

**TOWN OF MIDDLEFIELD  
ZONING BOARD OF APPEALS  
April 16, 2014  
MIDDLEFIELD TOWN HALL  
MINUTES**

**Board Members Present:** Terry Crean, Mitch Feldmesser, Judy Hoag

Meeting was called to order at 6:04 P.M.

**Minutes:**

April 10 minutes were reviewed and edited. Judy made a motion to approve the minutes with amendments. Mitch seconded the motion. All were in favor.

**Review Fee Rule:**

The Review Fee Rule document was signed by Terry and placed in the Treasurer's and Town Clerk's mailboxes.

**Formal Deliberations:**

The formal deliberation of the variance request from Dr. Andrewes and LBC trust began. Voting procedures were discussed.

**Variance conditions 6.5.2**

**a) Circumstances exist that relate to the soil conditions, shape or topography of the land or structures that especially affect such land or structures but do not generally affect the zoning district in which the land or structures are located. Discussion followed.**

The application spells out that the parcel contains a number of unique features not common to the zoning area where it is located. The parcel is bordered by a waterway and bisected by a travelled way coupled with the steep slope and existence of a substantial amount of ledge requires that the applicant seeks a variance. Terry is concerned about putting more into a naturally congested area. Judy stated that the parcel is not unique but a part of an area that has the same natural restrictions. Mitch agreed.

**b) Literal enforcement of the Bylaw will result in a substantial hardship, financial or otherwise. Discussion followed:**

The application states that it's been camped since 1950 and the accessory structure is allowed by right. The slope in the ledge makes it expensive for the applicant to meet the 40 ft. setback requirement. Terry doesn't think that the expense variable classifies this to be a hardship. Mitch doesn't feel that literal enforcement of the bylaw will result in substantial hardship. When Judy looks at the by right accessory structure in the Mass general law Section 6, it states that a second structure can't be more non-conforming than the first. Any new construction would have to meet code. You can't build an accessory structure on a lot that doesn't contain the main building. The issue of the 40 ft. setback should be kept to the forefront.

**c) The desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw.**

**Discussion followed:**

The applicant argues that the bylaw's purpose promotes health, safety, convenience, morals and general welfare of the towns' inhabitants and to protect the natural beauty of Middlefield. Allowing an accessory structure to be built as proposed will provide ready access for emergency personnel. Allowing the structure to be built next to the road insures that the hillside will largely remain in place since it will not be altered.

Terry is concerned that allowing the structure to be built, where it doesn't meeting the town's required setback would increase the pressure on the already congested way.

Judy stated that there hasn't been any new construction granted by the zoning board and that allowing this structure to be built would affect the whole area whereas it would be a safety hazard with inadequate space available for snow removal and general maintenance.

Mitch feels that there is not compelling circumstances in this case to grant the variance.

Granting this variance would erode the bylaws.

Any conditions would not be applicable.

Terry requested that all those in favor of approving Dr. Andrewes variance application should signify by saying Aye. All those opposed signify by saying nay. Mitch, Judy and Terry signified by saying nay. The application has been denied. The denial of the application will be written and submitted to the Town Clerk.

Attorney Mark Tanner thanked the Board.

Email communication between the two attorneys stated that the Review Fee Rule is in effect.

The check is in the mail to the Treasurer.

The Board agreed to have the attorney write up the decision. Terry will find out procedures to follow and inform the Board. The Chair would accept a motion to have Town Counsel formally write a decision. Mitch so moved. Judy seconded the motion. All were in favor.

Next meeting is scheduled for April 24 at 7:00 P.M.

Terry made a motion to adjourn at 7:00 P.M. Judy seconded the motion. All were in favor

**Informational Items:**

Dr. Andrewes variance application

Variances Bylaw 6.5

Respectfully submitted,

Suzanne C. Lemieux

Recording Secretary