

**FRANKLIN ZONING BOARD  
REGULAR MEETING AND PUBLIC HEARING**

**Wednesday, October 4, 2017 at 7:00 p.m.; City Council Chambers**

**Minutes**

**Call to Order 7:16**

**☐ Salute to the Flag**

**☐ Roll Call Present:** Glen Feener, Kathlene Fleckenstein, David Testerman, Debbie Davis  
Absent: Cecile Cormier, Jeffrey Dickinson (lift out of commission)

**☐ Approval of Minutes of the September 6, 2017 Public Meeting of the Board.**

Members Fleckenstein / Davis motioned and seconded approval of the minutes as they stand. By a vote of 4-0-0 the motion passed.

**Old Business:** None

**New Business:**

- ☐ Z 17-13: Robert Stephen, owner, and Robert Miclette, applicant, are seeking a variance from Section 305-14, Lot and Yard Requirements to move an existing mobile home, located on the property at 47 Oriole Street, Map/Lot # 076-061-00 in the LP (Lake Protective) zoning district, Map Sheet L6, so that it will become more non-conforming for the rear setback [25-feet proposed versus 50-feet required].**

Robert Miclette stated that the mobile home on the property doesn't meet the requirements of the lending agency since it isn't on a slab. He would like to place a slab and the mobile home nearer the rear property line until he can construct a log house on the original site of the mobile home. After the log house is built the mobile home will be removed and the slab can be used as a patio. Member Testerman asked about the water and sewer lines that are currently connected to the mobile home and Mr. Miclette stated that those would have to be moved a bit to the new mobile home site. Chairman Feener asked about restrictions on non-permeable surfaces in the LP zone and Director Lewis stated that it shouldn't be an issue.

Abutters Mr. Tomaszewski and Mr. Marcotte had no issue with the plan other than requesting a timeline. They didn't want to see construction taking place for two or three years. Both mentioned how they have tried to improve their properties and don't want the property in question to just become a prolonged building project. Mr. Miclette answered that he hopes to get the funding for the log house within the next five years. It comes as a kit and he would like to complete it as quickly as possible once it is started. As for the slab and the moving of the mobile home, he doesn't anticipate that aspect taking more than a few weeks.

Chairman Feener asked a lot/yard variance would be required to build the log house and Director Lewis said it would but that application could come at a later date. Mr. Edison Chae asked if a

log house could be built on a slab and Director Lewis said it would have to be built on a foundation not just a slab.

**Members Fleckenstein and Testerman motioned and seconded approval of the variance application request by Robert Miclette, applicant, seeking a variance from Section 305-14, Lot and Yard Requirements to move an existing mobile home, located on the property at 47 Oriole Street, in the LP zoning district, so that it will become more non-conforming for the rear setback [25-feet proposed versus 50-feet required]. The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance as spelled out in the draft Decision that has been reviewed and approved by the Board. There was no further discussion and by a vote of 4-0-0 the motion passed.**

- ❑ **Z17-14: Edison Chae appeals an Administrative Decision of the Planning Director finding that the alterations to the shed at Gile Pond Road, Map/Lot # 128-042-00 in the C (Conservation) zoning district, Map Sheet F8, do not conform with the definition of a shed as stated in Section 305-3, Words and Definitions of the Franklin Zoning Ordinance.**

Mr. Chae referred to the email exchanges between himself and Director Lewis and some of the statements that he felt were not accurate. He admits that he measured incorrectly and that the overall square footage of the shed is slightly larger (154 sq. feet) than intended with the addition of the bump out. He suggested that he could alter that. The same error in math applied to the deck as well. Mr. Chae states that the prebuilt shed in purchased and moved onto his property was approved. When a question came up about the woodstove, he complied and removed the stove and down pipe and donated it to Habitat for Humanity. When he was asked to clear the overhanging limbs along Kenwood Avenue, he did so, although he didn't understand why he alone should have had to bear the cost of that work. He asked why Katie Cailler wasn't required to clear the way to her property. He stated that he is constantly being met with roadblocks when he tries to do anything to his property. He also stated that he doesn't understand why putting a deck onto the shed changes the character of the shed and turns it into something else.

Director Lewis answered that Kenwood Avenue was a private road not maintained by the City. The fire department requested the clearing of the branches so that they could get their vehicles through if necessary. As for the issue of barrels, the placement of the barrels caused an illegal trespass across Katie Cailler's property. The house in Sanbornton accesses their property via this cutoff that has been created by people going around the barrels. Mr. Chae asked again what that had to do with him and Mr. Lewis said that since Mr. Chae's property was beyond the barrels, he too might have used this new cutoff to get to his property. He added that the Fire Department is trying to get Kenwood Avenue reestablished and that it is Ms. Cailler's responsibility to reestablish her property boundaries

Member Testerman said that this property is reminiscent of other properties here in town where development has gone willy-nilly and the development on private property is causing issues. He felt that Mr. Chae's shed looked like it is becoming a place to live in or at least to visit.

Mr. Chae stated that all he is trying to do is clean up the area and make it nicer. That he has no intention of living there. There is no water, sewer or electric. He stated that he knows he can't have water or septic because it would be in violation of DES. He is interested in buying up other property in the area so that he would eventually own nearly 1 acre.

Chairman Feener asked why Mr. Chae started his renovations to the shed without first getting a building permit. Mr. Chae stated that he thought that as long as he was keeping the overall shed square footage under 150 feet he didn't need a permit. When he thought it over again he felt it best to obtain a permit and he drove up from Massachusetts to do so. It was his understanding that the approval would be forthcoming in a matter of days, but he was ultimately denied the permit. Mr. Chae stated that the shed contains mostly outdoor sporting equipment to use when he and his family are visiting the lake. It was his intent to put up mosquito meeting and a retractable awning over the deck so that it would be a comfortable place to eat lunch or work out.

Open to public-No public input.

Back to Board: Member Testerman said that he thought there had been a lot of misunderstandings, but if things had been done correctly to begin with there probably wouldn't have been an issue. He indicated that he was leaning toward approving the appeal.

Member Davis asked Director Lewis about the 10 foot versus the 15 foot setback. Director Lewis said that with the increase in size a 25 foot side yard set back would be required. Member Davis then asked about the issue with the deck, whether it was a size issue or just the whole idea of building a deck onto a shed. Director Lewis said it was the idea of a deck attached to a shed that takes it out of the definition of a shed. He referred to use creep where one structure morphs into something different and that he felt developing the shed in question is an example of that.

Mr. Chae stated categorically that he only wants to improve the look of his property. That he would probably add window boxes and planters and solar lights all to make it look nicer.

Member Fleckenstein stated that she had two things to say: One is that the focus of the discussions needs to come back to the administrative ruling itself. Focusing on whether the ruling is by the book. And two, if we choose to uphold Director Lewis's decision, what would be the solution for Mr. Chae? Could he seek a variance? Director Lewis answered that if the board upheld his decision, Mr. Chae could go for a variance for the distance, or he could relocate the building. If board overturned my decision they could approve the building permit. Member Fleckenstein referred to the similarity between the Spain ruling on Riverview Drive and this property. Director Lewis agreed that there were some similarities that camping isn't an approved use in either place. Mr. Chae admitted that he had purchased an old Airstream and fixed it up hoping to use it on his property, but found out that wasn't allowed and he sold the camper.

Chairman Feener said that in the past there have been issues with sheds being placed on land where there is no primary dwelling, but in this case if Mr. Chae wants to complete the deck it was okay with him as long as any future alterations are approved beforehand. Mr. Chae questioned the need for a variance and Director Lewis stated that the rational for the variance is that the Zoning Board has established parameters and if your project doesn't fit within those parameters, then a variance is necessary. In this case, a variance would be needed for the setbacks.

**Members Testerman and Davis motioned / seconded to overturn of the Administrative Decision with the conditions shown in the application and that any future work on the property be preceded by a permit. By a vote of 3-1-0 the motion passed. Member**

**Fleckenstein voted nay because she felt a variance should also be a condition to the issuing of any building permit. An Administrative ruling is a by-the-book type of thing and not a malfeasance type of thing. Her objection is more administrative.**

Mr. Chae then asked if anyone could suggest a path that would eventually allow a rustic camp on the property. Chairman Feener said that would be a discussion to take place later.

**Planner's Update:** Copies of the Master Plan have been given to everyone and he is open to any questions or comments regarding the contents. The hearing on the draft master plan is scheduled for 10/11/17.

**Other Business:** Chairman Feener asked Director Lewis to look into the cabin and camp issue, adding that there needs to be a clear definition of those terms, to avoid any chance of use creep. Member Fleckenstein asked if there wasn't a way of addressing the power pole height restrictions with the contingency of safety issues. Director Lewis said he would check with other communities and see how they are dealing with that, perhaps via a special use permit.

Member Testerman mentioned the difficulties that are often associated with Methadone clinics and any avenues available to restrict these. Director Lewis said that these clinics are allowed under the American with Disabilities act and that there are legal ramifications with applying restrictions or conditions.

**Public Comment:** None

**Adjournment:** Members Fleckenstein / Testerman motioned /seconded adjournment at 8:50 p.m.

The next scheduled meeting of the Zoning Board of Adjustments is Wednesday, Nov. 1, 2017, at 7:00 p.m.; the Deadline date for submission of applications for this meeting is Wednesday, October 11, 2017.