

TOWN OF BOLTON

SPECIAL TOWN BOARD MEETING

June 15, 2009

PRESENT: Supervisor Kathleen Simmes, Councilmen Robert MacEwan and Jason Saris, Councilmember Deanne Rehm, Zoning Code Enforcement Officer Mitzi Nittmann, Town Counsel Michael Muller and Town Clerk Patricia Steele.

ABSENT: Councilman Owen Maranville

Meeting Called to order 7:03 p.m.

PLEDGE: Supervisor Simmes

Public hearing for the Septic Variance for Camp Walden property owned by Hilda Roden, 1 Trout Lake Club Road, Diamond Point, Parcel ID#185.19-1-13, Trout Lake Island.

Camp Walden has been taking children out to Hilda Roden's Island since last year for a camping program using tents. They have built and are using an outhouse (privy) for their bathroom facilities. A 100' separation between the privy and the Trout Lake shoreline is required, 55' minimum is proposed. The Board of Health will need to decide whether or not to grant a variance.

RESOLUTION #134

Councilman Saris moved, seconded by Councilman MacEwan to convene as the Bolton Board of Health. All in Favor. Motion Carried.

Andy Roden stated that Mark Bernstein, owner of Camp Walden, approached his family about using their island on Trout Lake for the camp Walden's camping program. He stated that currently there is a house on the island as well as an old outhouse. The old outhouse is only about 25-30' from the shore and has not been used in about 50 years. He stated that they did not want this privy to be used because of the close proximity to the lake and because of its age and suggested that Camp Walden build a new one. They choose a location that is 15-20' above the lake, which is the high part of the island, in a sandy location and it is 58' from the shoreline. He stated that his family decided that they did not want to use the house bathroom to accommodate the campers because it is for family and personal use only. He stated that they have a rental cottage which is closest to the island and they never received any complaints of noise or smell from the privy. He stated that he has grown up on this lake and renting the cottages is his livelihood and he would not do anything that would jeopardize the quality of the lake or his livelihood.

Mark Bernstein stated that they have to follow local law because it is stricter than the State law, but they do meet the State regulations of 50' and increased elevation. DOH has been out to inspect the property and although they do not have jurisdiction over the privy they did feel that the location was ideal and that it met their regulations. He stated that he has requested that the State put that opinion in a letter and they have agreed. Mark Bernstein stated that he is not sure how much it gets used because of the time frames that they are on the island. He continued that they also do not use the island every day.

Councilmember Rehm asked if the pre-existing privy was removed. Andy Roden replied no but it is non-functional and could not be refurbished or moved.

Councilman MacEwan asked what they used last year. Mark Bernstein replied that they used the new privy last year. He stated that he only called the State DOH and DEC and was not aware that he needed Town approval. He continued that they operated last summer without any complaints until the fall.

Colleen Klass, Trout Lake Village, stated that she called DEC and the State DOH and they informed her that Camp Walden would need a permit for the campground and to be approved by the Bolton BOH for the outhouse. The State agencies also informed her that all of the campgrounds in the Adirondack Park have a maximum of 6 persons/campsite and there needs to be 1 privy/campsite. She stated that last year there were up to about 40 campers on the island which well exceeds the maximum required by the State. Mark Bernstein replied that at times there could be 40 campers but normally they had smaller groups of 20-30 kids. Colleen Klass stated that after a night with a large outing she could smell it from their beach. Mark Bernstein asked why she had not called him to let him know. Colleen Klass replied that she wasn't even sure who was using the island so she didn't know who to call. Andy Roden stated that she could have called him.

Colleen Klass stated that she has known the Roden family for a long time. She was not aware that the island was going to be used as a campground. She stated that they only way that she and the neighbors found out was by hearing the noise and seeing the new outhouse. She stated that they were stunned because Mark Bernstein did not obtain a permit for the campground or privy. She stated that she and the neighbors were frustrated because they called the Town to complain and no one got back to them. She doesn't understand how he could have gotten approval for the campground when none of the neighbors were notified.

Colleen Klass stated that part of the island is considered wetlands and according to the APA, a privy cannot be located within 100' from any wetlands. Andy Roden stated that the island is not wet year round and he does not believe that it was classified as a wetland. Colleen Klass asked if the Town has verified all of the applicant's claims. Supervisor Simmes replied yes DOH requires 50'. Mark Bernstein stated that DOH did visit the site and they were okay with the location and placement of the privy but they do not have any jurisdiction.

Supervisor Simmes read the following letters:

Susan Biscott in opposition to the application.

Will and Donna Cavanaugh in opposition to the application.

Mr. and Mrs. Syska in opposition to the application.

Peter and Jean Dansen favorable to the application.

Kathy Tonn, Trout Lake Village, stated that her biggest concern is the amount of people using this privy. She stated that part of the approval process is to show hardship and there is no hardship because there is no absolute need for a privy on the island.

Jen Butterfield stated that as a 4H counselor she understands the whole concept of providing a true camping experience. However, she feels that they could find a different campsite area for this program. She stated that there are many areas that are just as nice and can accommodate many campers without disrupting neighbors. She stated that if they continue using this site she suggested that they might want to consider using a compost toilet for the privy.

Mark Bernstein stated that in previous summers they have used the LG islands but they found that this island was safer because the location puts them closer to the camp in case of emergencies. He stated that if he felt that this privy was endangering the quality of the lake he would not want to do this because it affects his personal enjoyment of the

lake. He stated that there is very little fluid leaching into the ground because they do not have a toilet that is flushing or running water. Colleen Klass asked what happens in heavy storms. Mark Bernstein replied that the hole is 20' above the lake.

Brian Fear, CLA Site Engineer and consultant for Camp Walden, stated that the outhouse has a roof to divert the rain. It is 15-20' above the lake level and the ground water table is way below that. He stated that there is no potential for pollution because there is no water to move it. Supervisor Simmes stated that Brian Fear used to work for the DOH. Brian Fear replied that was correct. He continued that Mark Bernstein is correct in saying that DOH regulations are 50' from the lake.

Councilmember Rehm asked Brian Fear if this is non-jurisdictional to the DOH because it meets their requirements and standards. Brian Fear replied yes, the only DOH requirement is the 50' setback from the water and the rest are design standards for construction and ventilation. Councilmember Rehm stated that the 100' setback is only in the Town of Bolton's standards and they as the BOH have the authority to vary that if they feel it is acceptable.

Councilman Saris stated that the number of people using this privy could be an issue and asked if there was some practical limit that the DOH uses in its regulation of outhouses. Brian Fear replied that there is no such limit for use. Mark Bernstein stated that he could see limiting the use or number of users if they were consistently using the island for 7 weeks straight. He would also see the need for removal of the waste. However they are only using this island 3-4 days/week, but not every week due to their schedule. He stated that when they went out this year to get set for the summer program they looked to see if it needed to be cleaned out and it had all decomposed over the winter.

Councilman MacEwan asked Counsel if they asked the applicant to use the current septic would it cause a problem with usage of that? Counsel stated that Mr. Roden has stated that it is only for family use. Andy Roden stated that it is only for family and it is not available to the campers.

Counsel directed them to describe the practical difficulty or hardships in meeting the setbacks. Andy Roden stated that they do not have a location on the island now that could meet the 100' setback from the lake on both sides due to the location of the current house and wetlands. He stated that they could locate it 85' away from the lake but that would put them closer to ground water and the soils are not as good. He stated that the current placement is 15-20' above the lake level in sandy soil which is ideal for the privy.

Councilmember Rehm stated that a previous applicant was attempting to re-build a septic system on their property on Trout Lake. They could not meet the setbacks and the Town had suggested possibly testing the water to see if the system was working properly or to be sure that there was no contamination. However, the applicant's engineer was concerned that if there was contamination, due to the other activity on the lake and how water moves, it would be difficult to tell the source. She asked Brian Fear if he thought they could do some type of monitoring for this site. Brian Fear agreed that it would be very difficult to test. Councilman Saris asked if they could dig a test well between the outhouse and lake. Brian Fear replied that they could try that. There was further discussion of testing the soil.

Jen Butterfield stated that they use a special solution in the outhouses at her campsites that help the degrading process. She stated that they also keep the lids down and keep them protected from the sunlight. Supervisor Simmes asked how many outhouses Sportsman's Paradise has and if they have ever had any complaints. Jen Butterfield replied they have about 10 and they do not have any complaints about the smell.

Councilman MacEwan asked Mark Bernstein if they thought to reduce the number of campers allowed to participate in the program since that seems to be the biggest concern. Mark Bernstein replied that it would be difficult to break up the grades because it is best to keep them all together. He reiterated that they are not using the island on consecutive days and weeks.

Kathy Tonn stated that she had the following concerns:

They built the outhouse last year without any permits.

They changed the use of the island without any notification to any of the neighbors.

They are claiming that there have been no complaints but that is not true because they did complain last year, but were not really responded to by the Town.

With regard to testing, she stated that it is brand new, it shouldn't have any problems. However, what they should be concerned with is what happens in 25 years.

With regard to the comment made about lack of notification for the change in use, Counsel stated that this application went through the proper channels. He stated that this was duly published in the paper and it was reviewed by the PB in the public forum for a camping site on the island. Counsel read from the February 2009 PB meeting minutes. Colleen Klass stated that they brought it to the Town's attention and it is being approved as an "after the fact" application. Counsel agreed and however he explained that it was not a clear violation and since that time the mandate has followed the proper procedure. He stated that as part of the approval from the PB they will have to return in a year for review.

Councilman Saris stated that in contrast to the septic design requirements at the PB level the BOH standards for granting a septic variance are not very well defined. Counsel agreed and in previous applications he has suggested using a blanket format to follow certain criteria.

Colleen Klass asked if the change in use would affect the property taxes. Councilmember Rehm replied that would be determined by the local assessor.

Councilmember Rehm asked if any testing could be done that would not require a lot of engineering, time or effort. Brian Fear replied that he was not sure of how they could test the soil. He stated that his personal experience has been in testing the water.

Peter Dansen stated that he rents a cabin 8-10 weeks every summer and his guests use the beach. He stated that his guests have never complained about the smell or noise. He stated that the outhouse meets all of the State specifications including the 50' setback and is only lacking the 100' setback from the Town and would be in favor of granting the variance.

Councilman MacEwan asked if the State agencies were aware of the amount of kids using this privy. Mark Bernstein replied no the agencies had no concerns. He stated that the camp in general has to pass many State inspections and they would not allow anything that wasn't safe. He has to get their approval before he goes before the Town or County.

Councilman MacEwan stated that since they did not receive any complaints last summer, if they were to grant approval he would suggest that they re-visit this application in a year. Counsel suggested that they include some sort of monitoring and that they could review it again in a year.

Kathy Sinnott stated that the applicant should be granted the variance. She feels that there is no question that with the design and location of the privy, there will be no contamination. She stated that she cannot speak about the odor but feels that there are many solutions that they could look into to curb that. With regard to monitoring, she feels that would be difficult to test the soil.

Andy Roden stated that they consulted a licensed engineer to design the privy. If they want to question a licensed engineer then they should question every septic system in and around the area. He stated that these issues being raised have nothing to do with the privy, but rather the use of the island and whether there is a smell or not. Kathy Tonn stated that the issue is that they have not proven a hardship to allow the use of an outhouse. Councilman Saris read the hardship language from the format provided by Counsel to explain what the BOH needs to determine.

Dennis Murphy, owns property adjacent to the island, stated that his brother rents from Andy Roden for 4 weeks over the summer in the closest cabin to the island. He stated that he personally has spent numerous evenings at his brother's cabin while this program was taking place. He has no issues with the camp in any way. He stated that he was at the PB meeting where the Site Plan was granted for the use of this property. He suggested that they focus on the variance request. He does not feel that the Roden's should be forced to allow the campers to use the private residence for the bathroom. He supports the project because he does not feel that it is a huge request. Councilman MacEwan asked if the outhouse was visible or if he noticed a smell while at the cabin. Dennis Murphy replied that there was absolutely no smell and it was not visible to him until he physically went on the island.

Councilman Saris asked if there was a complaint of odor from the site who would have jurisdiction over it. Counsel replied that the Zoning Enforcement Officer normally would do these types of inspections but she has no means to get out there. Supervisor Simmes stated that if there was a complaint she feels that the ZEO could find someone to take her out there. Andy Roden stated that they could call him or Mark Bernstein to get out there. Councilman Saris stated that it would be a condition through the local BOH. Counsel replied yes the BOH would utilize the ZEO. With regard to monitoring or responding to odor at the site, Dennis Murphy pointed out that there is a swamp area to the south of Trout Lake Village and if any boat goes in there and churns it up it can give off the same sort of smell.

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RESOLUTION #135

Variance Request:

Hilda Roden, 1 Trout Lake Club Road, Diamond Point, NY – Trout Lake Island, Parcel ID#185.19-1-13

Motion by Councilmember Rehm and seconded by Councilman Saris,

WHEREAS, an application for a variance pertaining to the design of a private sanitary sewage disposal system (and requirements imposed by Ordinance #36 of the Town of Bolton entitled "Sanitary Sewage Disposal Ordinance") has been applied for the following reasons: it does not meet the Town of Bolton setback requirement of 100' from the shoreline.

WHEREAS, the Town Clerk's office published the notice of public hearing in the municipality's official newspaper and the local Board of Health conducted public hearings concerning the variance request, and

WHEREAS, the local Board of Health has been assured that the municipality has duly notified all property owners within 500 feet of the subject property,

NOW, THEREFORE, BE IT RESOLVED, that due to the nature of the variance(s), it is determined that the variance(s) would not be materially detrimental to the purposes and objectives of the rule, regulation or ordinance nor to another adjoining property, and will not otherwise create conflict with the purpose and objectives of any town plan or policy; and

The local Board of Health finds that the granting of the variance(s) is necessary for the reasonable use of the land in the manner in which it is proposed to be improved and utilized, and the variance(s) granted is the minimum necessary to alleviate the specific unnecessary hardship found by the local Board of Health to affect the applicant's property; and,

BE IT FURTHER RESOLVED, that the local Board of Health hereby specifically approves the application as follows:

Specifications as to the variance granted:

The applicant must return in May 2010 to the BOH for review of the privy

The applicant will make the site available to the Zoning Enforcement Officer; once before the season starts and again mid season, sometime between August 1st and 7th.

Any report of offsite odor is attended to immediately in the most responsible manner possible.

All in Favor. Motion Carried.

Supervisor Simmes recommended that Mark Bernstein discuss getting more information about the solution used at Sportsman's Paradise. Councilmember Rehm stated that she would like to set up some monitoring but she would like to see how this goes. She stated that she would like the applicant to talk with some engineers or someone that might think of a way to monitor it for the potential of any pollution.

RESOLUTION #136

Councilman MacEwan moved, seconded by Councilman Saris to adjourn to regular session. All in Favor. Motion Carried.

Conservation Club Proposed Plans- Kevin Kershaw

Kevin Kershaw presented the new plans for the Conservation Club. He stated that the building committee has been trying for many years to refurbish the existing building and they have come to the conclusion that it would be best to rebuild on the existing footprint. The building committee and architect have come up with a new building plan that is relatively the same size as the building now. He stated that the current well will remain. They have located handicapped parking and two ramps for the building. There is an entrance on the north side to access the kitchen and on the south side there are double doors to access the 45' x 45' patio. The building is designed to hold up to 86 people, but use of the patio could increase the capacity and a tent could be used to expand the indoor space. The septic system can be made larger to be able to handle up to 150 people if there is a need. He stated that they have tried to keep the design simple but with an Adirondack design. He stated that the main room is 35' x 30', the kitchen is a little smaller than what currently exists and the bathrooms are larger to meet the ADA requirements. All of the entrances are also designed to meet ADA requirements.

Kevin Kershaw stated that the cost estimates for the building is roughly \$350,000-400,000 and the site work (patio, parking lot and retaining walls), will be approximately \$100,000. Total cost is approximately \$500,000. Supervisor Simmes stated that she wanted the TB to see the project to make sure they were on board with the idea before seeking approval at the July 7th meeting.

Councilman Saris asked how long construction would take. Kevin Kershaw replied 6-9 months. Councilman Saris stated that the building gets a lot of use and is concerned with the time frame. Kevin Kershaw agreed but stated that it will get even more use once this project is complete.

Councilmember Rehm asked if there is a basement. Kevin Kershaw replied yes, but only for storage and furnace maintenance purposes. There is only going to be access from the outside. Supervisor Simmes stated that in keeping the building this size they have eliminated the need for a sprinkler system and generator for the sprinkler system.

Supervisor Simmes stated that they do not have any idea of the cost but they do have a capital reserve of a little over \$364,000 toward the building. She stated that she talked to David Wick regarding the Finkle Brook delta and she asked what the cost estimate would be. He indicated that the cost estimate would be quite reduced if they were able to run it through a not-for-profit 501(3) (c) status. She stated that the Conservation Club also has that status. Counsel stated that he did some research and found that there were two corporations set up for the Conservation Club but

neither of them had that status, however they could qualify. Supervisor Simmes stated that if they did have that status they wouldn't have to pay prevailing wage and it could knock 30% off the price. Councilmember Rehm stated that they have tried this before and there was some hesitation on both sides to do this because the Conservation Park Committee would have to be in charge of the property in full including taxes and insurance. Counsel stated that if they do go this route and the building is built but they find that the entity could not exist and succeed on its own they would add a revertor clause in the deed that would return it to the Town. Supervisor Simmes asked if it would be a long process to obtain that status. Counsel replied that he does not feel that they would be denied nor does he feel that it would take long to get established. Supervisor Simmes stated that she would provide whatever information that he would need to get the paperwork started.

Councilman Saris stated that the Town is constantly doing things to improve the Town for the tourists that visit which is a great thing. However making an improvement that will benefit the residents is truly a terrific thing. He also feels that they should start the process of filing for the not-for-profit status immediately before going out to bid because that will greatly affect the bids returned.

RESOLUTION #137

Councilman Saris moved, seconded by Councilman MacEwan to authorize Counsel Muller to file 501 (3) (c) status for the Conservation Club. All in Favor. Motion Carried.

Transfer Station Hours for July 4th.

Supervisor Simmes stated that they are normally closed on holidays but asked if they want to remain open and if so it will be overtime for both employees. Councilmen MacEwan and Saris stated that they should be open on July 4th.

Roof replacement at the Town Hall- need to decide on color.

Anchorage wants to have a party on July 4th with a DJ. The party will go from 6-11pm.

Supervisor Simmes stated that they have done this in the past but she is bringing it before the Board because it goes past 10pm.

RESOLUTION #138

Councilmember Rehm moved, seconded by Councilman MacEwan to approve the Anchorage Homeowners Association outdoor music permit on July 4th through 11:00 pm. All in Favor. Motion Carried.

Thunderbird- Bob Sinnott

Bob Sinnott stated that since the last TB meeting he found that the Town made an offer to the Thunderbird Motel which involved moving or relocating the boundary line for Lower Brereton Road. He stated that part of why they are dealing with this issue is because of the law of unintended consequences. Since 1870 Lower Brereton Road has been described in detail and in the domain of the public. From 1870 to 1949 the description of Lower Brereton Road was slightly different than the one they have today. Lower Brereton Road came down 33' wide for a distance and then it expanded to the north to 66'. However, in 1949 for some unknown reason when Hollenbeck transferred to Jergens the final course to Lake George was turned slightly to the northeast which changed the final course to the lake which controls the riparian rights. This unintended consequence affects what we have today. He is concerned that making changes to Lower Brereton Road property lines will have the same possibility of unintended consequences in the future.

Bob Sinnott stated that for over a year he has been requesting that something be done about the small dock off of the boathouse. Not once has he asked the TB to do anything with the boathouse. He is concerned that this offer was not

made public. He asked them to withdraw their offer and consider what they are offering. He asked why an offer was made and if there is any record of the offer made.

Counsel stated that all of their business regarding the Thunderbird has been conducted in the public forum. He stated that after a TB meeting a meeting was proposed between Mr. Chiraboga and his counsel, Supervisor Simmes and himself. Mr. Chiraboga did attend the meeting but without counsel. At that meeting they proposed that Mr. Chiraboga remove the small dock and the perception on the part of the Town was that they made no issue with the boathouse. He continued that his perception from Mr. Sinnott was that he and the neighbors would take no further issue with the boathouse. Counsel stated that the Town was also seeking compensation for the out of pocket expenses thus far regarding this issue. Mr. Chiraboga stated that he wanted to seek legal advice as well as consult with his family. Counsel stated that they waited for an answer from that meeting and they got one with a counter offer. They proposed to remove the small dock and to have an outer shore boundary, which would occur by changing the direction of the riparian line by 10 feet. However, since that time they have not heard anything from Mr. Chiraboga and as far as he knows there is no deal.

Bob Sinnott stated that they have cast today's situation forward without knowing what forward is. He feels that this riparian right will have to be determined by a judge. He feels that if Mr. Chiraboga doesn't accept now he could decide later when they are in court. Counsel stated that although these types of issues are resolved at the trial level they tend to bounce back and forth between the courts with different theories of law. They need to be prepared that this argument could take a long time to resolve.

Bob Sinnott read his letter dated June 15th. In his letter he stated that he has no interest in removing the boathouse. However he is determined that the boathouse is used in a respectful manner, to the community and its approved parameters. He stated that the Town has made no claim against the boat-house therefore there is no dispute to solve on that matter. He suggested having a stipulation that Mr. Chiraboga and the Thunderbird Motel will use the boathouse in a respectable manner and the Town will not claim any encroachment on the boathouse. He stated that the Town needs to protect their riparian rights. Counsel stated that he does not feel that Mr. Chiraboga will sign any such stipulation.

Supervisor Simmes stated that if they do not hear anything by July 7th from Mr. Chiraboga they will be headed to court. Counsel stated that should he accept the proposal, it still needs to be approved by the TB and done in the public forum. Counsel stated that the only information that he does not have access to is what happens in Executive Session. Bob Sinnott stated that he is not interested in the discussions but he is interested in the results. Counsel stated that those results are always done in the public forum.

Set a public hearing for the Amendment to Local Law #3 to close the loop hole in the zoning regulations.

Counsel stated that there was a lot of feedback from Pam Kenyon and Mitzi Nittmann. He stated that there were some definitions that need to be looked at in this section under 200-8. He stated that he has added a definition for a fence which will be defined as a barrier constructed around or upon the boundary of a plot or parcel of land intended to enclose, surround, mark or denote an area of enclosure. No fence shall be greater than six (6) feet in height. A fence installed or maintained along a boundary line shall not be required to meet the requirements of any sideline setback. Fences shall be installed in such manner so as to place the unfinished or interior side of the installation facing the interior of the property. He stated that both the ZA and the ZEO are in agreement with this new definition. Councilman Saris and Councilmember Rehm suggested that they add some language about needing to meet shoreline setbacks. Counsel agreed.

With regard to structures Counsel has proposed defining structures as jurisdictional and non-jurisdictional structures as follows:

Jurisdictional structure- any object constructed, installed or placed on the land to facilitate land use and development or subdivision of land, such as buildings, sheds, single family dwellings, mobile homes, signs, tanks, fences and poles, and any fixtures, additions and alterations thereto. Construction must be more than six (6) inches above grade

and/or in excess of 100 square feet (length and width, including eaves) to be considered a structure. Landscaping features such as planters, ground level walkways, garden ponds and similar garden features shall not constitute jurisdictional structures.

Non-jurisdictional structure- Any object constructed six (6) inches or less above grade or less than 100 square feet in overall dimension (length and width, including eaves) or less, such as small non-habitable buildings, garden sheds, unattached decks, small fences, small retaining walls, etc. In any instance where a non-jurisdictional structure shall be placed, installed or constructed on land to facilitate land use, no certificate of compliance and no building permit shall be required so long as such non-jurisdictional structure shall be situated in such a manner as to meet all setback requirements in the zoning district. A minimum separation of three feet shall be required between any non-jurisdictional structure and any adjacent structure (either jurisdictional or non-jurisdictional).

Counsel stated that both Pam Kenyon and Mitzi Nittmann suggested removing the 6 inch requirement since it rarely comes into play and often times can cause difficulty. That means that anything over 100 square feet would be considered a structure. Councilmember Rehm stated that this has been in the ordinance for a long time and does not suggest that they change it now. Councilman Saris stated that they changed this language at some point prior to provide for better clarification. He stated that if they exclude it the issues then become interpretive to the applicant or the ZA. Councilmember Rehm suggested that they leave the definition as Counsel wrote it but leave out the and/or and just make it and.

Counsel asked if they considered stairs as jurisdictional. The Board agreed that stairs would count as a structure. Counsel asked about handicap ramps, because sometimes due to the regulations required they are unable to meet setbacks. Councilmember Rehm stated that she thought they would be non-jurisdictional because they deal with federal law and they would be exempt. Councilman Saris stated that even though they may be exempt, he would suggest that they still go before the Board to be sure that it is the minimum and it is built in the least obtrusive way.

With regard to non-jurisdictional structures Counsel stated that the current code does not limit the amount nor does it restrict the distance between each and they do not have to meet any setbacks. The new definition still does not limit the amount, but it will need to meet setbacks from other structures and from the property lines. Councilman Saris stated that he feels that this in conflict with the new code. Counsel agreed. He stated that the old code states that if they alter any pre-existing non-conforming structure that they need a variance, but the new code says that they would not need a variance so long as the alteration does not further encroach upon the non-conforming. Councilman Saris stated that he understands the goal of this proposal especially for those property owners that have smaller lots. Counsel stated that another controversy that could arise is that of a property owner on the shoreline puts up a non-jurisdictional structure on their shoreline.

Counsel asked if the Town would be interested in a maximum requirement for these non-jurisdictional structures or setbacks from one another. There was further discussion of possibly imposing restrictions on non-jurisdictional structures. Councilman Saris stated that he would be more comfortable if there was a minimum distance between the structure and the property lines. The Board agreed. Councilmember Rehm suggested half of the distance required by that particular zone. Counsel stated that he liked that idea. With regard to restricting the amount of non-jurisdictional structures the Board agreed to not set a maximum. Councilmember Rehm asked if these definitions were going to be reviewed by the ZBA and PB. Counsel replied that he would be modifying the definitions based on their discussion tonight and intends to take them to the ZBA and PB meetings for their input as well.

RESOLUTION #139

Councilmember Rehm moved, seconded by Councilman MacEwan to set a public hearing for the proposed amendments to Chapter 200 Zoning Local Law No. 3-2009 for July 7th at 7:00pm. All in Favor. Motion Carried.

Councilmember Rehm requested that there be some public notice that there is free parking for all veterans at the Veterans Memorial Park on the Fourth of July.

Adjourn:

RESOLUTION:#140

Councilmember Rehm moved, seconded by Councilman Saris to adjourn to Executive Session at 9:53pm with no further business to be conducted. All in Favor. Motion Carried.

RESOLUTION: #141

Councilmember Rehm moved, seconded by Councilman Saris to return to regular session and adjourn at 10:00 pm.

Respectfully submitted by: Respectfully submitted by:

Patricia Steele Kristen MacEwan

Town Clerk Recording Secretary