

MINUTES OF THE ZONING BOARD OF ADJUSTMENT MEETING
May 14, 2015
7:00 PM

Meeting called to order by Chair Electra Alessio, present, Ray Donald vice chair, Daryl Branch, Peter Coffin, and John Marzilli. Mr. Coffin made a motion to accept the minutes for the April 9, 2015 meeting Mr. Donald seconded all in favor.

Timothy Reed, Tax Map U-7, Lot 9

Ms. Alessio spoke about the question of the boundary line and the town's liability if a variance was granted and the possibility of moving the shed to the back end of the house. Mr. Timothy Reed explained that there is a slope at that end of the house and it's the only open area. Mr. Reed stated it would also block the bedroom windows. Mr. Reed stated he would like to keep the shed where it is placed now and where it has been for the last fifty years. Mr. Reed stated the only dispute is if it was on his property and acquired a certified plot plan. Mr. Reed stated he wanted to keep the shed in approximately the same location but move it fully onto his property. Mr. Reed stated he did not want to do an adverse possession to take his property if he didn't have to. Mr. Reed stated the shed has been there in excess of twenty five years and that is all that is required by statute. Mr. Reed stated he would much rather move it over and have it be on his property. Mr. Reed spoke about the letter he received regarding not having a building permit and not being able to meet the building setbacks. Ms. Alessio stated the shed had not been repaired but replaced. Mr. Reed stated it had been beaten down over the years. A discussion followed regarding Mother Nature, neglect over time. Ms. Alessio talked about the minutes from January and a lack of hardship. Mr. Coffin stated the shed could go in the area that is used for parking. Mr. Reed stated it couldn't go over there because his septic system was there. Mr. Coffin stated it would not affect the septic system. Mr. Coffin asked if it was on the plot plan. Mr. Reed stated it was not it was installed back in 1958. Mr. Coffin stated the only concern would be placing the shed on top of the access. Mr. Reed stated it was left in January that the board was fine with granting the waiver for the setback but wouldn't approve without knowing if it was on his property. Mr. Coffin disagreed stating no vote was ever taken and they had drawn a map showing an opportunity to place on the property. Mr. Reed stated he couldn't put it there without hardship it would be much farther away to have to walk to get anything, it would be in the way, and the slope would make it difficult, and not be as nice. Mr. Reed again said it had been

there for 50 years. Mr. Coffin stated it had been there less than a year and was brand new. Mr. Reed quoted the zoning ordinance and submitted it was an act of God. Mr. Reed stated it was started within a year and completed within 2 years. Mr. Reed stated the shed was smaller, same height, same function and he had taken out the electrical. Mr. Reed stated he met the definition and updated the shed because it was falling down, but it was there. Mr. Reed stated the shed was much nicer than it was. Mr. Coffin stated falling down is not an act of God. Mr. Coffin spoke of other situations where structures through neglect had to be taken down. Mr. Coffin stated it could have been repaired. Mr. Reed asked if Mr. Coffin had seen the photos and stated there wasn't much left to be salvaged. Mr. Branch asked to see the certified plot plan. The plan was distributed and discussed. Mr. Branch spoke about granting a variance on someone else's property. A discussion followed regarding granting the variance with a time limit for the shed to be moved. Ms. Alessio stated there were two issues one being the shed being on the neighbor's property, and the applicant dismissing the ability to relocate the shed on the other end of the home. Mr. Donald spoke about whether not granting the variance being a hardship. Mr. Donald stated there is not a hardship if there is property available on the lot where a variance would not be required. Mr. Reed stated again it was not an ideal location, to have it on the most distant location would be a hardship to him. Ms. Alessio stated it's not that far away, and just a little inconvenient. Square footage and setback amounts were discussed. Further discussion followed regarding the ideal location versus moving to the other side of the house. Mr. Donald spoke about repairing the shed without a building permit and building on someone else's property and granting a variance without a hardship. Mr. Donald stated the ordinance and RSA's do not deal with people's preference but with hardship of the property. Mr. Coffin stated the the applicant would not be allowed to rebuild the shed on someone else's property even if it was an act of God. Mr. Reed spoke about adverse possession. Mr. Coffin stated the applicant could do that but still would not be able to put the shed in that location without getting a variance. Mr. Coffin stated the applicant needed to pick a place that was as compliant as possible and that there is a location that is compliant. Further discussion followed regarding elapsed time and the lack of a building permit, building on the neighbors' property and an alternate place on property to move the shed to. Mr. Reed stated that he wished they had this discussion before he spent the money on the plan. Ms. Alessio stated he would have had to acquire the plan either way to find out if the shed was on his property. Mr. Branch spoke about his recollection of the January meeting. Ms. Alessio read from the January meeting minutes. Ms. Alessio stated the board like to help the homeowner but sometimes their hands were tied. Mr. Coffin stated that the abutters

also needed to be protected. Ms. Alessio asked for any other comments and read the criteria. A vote was taken only one of the criteria passed. Mr. Coffin made a motion to deny the request for the variance seconded by Mr. Branch all in favor. A discussion followed regarding the formal notice of violation issued by the Office of Selectmen and the requirement of a building permit, or variance to move the shed and the function of a plot plan. Mr. Coffin stated he did not think the selectmen made an error. Mr. Coffin moved to establish that the selectmen made no error, Mr. Donald seconded, all in favor. Mr. Reed stated he felt he was following the rules and was being punished. A discussion followed regarding inconsistencies. Ms. Alessio thanked Mr. Branch for his services and wished him well.

Ms. Alessio adjourned the meeting at 7:52.

Respectfully submitted,

Tammy L. Bakie
Secretary
Zoning Board of Adjustment