

## Great Barrington Zoning Board of Appeals

Minutes of March 5, 2013, meeting.

Attending were Chairman Ron Majdalany, Madonna Meagher, Kathy Kotleski, John Katz and Michael Wise. Town Planner Chris Rembold was in the audience. The meeting opened at 7:30 p.m. at Great Barrington Town Hall.

The board continued the **Jan Wojcik** (Ruby Chang) special permit application for a 16-by-20-foot carport at property at 1 Roger Road under Great Barrington Zoning Bylaw Sections 5.3 and 10.4.2. Notice of the hearing was advertised in The Berkshire Record for Jan. 25 and Feb. 1 and the continuation was advertised Feb. 22, 2013. Notices were mailed to abutters of record, and property posted at Town Hall.

The property was subject to an earlier, 2008 special permit and is thus a legal non-conforming structure. Mr. Woucik was at the hearing, along with his builder, Jay Feldman. The hearing had opened Feb. 19, 2013, but was continued to this date so the applicant could provide more detailed plans. Mr. Feldman said that after consulting with Town Planner Chris Rembold, the plans were revised so that the roof of the propose carport does not protrude beyond the existing building on either side. The carport will be 23.4 feet from the sideline, 10.5 feet from Roger Road.

Questioned by Mr. Wise, Mr. Reldman said the carport will not create any fire, explosion or other hazard; will not increase noise or vibration; will not create electrical or other disturbance; will not increase glare; will not increase traffic; will not increase night operations. The board found that, while the building does not meet all setback requirements, the carport will not increase dimensional intrusions. Under 10.4.2, the board found the proposed carport would make the home more valuable and would not have an impact on the neighborhood character or natural environment or traffic flow and safety.

The Selectmen made no recommendation. The Board of Health made a favorable recommendation. The Planning Board said it had inadequate information to make a recommendation. Mr. Wise moved to grant the application as the change would not be substantially more detrimental and meets conditions under 5.0 and 10.4.2. Ms. Kotleski seconded and the vote was unanimous. Ms. Kotleski is to write the findings.

In **other business**, the board approved the minutes of Feb. 19, 2013, on a motion by Ms. Kotleski, seconded by Ms. Meagher and voted unanimously.

The board on a motion by Ms. Kotleski, seconded by Ms. Meagher, voted to recommend the town accept the so-called Mullin Rule and include the Zoning Board of Appeals: *To see if the Town will vote to accept, for the following boards, committees, or commissions holding adjudicatory hearings in the Town, the provisions of MGL c. 39, s. 23D, which provides that a member of a board, committee, or commission holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to the member's absence from one session of such hearing, provided that certain conditions as established by said statute are met.* Mr. Rembold said a member who had missed a meeting would be expected to listen to an audio tape, review the application and review minutes in order to sit in on a later session of the same public hearing.

The board heard from Secretary Bernard Drew that Kristen O'Brien, wife of Gary O'Brien, had phoned to discuss a fine notice issued by the building commissioner for maintaining six snowplow trucks at the former Roger Trucking site on Roger Road. She said she believed the use was grandfathered, as indicated in a court decision. She said the Roger Trucking garbage business operates out of the same location. The secretary urged her to get in touch with Mr. Rembold.

Mr. Rembold offered to draft proposed decisions/findings for the Zoning Board of Appeals. Board members expressed a great interest.

The meeting adjourned at 7:55 p.m.

Respectfully submitted, Bernard A. Drew

