

**Zoning Board of Adjustments
Minutes
October 12, 2015**

The Zoning Board of Adjustments met on Monday, October 12, 2015. Members present were Caroline Storrs, Chair, Bill Balch, Jason Bourne, Jim Brown, Kate Freeland, Dale Rook, and Bruce Tracy. Also present were Heidi Jaarsma, Recording Secretary; and, Jim Barker, Conservation Commission Chair

Caroline Storrs called the meeting to order at 6:00 pm. Bill Balch reported that Barbara Cieslicki had spoken with him regarding a variance for an addition to her Lang Road property that would be within the setback from the right of way. A November 2, 2015, meeting tentatively has been scheduled.

Reorganization

Ms. Storrs reviewed the current Zoning Board membership: Caroline Storrs, Chair, Jason Bourne, vice-Chair, and Bill Balch, Clerk. Voting members were Bill Balch, Jason Bourne, Jim Brown, Caroline Storrs, and Bruce Tracy. Alternates were Kate Freeland, Dale Rook, and Karim Chichakly.

Dale Rook moved that the same slate of officers be nominated. Jason Bourne seconded the motion, and the vote of the Board was in the affirmative, 7-0.

Discussion

Ms. Storrs informed the Board that she had invited the Selectboard, the Planning Board Chair, and the Conservation Commission Chair to the meeting. Bill Lipfert, Planning Board Chair, was out of town and unable to attend. Ms. Storrs had called the meeting in order to inform the Board of her recent communications with the Selectboard and to discuss the Zoning Ordinance.

Ms. Storrs said that she had been contacted regarding construction at 307 Center Road. On September 8, 2015, Ms. Storrs contacted the Selectboard regarding a recently poured concrete slab that was within the setback from the road and the stream and may lie within the Regulatory Floodplain Overlay District. A building permit had been issued. No site visit had been made. The building was 98' from the stream and 20' from the edge of the road. Ms. Storrs informed the Selectboard that the construction was out of compliance with the 100' setback from watercourses and 30' setback from the public right of way as described in the Cornish Zoning Ordinance. Ms. Storrs met with the Selectboard on October 2, 2015, and discussed with the Selectboard the procedure which she felt should have been followed. The Selectboard had received quite a few complaints prior to Ms. Storrs' meeting with the Board. Ms. Storrs expressed concerns regarding liability if the town allows building within the Regulatory Flood Plain. The Selectboard spoke with the LGC on-call attorney and received advice that the town has a duty to enforce the Ordinance, and if it is not followed the town could lose the ability to receive FEMA funds. Per attorney, a stop work order should be issued and a surveyor should be hired by the landowner to confirm whether or not the building lies within the Regulatory Floodplain. The LGC Attorney advised that the Selectboard contact town counsel. He added that the applicant has the duty to comply with all ordinances; however, the Selectboard issued a

permit without visiting the site. Ms. Storrs advised that the Zoning Board's stance should be that the Selectboard contact Town Counsel. She advised that individual members, should they contact the Selectboard, make clear that they are private citizens regarding the matter. Ms. Storrs said that construction of the building in question has continued.

Kate Freeland asked regarding how a private citizen would know how to measure the setback. Ms. Jaarsma, a member of the public, said that a wetlands engineer or a surveyor would be able to give a definitive answer. Ms. Freeland also mentioned that the floodplain has shifted with the 2006 remapping done by FEMA. Ms. Freeland asked for clarification regarding the process.

Jim Brown recalled a case on East Road where construction encroached the setback. If the construction is not in the Regulatory Flood Plain, it could be a variance issue. Bruce Tracy pointed out that the building permit application had been signed.

Bill Balch stated that tonight's meeting had been posted.

Jim Barker asked if the landowners had been made aware of the meeting. Ms. Freeland said that the landowners, who are neighbors, were aware of the meeting.

Bill Balch stated that conditions to ZBA decisions need to be enforced. Determination of the road right-of-way was discussed.

Jim Barker asked if the Zoning Board would take any action. Ms. Storrs said that the Board could not, but that individuals could do so.

Dale Rook moved to adjourn. Jim Brown seconded the motion, and the vote of the Board was in the affirmative.

Respectfully submitted,
Heidi M. Jaarsma