

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

Clark did not sit.

PUBLIC MEETING

THE MEREDITH ZONING BOARD OF ADJUSTMENT WILL REVIEW MOTION FOR REHEARING, TUESDAY, MARCH 20, 2012, 5:00 P.M. AT MEREDITH TOWN HALL ANNEX, 5 HIGHLAND STREET, REGARDING THE FOLLOWING CASE:

2974: BRUCE REICHLEN: An appeal for a SPECIAL EXCEPTION (ARTICLE V, SECTION D-9 G1b) to construct a water impoundment area (pond), Tax Map S25, Lot No. 27J, located at 42 Wall Street in the Shoreline and Lake Waukegan Watershed Overlay District.

Dever – For the record, the same Board members that sat for the initial hearing are sitting tonight. I believe you all know what the requirements are for granting a rehearing. The applicant has to provide some new information that was not available at the first hearing or we did something to violate the law. In reviewing the application for a rehearing, it says that there was a conflict of interest. Bruce does serve on the Meredith ZBA and he did sit on February 9, 2012 and heard and deliberated on some cases. He did step down to present his own application for a Special Exception. They felt he should not have sat on any cases that night because he was going to present his own case. There is no statutory requirement that says he can't do that. I don't see a conflict of interest plus at the beginning of each hearing I ask if anyone feels that a member of the Board may have a conflicts of interest please say so when the case is called. I did review the tape and I did say that. Does anyone have a different opinion? Thorpe - I agree. Flanders - Every Board member has a right to present an application in front of the Board. Dever - The record does show that Bruce stepped down when he presented his case and Tim sat in. They feel the applicant should demonstrate that the health and safety of them won't be affected. I don't think they realize that once we approve this it doesn't mean they start digging. He still is subject to our erosion and sedimentation control ordinance. This requires a plan to Bill and if Bill is not satisfied, he can have it engineered. This is the first step instead of requiring the applicant to spend a lot of money. This is a simple pond. Regarding the argument on a defective notice. One of the abutters said he didn't get the notice; however, we checked and the notice was sent out according to the law. Pelczar – The post office sends notices to you if you don't pick up your mail. Tivnan - This abutter has a mailing address in Meredith and has their mail forwarded to a Florida address. It goes certified but not return receipt and I may not get it back for 2 weeks. Dever - They also said they sent an agent to the hearing; however, Duncan did get up and made a few statements but offered no proof to us that he was acting as an agent. So, the fact the ZBA is a quasi-judicial Board, that is looked at like testimony in court. Edney – They had ample time to write something for the meeting. Dever – In this day of instant communication, it is hard to say they didn't hear anything or have time to respond. The bottom line is, we did notice

properly. Goodheart – It seems like their biggest concern was the flooding event that happened a few years ago. Bill mentioned the fact the flooding that did happen on their property was not related to Reichlen's. Pelczar – In my memory, I believe Bruce said he met with both abutters in person regarding this application and I also thought Duncan said he had talked to them on the Friday prior to the meeting and also on Saturday and Sunday. They had plenty of time to send in a letter with their concerns. I am not positive on this, it's just my memory. Dever – I did have Chris email you "The importance of Timeliness" from the law lecture referencing disqualifications or conflict of interest. There is case law on timeliness. You don't wait until after the decision to see how the vote goes. We did this the right way. Goodheart - If we hold to our decision, is this going to be another Foundry Avenue where this can be appealed to the Selectmen? Dever - No. They have 30 days to challenge this decision by appealing to superior court. Flanders – The last time they got the Selectmen to appeal to us and then it went to superior court. Dever – Their appeal time to us is over. Thorpe – The only element to this that I was somewhat sympathetic to was the mail apparently not being delivered in time to the Florida address but Mike brought up a good point that Duncan talked to them. They were clearly aware of this application. So even if they didn't get the notice, they were aware of the hearing, well in advance of the meeting, to send comments. Dever – Even if they didn't get the notice, we did not violate the law. Thorpe – I don't see any reason to grant this rehearing. We did everything right.

Thorpe moved, Pelczar seconded, MR. CHAIRMAN, I MOVE IN THE MOTION FOR A REHEARING ON CASE # 2553: AN APPEAL FOR A SPECIAL EXCEPTION (ARTICLE V, SECTION D-9 G1B) TO CONSTRUCT A WATER IMPOUNDMENT AREA (POND), TAX MAP S25, LOT NO. 27J, LOCATED AT 42 WALL STREET IN THE SHORELINE AND LAKE WAUKEWAN WATERSHED OVERLAY DISTRICT BE DENIED, AS ALL PROCEDURES WERE PROPERLY FOLLOWED IN THE INITIAL HEARING OF THE CASE. Voted 5-0 in favor of the motion

Meeting adjourned at 5:30 PM

Respectfully submitted,

Christine Tivnan
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on April 12, 2011

Jack Dever - Chairman