

**Sugar Hill Zoning Board Of Adjustment
November 9, 2010**

Members: Mike Hern, Don Boissonneault, Peter Anderson, Janet Anderson, Amy Venezia, John Colony

Guests: Jim Keefe, John Strasser, Alex Aaron, Attorney Steven Whitley, Mark Champagne

Chairman Mike Hern called the meeting to order at 5:30pm on Tuesday, November 09, 2010 at the Carolina Crapo Memorial Building. Chairman Hern noted that the meeting is being recorded. On a motion made by Mike Hern seconded by Janet Anderson the minutes of the March 23, 2010 were moved to be approved and accepted. PASSED

**Alex Aaron
Case 02-10
Tax map 202 Lot 12**

Chairman Mike Hern noted that he was asked by applicant's attorney to step down as Chairman for this hearing due to a conflict of interest and that Vice Chairman Peter Anderson will chair the meeting. He noted that Amy Venezia would be sitting in as an alternate for this hearing.

Vice Chairman Peter Anderson stated that the reason for this hearing is that the applicant has been issued an order by the Select board to cease and desist on her building on this property due to insufficient setbacks for building lot. Attorney Steven Whitley representing Ms. Aaron presented himself before the Board and stated that he would be speaking to the Board about his letter submitted. Vice Chairman Peter Anderson stated that all the letters issued and received regarding this lot would be read into the record at this time.

The first letter that was read was a letter sent to Ms. Aaron by the Select board dated 2/9/10 which ordered a cease and desist on the property because the property did not meet the necessary setbacks.

Letter from Baldwin and Callen, PLLC dated 6/14/10 in reference to Select board letter. 6/30/10 letter from Town of Sugar Hill back to law firm stating that the Select board felt that the setback is not met and that when all parties met regarding the setbacks all agreed to a certified survey on the property to show the proper setbacks from the water.

7/23/10 response letter from Baldwin & Callen, PLLC.

7/27/10 response from Town of Sugar Hill stating the shoreline setback foundation sits 62 feet back from Streeter Pond and does not meet the 75 feet setback noted in the Zoning Ordinance for the Town of Sugar Hill. The town is requesting a survey that shows the high water mark and at this time there is no formal cease & desist as they are giving her time to submit the certified survey.

9/20/10 letter from Moose Realty (Ms. Aaron) to the Town of Sugar Hill.

9/21/10 Town of Sugar Hill response to Moose Realty letter and stating that they have spoken to Mike Hern, Chairman of the Zoning Board of Sugar Hill and that he concurs the same as the Select board regarding the setbacks.

9/27/10 Boulanger Consulting to Ms. Aaron regarding a survey of the property and noting the setbacks which he feels meets the Town specifications.

10/4/10 Town of Sugar Hill to Ms. Aaron stating that in order for her to continue to build she will need approval from ZBA of Sugar Hill.

10/30/10 letter from Lobdell Associates regarding this property.

11/5/10 letter from Baldwin & Callen, PLLC addressing the property and noting all previous received letters regarding this case.

Attorney Steven Whitley submitted copies of his letter dated 11/5/10 to all members of the Board. He stated that the wetlands permit should be on file as it would have needed to be presented to the Select board in order for Ms. Aaron to receive the initial building permit. Vice Chairman Anderson noted that he does not have a copy of this permit in the ZBA file. Mr. Whitley noted the letter and map from Boulanger Consulting dated 9/27/10 which shows the front and side of the foundation to be in compliance with setbacks. He is asking the ZBA to reverse decision on building permit and allow client to continue building and also to grant her an extension on this building permit because of the amount of time that has been lost due to the cease & desist order. Abutter, Mark Champagne stated that the Board should listen to what Mr. Lobdell stated in his letter as he had valid points. There was a discussion regarding what the front and the rear of a building are and all agreed that the rear is opposite to the front.

Vice Chairman Anderson stated that “from normal high water level” is clearly stated in the zoning ordinance and that on the plans presented he cannot see where the setbacks are measured from the normal high water level. Attorney Whitley noted that his applicant has a survey where high water level is shown but does not have it with her tonight. He stated that she could provide it to the Board at a later date. Attorney Whitley noted that his applicant received wetlands approval from NHDES prior to submitting her application for building. John Colony, board member stated that the normal high water level needs to be delineated on a survey and then the measurements can be done from there. Vice Chairman Anderson noted that a survey from the normal high water level has been repeatedly asked for in the letters from the Select board. Attorney Whitley asked the Board if they would like his client to come back with the high water level and continue this discussion at that time? Attorney Whitley asked for clarification of the setback. He asked if the 75’ setback would be measured from the nearest part of the rear of the house and if this part would need to be 75’ from the normal high water level. The Board agreed that it should be measured from the nearest part of the building to the normal high water level.

At this time the public part of the meeting was closed and the Board resumed in closed session. Mr. Lobdell’s letter was reviewed for clarification by Board members. John stated that we still need the elevation of the normal high water level on a legitimate survey and the results would go to the Select board as they are the ones that have been asking for this. He further stated that this board is not an appellant to the Selectmen and the interpretation of what the setbacks are and where you measure it from which goes

back to the Select board. Vice Chairman stated that the intent of ordinance is to protect the water. Don Boissonneault motioned to move to vote. Don Boissonneault made a motion to uphold the appeal of the Select board, seconded by John Colony. PASSED UNANIMOUSLY.

On a motion made by John Colony, seconded by Janet Anderson it was moved to adjourn.