

PRESENT: Dever, Chairman; Pelczar, Vice- Chairman; Flanders, Thorpe, Hampton, Edney, Code Enforcement Officer, Tivnan, Clerk

Pelczar moved, Thorpe seconded, THAT WE APPROVE THE MINUTES OF FEBRUARY 12, 2009 AS PRESENTED. Voted unanimously.

### PUBLIC HEARINGS

**2870: BARBARA & DICK SERRANO:** An appeal for an AREA VARIANCE (ARTICLE V- SECTION D-2) to construct a garage w/breezeway with a side setback of 20', 30' required, Tax Map U22, Lot. No. 55, located at 193 Pinnacle Park in the Meredith Neck District.

Serrano – We would like to have a two-car garage with an attached breezeway. The land was surveyed by Associated Surveyors. One option was to put a driveway down the line but the doors of the garage would then be facing our neighbors and we thought that would be intrusive to them. That would also mean that we would have to eliminate some trees and shrubs and we were trying to not have to do that. We looked at the front but with the 40' setback that was not an option. We could not go to the right side because that was at 30' already. The left side was the only option. We feel this would be an improvement to our house and not be detrimental to the neighbors. All the other homes in the neighborhood have two-car garages. The lot is pie shaped. The 10' easement is at the front of the garage and diminishes as you go down the side of the garage. I did talk to my neighbors on the Pinnacle Park side but not the ones at the rear. Because of the septic and leech area, there is no other place. It would be very costly to move them. Thorpe – On one side of the sketch it shows a porch. Is that correct? Serrano – Yes. Thorpe- An alternative is a two-car garage without the breezeway or a one car garage with a breezeway and avoid encroachment on the 30' setback. Serrano - We do have two cars and we would like to get them in out of the weather and the breezeway gives you a break between the garage and the house so you are not stepping right into the home. Flanders – How wide is the breezeway? Serrano – I don't have final plans so I would be guessing'. Thorpe – You have a note in the packet from 191 Pinnacle Park, is there anything from 195? Serrano – They are here tonight. Pelczar My only question is the 30' depth. Serrano – Again, this is not cast in concrete. Flanders - I think what he is getting to, is if that was not 30', you may get farther away. Serrano – We didn't want to build something that would stick out and this seemed the best option. Dever – The problem I have with this is that we don't have any dimensions. I would suggest that you continue this hearing until you have some more definitive dimensions on that garage. Serrano – So you are looking for a full set of plans? Dever – I would suggest that. Flanders – I agree with the Chairman. It would be nice to approve a plan that is going to be built instead of giving you an area to build something. I am not opposed to a garage there but I think some time could be spent on getting closer to the 30'. Serrano – I didn't know I needed a full set. Flanders – I like the idea of a continuation. Pelczar – We don't need an architectural design. We

need some definite dimensions. This is just too vague. Dever – Eaves and overhangs count in Meredith. So would you like to request a continuance? Serrano – Yes. Dever – This case is continued to April 9, 2009. Thorpe – I am going to be the hawk on the panel because I am going to look at alternatives that can get you to the 30'. I can think of three or four right now. Whether you choose to accept them is up to you. Hearing closed at 7:18 PM

**2871: THREE MILE ISLAND-APPALACHIAN MOUNTAIN CLUB:** An appeal for an AREA VARIANCE (ARTICLE IV SECTION 6 D-2) to expand a non-conforming structure within the 25' natural woodland buffer, Tax Map I12, Lot No. 5, located at Three Mile Island in the Shoreline District.

Jack Trickey – I am representing the Appalachian Mountain Club. We have no abutters. We have one room cabins all along the shore. They have been there since 1920. There has been a manager's cabin since 1953. The managers have been husband and wife teams and their children have been old enough to sleep in their own cabins. In the 1970's we got managers who came as young couples and had their first child. So in 1975 we added an 8' x 10' addition for a nursery area. The last manager left because there was not enough room for his family. The new manager has children ages 4 and 7. They are too young to be in a separate building and too old to be with their parents. We are requesting a 14' x 12' rear addition to the cabin. (Showed pictures inside of the cabin) We looked at the request of the State at putting a second story on but the environmental damage to the island would be greater. In terms of putting a foundation in to support a second story that would ruin all the trees around the building. The current addition will take out three small trees and the piers will be hand dug to disturb very little land. We do have State approval. There was a lot of discussion about this. Nothing is done at Three Mile Island very quickly. Hearing closed at 7:25 PM

**2872: AMES ASSOCIATES FOR MICHAEL & MICHELE MERRILL:** An appeal for a SPECIAL EXCEPTION (ARTICLE V SECTION D-9 (G-4)) to develop parking within the protective buffer of a designated wetland, Tax Map U151 Lot No.14, located at 71 NH Rte. 25 in the Central Business District.

**2873: ASSOCIATED SURVEYORS FOR B&F MEREDITH LLC:** An appeal for a SPECIAL EXCEPTION (ARTICLE VIII SECTION "DEFINITIONS") to allow off-street parking within the setbacks, Tax Map S19, Lot No. 36 & 54, located at Needle Eye Road in the Commercial – Rte 3 South District.

Johnson – This site is three lots of record. The front portion is what is being developed. There is a wetland complex towards the middle of the property and then there is an additional upland section that is further to the east. It is being developed as a small commercial operation. (Pointed to highlights on the plan with the elements that caused them to come before the ZBA- Parking within the front setback) The wetland is a non-designated wetland but it is of fairly significant size. In order to preserve the

integrate of the wetland and maintain the 50' buffer the majority of the development would have to be pushed towards the road. This building will house 9 very small commercial operations. The parking requirements are 60 spaces. We are limited because you have Needle Eye Rd to the north. The front setback in this zone is 50' so it does allow you a lot of land between the ROW and the setback. There was an Engineering Plan. (Showed the plan to the Board) The parking in the setback does not interfere with the drainage structure that controls the drainage that comes off this site and drainage that comes down the highway. (Yellow highlighted area shows' parking that is in the setback) This is the portion that we are asking for relief. The Zoning Board saw this before with wetland and buffer impacts. We received the special exception and the area variance from the ZBA and Site Plan approval from the Planning Board. In order to grant the special exception we believe that we have demonstrated that this use will not be detrimental to the neighborhood. This is a commercial zoned portion of the town. The use will not be contrary to the public health, safety, or welfare by reason of undue traffic etc. I believe we have met the requirements for granting a special exception. Hampton – How many parking slots are in the yellow? Johnson – 15 spots. Hampton – Any parking in the back? Johnson - No. Hearing closed at 7:35 PM

### MOTION FOR A REHEARING

**2861: 38 MAIN LLC** : An appeal for an AREA VARIANCE(ARTICLE V- D-7 B) to convert 2<sup>nd</sup> floor commercial space to a residential apartment, minimum area required 10,000 sq. ft. per unit. This would create (2) residential units within the building. Existing lot is 5,431 sq. ft. Proposal would require 20,000 sq. ft., Tax Map U 7, Lot. No. 131, located at 38 Main Street in the Central Business District.

Dever – Does everybody have the appeal? In order to grant a rehearing we either had to make a mistake in the law or new information was provided to us that was not available at the time of the original application. Flanders – Did I read in here that it talks about a garage? Hampton – Are anyone of those two criteria applicable? Dever – We didn't make any mistake in the law and any information that is provided in this was available to us before. You have to keep in mind that one of the reasons for the denial was because it did not meet the spirit and intent of the ordinance as far as the density went. She had a non-conforming use with the residential apartment because it didn't meet the density. Then it was converted to a conforming use by going to a commercial unit because commercial does not have density requirements. Now, she is trying to change it back to a non-conforming use. That violates the spirit and intent of the ordinance and it violates the spirit and intent of the zoning. We have zoning to do away with non-conforming. Flanders – It does say in the second page about the garage space. "It is one of the few properties on Main Street that provide for private parking". Dever – That was not part of the application but it was information that was available to us when she made the application. This was available, she just didn't present it. That is not our fault. Flanders - Is that how that reads? Dever – Exactly Flanders – The way I look at it, is I didn't have that information. Whose fault it is, I don't know. Dever – The applicant didn't present it to us. If new information came up

that was not available at the time of the original application and that information was available to us. Flanders – I understand you're interpretation of it, I'm just.... Dever – It's the law, not my interpretation. Flanders – We can all interpret the law in a million different ways. Dever – Do you have your Zoning Board Manual? It will tell you what I just told you. (Board reviewed what was in the manual) Chairman requested all board members get a copy of the handbook. Dever – Motion?

Pelczar moved, Thorpe seconded, MR. CHAIRMAN, IN CASE # 2861, I MOVE THE MOTION FOR A REHEARING BE DENIED, AS THERE IS NO NEW EVIDENCE AND NO ERRORS MADE BY THE BOARD IN THEIR ORIGINAL DECISION. Voted 5-0 in favor of the motion.

### DELIBERATION

#### **2871: THREE MILE ISLAND-APPALACHIAN MOUNTAIN CLUB:**

Thorpe – I think they are doing a good job. There is no foundation and they are going away from the lake and not towards it. It appears to have been well thought out and documented. Dever – Let's go through the criteria.

1. No diminution in value of surrounding properties would be suffered. – Board all agreed.
2. Granting of this variance will not be contrary to the public interest.- Board all agreed.
3. Since: a. the following special conditions of the property make an area variance necessary in order to allow the development as designed; - Board all agreed.
4. b. the same benefit cannot be achieved by some other reasonable feasible method that would not impose an undue financial burden. – Board all agreed.
5. Granting this variance substantial justice would be done. – Board all agreed.
6. The use contemplated by petitioner as a result of obtaining this variance

would not be contrary to the spirit of the ordinance. – Board all agreed.

Pelczar moved, Thorpe seconded, IN CASE #2871: THREE MILE ISLAND-APPALACHIAN MOUNTAIN CLUB, I MOVE THE APPEAL FOR THE AREA VARIANCE (ARTICLE IV SECTION 6 D-2) TO EXPAND A NON-CONFORMING STRUCTURE WITHIN THE 25' NATURAL WOODLAND BUFFER, TAX MAP I12, LOT NO. 5, LOCATED AT THREE MILE ISLAND IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

**2873: ASSOCIATED SURVEYORS FOR B&F MEREDITH LLC:**

Pelczar – It seems they are trying to maintain the site. It seems like a good plan.  
Thorpe – I assume there has been a site plan review by the Planning Board. Dever – Yes it has. Thorpe – I think it meets the criteria for a special exception.

Thorpe moved, Pelczar seconded, IN CASE # 2873: ASSOCIATED SURVEYORS FOR B&F MEREDITH LLC: I MOVE THE APPEAL FOR THE SPECIAL EXCEPTION (ARTICLE VIII SECTION “DEFINITIONS”) TO ALLOW OFF-STREET PARKING WITHIN THE SETBACKS, TAX MAP S19, LOT NO. 36 & 54, LOCATED AT NEEDLE EYE ROAD IN THE COMMERCIAL–RTE 3 SOUTH DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

Meeting adjourned at 8:00 PM

Respectfully submitted,

Christine Tivnan  
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on \_\_\_\_\_, 2009.

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Jack Dever, Chairman