options.
- Mr. Partington stated the he doesn't know if denying without prejudice is fair to the abutters. They could come back with the same plan. Mr. Tierney stated height is not the issue; they are under the height restrictions. Mr. Partington stated the overall plan, not the height and the closeness to the property line. Everyone bought their homes with these structures where they were. He agrees with Ms. Dunn that it will diminish the property value at 16 Fish Rd and it doesn't meet the spirit and intent because of the numbers and the height. The Chairman stated the height was in the ordinance. Ms. Dunn stated it needed a variance because of the increase in volume. Mr. Partington stated that is why the height is in the Ordinance so someone cannot build up to high. Ms. Dunn stated that was correct.
- The Chairman asked the Board who gains more from this. Mr. Partington stated it meets the substantial justice by moving the house away from the lake. The Chairman asked what if they

came back to the Board with a plan that is one story. Ms. Dunn and Partington stated that if there is a material difference if they came back they would evaluate on the 5 criteria.

- The Board weighed in on “deny without prejudice”.

**Ms. Dunn voted to deny relief of request to Case #26-2012 Sections 401, 405.2, 405.3, 405.5, 616.10.3, 702 and Appendix A1 in consideration of the 5 points, that the diminution of value of surrounding properties and it is not in the spirit and intent of the ordinance, seconded by Mr. Partington. Motion 2-3. Ms. Dunn and Mr. Partington to deny, the Chairman, Mr. Pellegrini and Mr. Tierney to not deny.**

The Chairman entertained a motion to grant to deny without prejudice.

**Mr. Pellegrini motioned to deny without prejudice from relief of request to Case #26-2012 Sections 401, 405.2, 405.3, 405.5, 616.10.3, 702 and Appendix A1 in consideration of the 5 points, seconded by Mr. Tierney. Motion passed 4 – 0 (Ms. Dunn against)**

- Ms. Dunn stated that we have failed to deny, we have a vote in motion to deny with out prejudice, and that passes they can come back which is a substantial disservice to the abutters and is not competed in her mind by the set up per the law, if they find that the variance does not meet the criteria it is their duty to deny. Mr. Partington disagrees with Ms. Dunn; his option is to vote for this. Mr. Tierney doesn't see the harm in denying without prejudice. It is an unfortunate situation where the other property is on the lot line but it doesn't block the views of the lake and the new structure is safer.

The Chairman advised all of the 30 day appeal process.

### **Review and Approval of Draft Meeting Minutes**

#### **June 12, 2012 revised**

- Ms. Prendergast stated they were not ready for the packet and will be done at a future date.

#### **June 26, 2012**

- Minutes of June 26, 2012 were amended and should go back to the Board.

### **Confidential Legal Communications**

- Reviewed by the Board.

### **Binder Updates**

- Tab 3 – Zoning Ordinance pages 79, 80

## **Bylaws**

- The Chairman thanked Mr. Partington for updating the Bylaw list. Mr. Partington stated he looked at the videos from 2010 and there are no videos from the 2010 Town Hall meetings. The Joint meeting section was written by the Chairman and the Alternate Section was written by Ms. Dunn but he has no evidence the Board adopted these. He has word changes that he can send to the Board. The Chairman asked the Board to become familiar with the list. Mr. Scholz stated that there is information in the meeting minutes of 8/10/10 regarding alternates rotations.
- The Chairman discussed who attends legal proceedings and he looked at the officers section and there is no language in there. You could add it to the General Rules or you could just add to the Chairperson or Vice Chairperson duties, but it might be another individual who has the background to attend. For consideration of the Board.
- Ms. Dunn stated that they discussed before and she hopes they stay on track, that adopting these piece meal is a recipe for disaster and they should be restructuring them by getting them numbered and organized. Mr. Partington agreed. He stated sections have been moved from one section to another and not sure who moved them. Ms. Dunn asked what set of By-Laws have been adopted. The Chairman stated the December 27, 2011 version. The Chairman asked Ms. Prendergast if they could be numbered as it would be easier to track.

## **Adjournment**

**Ms. Dunn motioned to adjourn at 11:12 pm, seconded by Mr. Tierney. Motion passed 5 – 0.**

These minutes are in draft form and respectfully submitted for your approval by Cathy Pinette,  
ZBA Minute Taker