



## Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

**June 4, 2014 – Holly, Johnson, Suslowicz/Lyons**

### **Present**

Mark Mulligan, Chairman  
Robert Cadle, Member  
Alison Manugian, Member  
Bruce Easom, Associate Member via conference call  
Cynthia Maxwell, Member  
Jay Prager, Member

### **Not Present**

Megan Mahoney, Associate Member  
Alberta Erickson, Associate Member

A quorum was attained. The meeting was called to order at 7:00 pm.

### **Meeting Minutes**

#### **Holly Special Permit**

Chairman Mulligan reconvened the hearing.

It was noted for the record that Member Easom was participating remotely.

Atty. Collins said he would not repeat the letter that was read to Member Easom and submitted into the record but commented on the two suggested conditions. He also submitted a plot plan and house design, noting that there is very steep topography and thus there is a basement story. He said the height is the same ridgeline as the house that burned, 21.6 feet. He said it is a stepped foundation due to topography. He said that it was originally a rectangular house with the short side facing lake and the long side faced adjoining properties. He said the house plan has been flipped so that it may have closer setback on one side but visually seems smaller because the longer side faces the street and lake. He said this design is better than rebuilding as it was, noting that there is no greater or lesser impact to neighborhood. He said this design is less obtrusive to abutters, noting that it is better environmentally to have it set back from rather than

hanging over the lake. He said he does not know if there will be propane but stressed that they won't put tanks on the ten-foot strip on either side of the house.

Member Easom said he had a question about building height and how it is measured.

Atty. Collins said it is measured from the sill to the top of the roof.

Member Easom asked whether it was the height of the road from the height of the building.

Atty. Collins said it is less than 21 feet because the sill is lower than the road, noting that it is measured from the front.

Member Easom said he wants the measurement to remain constant from plan to construction.

Member Manugian asked about the railings and stairwell, etc., which are not shown on the plot plan.

Atty. Collins showed the location on the plot plan.

Discussion ensued regarding how building height is computed.

Atty. Benson, Mavilia attorney, said he has some concerns and questions about the last minute submitted plan, noting that he has doubts about the accuracy of the plan by Ducharme and Dillis.

Atty. Collins said a corrected plan was submitted at the last hearing.

Atty. Benson said the last approved plan showed only a deck hanging over the lake and not the dwelling. He also noted that the original dwelling was 700 square feet and not 760 square feet, and thus they are increasing the footprint from 700 to 1190 square feet.

Discussion ensued regarding the size of the increase.

Atty. Benson said this is almost doubling the size of the house on a small lot, noting that he is also concerned about the height of the roof. He said the proposed roof is significantly higher and only 11.5 feet away from his client's property. He said this is asking for too much on a small lot, noting that the last approved plan is much different than the claims of the size of the house. He said they should build on what is there and not beyond.

Atty. Collins said Stan Dillis did a survey, but the man created, dammed lake and shoreline varies from year to year. He said the deck certainly extended over lake, noting that this was an eight year old plan, and it seems evident that it is a good idea to pull the dwelling farther back from the lake. He said it is up in front that the house will be increasing, noting that the visual from the side properties will be smaller. He said that it may be bigger from the lake and street but not from the side.

Chairman Mulligan asked what the use easement is for.

Atty. Benson said they were given by a past property owner to allow for maintenance of his client's property.

Atty. Collins said the encroachment issue has been there for some time.

Ms. Mavilia said there is a permanent wall along the lake so there is no fluctuation.

Mark Enright, resident, said the proposed house is no bigger than what was there when he moved in, noting that he doesn't understand the issue as to why they can't put the house back up.

Mike Slaka, abutter, disputes that the footprint hasn't changed (per Mr. Enright). He said there are three other cases to look at as precedence: Nordberg, Silva and Provost, noting that they were responsible neighbors that worked with the neighborhood. He said from engineering standpoint he doesn't see how this is feasible.

David Wellens, abutter, said he continues to object to a reduction of the 15 foot setback from his yard. He said the averages of other properties is irrelevant from a zoning standpoint, noting that only front setback matters for averaging. He said this is all predicated on hardship, and he asked where there is hardship. He said this is 56.6 % larger than the old dwelling, noting that both the old and new houses are in the firm floodplain. He asked how this could legally be done, noting that there should not be expansion in the floodplain. He said there is no hardship such that they have to build in a bigger footprint.

Atty. Collins said hardship is not a standard for a special permit, noting that the necessity is for the variance, which is in question. He said one standard for a special permit is neighborhood impact and environmental impact, which is why he used the setback examples. He said this project is in keeping with the street, noting that there is a generous front setback. He said that abutting side setbacks are less than this proposal, noting that the tradeoff in pulling back from the lake is reorienting the house. He said there is a bigger setback infringement from the boathouse on Mr. Wellens' property than this is.

Mr. Wellens said that that was irrelevant. He said he raised the environmental question and would argue that a new building in a floodplain is not environmentally sound.

Atty. Collins said that Stan Dillis would be required to show the line of the floodplain on the plan, which is not shown. He said if it were in the floodplain, they would need to get an additional special permit.

Mr. Wellens said this was made relevant because he was speaking of environmental benefits.

Member Cadle asked for clarification about setback averages being only for the front setback.

Atty. Collins said this is correct, noting that he gave the parameters because this is within the neighborhood averages.

Member Cadle said that Atty. Benson raised questions about the plan showing the roof as considerably different than stated.

Atty. Collins said that is correct but believes that Ms. Giattino meant to show the original roofline on the right hand side of the plan, noting that the new will be a little higher.

Member Cadle seems it seem about 4 feet higher.

Member Manugian asked about the sideline setback.

Atty. Collins said Ms. Mavilia's side is not changing, noting that the other side was 16 feet and is now proposed at 10.5 feet.

Chairmann Mulligan asked how far Mr. Wellen's house is from the new structure.

Mr. Wellens said he could only guess but probably 60 or 70 feet.

Member Easom asked whether the difference between 700 vs 760 sq ft has been resolved.

Atty. Collins said he would go with the lower number, noting that he got the 760 figure from assessors records.

Member Easom said this is than a 70% increase.

Atty. Collins said he thought it was 30% but maybe 70% is more correct.

Member Manugian said she is concerned with the stairs and railings and side setback.

Atty. Collins said this could be resolved by stipulating that nothing could stick out further on the house into the 10.5 feet setback.

Discussion ensued regarding stairs, railings and existing retaining walls.

Member Manugian asked about Conservation Commission approval regarding the change in location.

Atty. Collins said they haven't gone before the Cons. Comm. yet.

Member Cadle felt that they could increase the living space but not this much.

Atty. Collins said they could increase it within the existing footprint.

Member Cadle asked why they are not just rebuilding in the existing footprint.

Atty. Collins said his client would have saved a lot of aggravation by just rebuilding.

Ms. Mavilia said the wall is what is holding the house up.

Discussion ensued regarding whether the retaining walls need to be redone.

Mr. Wellens said there is a lot of flexibility without encroaching on side setback.

Member Manugian said this seems very binary, that there is either this plan or to build in the existing footprint.

Atty. Collins said that because this is a small lot, there is not a lot of wiggle room.

Member Manugian said that in maintaining the 15-foot side setback, some of the building would be lost but still is possible.

Atty. Collins said there would need to be a redesign.

Atty. Benson said his client is still concerned about the height of the roof.

Discussion ensued regarding the impact of 4-foot higher roof, due in part to the flipped position of the building.

Atty. Collins suggested bringing Stan Dillis and the designer in to answer questions.

Member Manugian said she has significant concerns as it stands now, noting that she is not comfortable approving now.

Member Cadle said he wants better a sense of how this would fit on the lot.

Atty. Collins suggested a site walk with both the new and old dwellings staked out.

Member Cadle made a motion to continue to July 9, 2014. The motion was seconded and Members Easom, Mulligan, Cadle, Manugian and Maxwell all voting aye.

Discussion ensued regarding whether a site walk needs to be posted.

### **Johnson Variance/Special Permit**

Chairman Mulligan reconvened the hearing.  
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Atty. Anctil said the hearing was continued to get Town Counsel's opinion and to resolve Board of Health issues. He then went over some of the points of Town Counsel's letter.

Discussion ensued how to consider use, whether yard work constitutes a residential use if the owner does not live there.

Atty. Anctil said more than 180 days of use makes no sense and feels town counsel noted that because of the seasonal conversion bylaw. He said his client never abandoned the property, noting that it was used in some way more than 180 days. He said his client states he slept there at least once per month so as to not lose the grandfathered status, noting that he feels Town Counsel's memo allows the board to make a ruling in his favor. He stressed that his client is here today because he used the property.

Member Prager said he found Atty. Winner's memo unhelpful, noting that it did not address uninhabitability, particularly when the owner could have addressed and corrected these problems. He said he could have made the property livable, noting that the board has evidence that the property was not habitable for much more than two years. He said this feels like fuzzy logic and a more personal opinion than legal opinion.

Atty. Anctil said he doesn't disagree but has done a lot of work on this and he didn't find any mention of habitability or any definition of what use is. He cited Powell's garage, which was a nonconforming business use in a residential neighborhood. as more cut and dry. He said the Chairman felt that walking around on the property is using a property. He said his client doesn't satisfy residential use but certainly used the property to move around junk, etc.

Member Prager said it is his personal conclusion that if the property is not habitable, there is not residential use.

Atty. Anctil said the court would give deference to the board in interpreting town bylaws. He said he feels Town Counsel gave the board an out but noted there is no guidance in Massachusetts' law.

Member Prager said there were no unforeseen extraordinary circumstances here to prevent use. He said he looked at the property, which is a wreck, noting that he believes the health agent and building inspector about there not being any use. He said there is no working septic, water, etc. or even a roof.

Atty. Anctil said the dwelling is gone due to a court order, noting that his client has a hoarding illness.

Member Prager said that has nothing to do with the roof falling in, etc.

Mr. Johnson said an inspector would say the septic system was fine noting that he applied for permits to fix the roof, but the permits were denied.

Chairman Mulligan asked what relief would be available for the applicant if the permit were denied.

Atty. Anctil said he asked for a variance also to allow his client to build in the existing footprint.

The merger issues were discussed.

Atty. Anctil said a variance could be granted to allow the rebuild. He said if his client does not get a permit, he could convey the lots as unbuildable, but they effectively would merge. He said his client has come exceedingly far from where he started, noting that he wants to get feedback from the BOH member present. He said they will comply with the court order and will get a sight walk from the judge. He said the lot looks like a house should be there, noting that the town can maintain control over the building process to make sure his client complies. He said they would need to return to the BOH for septic permits, noting that his client wants to rebuild in the same footprint, either through a special permit or variance.

Member Prager said the issue came up at the last hearing about what is the existing footprint because the house was on pilings.

Atty. Antil submitted a plan to mark locations.

Discussion ensued regarding whether the plan reflects the actual boundaries of the existing dwelling.

Dr. Horowitz said she is confused because when the hearing first convened, she thought they wanted to increase the footprint.

Atty. Anctil said they were but now just want to build in the existing footprint.

Dr. Horowitz said the health agent is very disturbed, as is the BOH because they have been dealing with this for ten years. She said that maybe with Atty. Anctil involved it would work but nothing his client has promised has happened.

Atty. Anctil said his client is still in violation and has been ordered to pay the town fees. He said one issue raised, that if the board allows Mr. Johnson to build a new house, what would prevent this from becoming another nightmare of junk. He said there are ways to link this to the existing court order such that there is judicial oversight. He said a house should be in that location, noting that he thinks the BOH has the ability to prevent a hoarding situation again.

Dr. Horowitz said 11 Pine Trail is following in the footsteps of 366 Lost Lake Drive.

Atty. Anctil said 366 is currently cleaned, noting that there may be unsightly things on the property but it is not a BOH issue. He said some other items have been brought to 11 Pine Trail but these will be removed.

Dr. Horowitz said the health agent feels that much of the same stuff from 366 is what he will have to remove from 11 Pine Trail.

Member Prager said he thinks two issues are getting mixed up here: 1) hoarding vs. 2), the condition of the house. He said hoarding is not a ZBA issue, noting that he feels if the house were habitable and loaded

with junk, he would not have a problem with a rebuild. He said hoarding is a separate issue between the BI, BOH and the Courts. He said the only issue here is whether he has a right to rebuild.

Atty. Ancitl said he thinks he does, either by special permit or variance, noting that he wants to address the hoarding because he wants to make sure it won't happen again through the establishment of safeguards. He said he would make sure the BOH is satisfied.

Dr. Horowitz asked if he is allowed rebuild via special permit or variance, whether he needs to comply with building regs or BOH regs.

Discussion ensued regarding what requirements will need to be met if a permit to rebuild is granted, and the ramifications of what non-use means.

Member Cadle said this has been going on for a long time, noting that he is reluctant to go against both the BI and the BOH opinion that there has not been a use.

Member Manugian felt that the board might not have a legal right to grant a permit if merger has occurred.

Discussion ensued regarding what type of variances could be applied for here.

Atty. Antil said his client used the property in some capacity, moving junk around most days. He said his client and a friend stayed there once/month so he wouldn't lose the grandfathered status.

Member Prager asked whether his position is that if a home falls down off its foundation and the owner walks around property, than is the grandfathered status forever.

Atty. Anctil said he is not saying that.

Mr. Johnson said he applied for permits to fix the roof that were denied.

Dr. Horowitz said they were denied because the dwelling was falling down.

Chairman Mulligan said he feels this is a harsh reality to a property owner that even if ownership rights were maintained and the property was used in some way, for the town to say he can't do anything to the property.

Member Easom said this seems harsh but noted that this is how the bylaw written. He said that if it is too harsh, the bylaw needs to be changed at town meeting. He said it is not up to the board to make not harsh rulings, but to follow bylaw.

Member Prager said he has been saying for years that 218-6 needs work. He suggested that his roof permits might have been denied because it was not physically feasible to put a roof on the walls.

Dr. Horowitz asked whether Mr. Johnson has an obligation to the neighbors to maintain his property.

Chairman Mulligan said he is, noting that this is moving toward making a better use of the property.

Atty. Anctil said a house belongs there.

Dr. Horowitz said there is no commandment that every bare patch has to have a house.

Member Manugian asked whether variances could be granted if merger has taken into effect.

Atty. Anctil said he feels a variance can be granted, noting that there is a need to justify reasons to grant and that can be an uphill battle.

Member Manugian said she sees both sides of this, although she feels this outcome was predictable a few years ago.

Atty. Anctil said that is why he used the property, although he could have fixed the house, etc.

Member Prager asked about the barn on the property.

Atty. Anctil said it was built by his client.

Member Prager said the barn has only a 5-foot setback.

Atty. Anctil said it was built more than 6 years ago.

Discussion ensued regarding whether permits were obtained for the barn. Mr. Johnson said he didn't know the barn was only five feet from the lot line.

Atty. Anctil said he could find out when the building permit for the barn was obtained if it would help sway the board.

Member Prager said that if he applied for permits to repair the property and they were denied for good reason it would not change his mind, but if he was denied for no good reason, that would change his mind.

Atty. Anctil said his position was that that was his intent, to repair. He said his client is doing a lot of work, and needs to get a structural okay from an engineer. He said if the dwelling is not sound, it makes more sense to tear it down. He said if his client could have gotten an okay from a structural engineer, which was not likely, then they could argue that the dwelling should be torn down and rebuilt.

Discussion ensued regarding logical ways to proceed.

Member Manugian said the outcome seems unfortunate but stated her feeling that there has not been contiguous use.

Member Prager made a motion to deny either a special permit or a variance, which was seconded. Member Easom voted aye, Member Prager voted aye, Member Manugian voted aye, Member Cadle voted aye and Chairman Mulligan voted nay.

### **Suslowicz/Lyons Special Permit**

Chairman Mulligan convened the hearing by reading the Legal Notice.

Ray Lyons, agent for the Suslowicz estate, said Francis Bee, the executor was not present but her daughter and husband are here. He said that after Barney died they went to the town to determine the buildability of the lot and came to the ZBA in 2006 and received a variance. He said this was appealed by abutters, noting that he then came to the board with an appeal of a by right to build, which the board denied. He said he appealed this decision and the Court agreed with the ZBA denial, noting that he is now here for a special permit. He said the new dwelling will meet all setback requirements, fits within the largest circle in the lot (142 ft) and his clients want to sell to someone who can build on the lot. He said a 142-foot circle fits on the lot and not the 150 feet as required, which is shown within the yellow area of the lot. He then showed the original plan submitted years ago.

Member Prager asked what has changed between the old plan and new.

Atty. Lyons said the old placement done by the engineer was just a placeholder, noting that they want to be able to build within the yellow area but not be tied to a specific location within that area. He said there are other considerations due to septic and conservation.

Member Prager said he wants to know what the special permit would say if there is no specific location or plan.

Atty. Lyons said he thinks a homeowner will purchase the lot and build a special dwelling, noting that a special permit will treat it as a conforming lot.

Member Prager said he is uncomfortable with no specific size of house.

Member Manugian said that typically when the board makes a finding that a proposal is not detrimental to the town, etc., there are plans available.

Atty. Lyons said this is different than most Lost Lake lots because it has 30,000 square feet, which is all high and dry and with a lot of usable area. He said there are limitations put on by the Cons. Comm., BOH and zoning bylaws. He then submitted the specific area a dwelling that could be located within the requirements of the Cons. Comm., BOH and bylaws. He said the family is willing to accept a size limitation but wants leeway in the shape of the house because of both septic location and a retaining wall. He said it is likely that an architect will be involved but this is a very individualized thing for the buyer.

Member Prager said he is not comfortable telling them what should be put on the lot.

Atty. Lyons said it would be a 2400 square foot house with a 400-foot garage. He said it would be a 1600 square foot footprint, broken down between the house and garage, noting that this is a reasonable size.

Member Manugian said she has no problem with perching it on the size of the footprint, but said she still wants an idea of what the structure looks like and maybe restricting it to two stories, etc.,

Discussion ensued regarding what sort of restrictions, conditions, etc., could be placed on a permit.

Atty. Lyons said that it would mostly be secluded from abutters except for one, noting that this lot is large by lake standards, the house will be far from the lake and will not tower over abutters. He said that practically one could not construct a monster here, noting that the existing house is 540 sq. ft. and there is a shed that will be removed.

Member Manugian asked about septic size/number of bedrooms.

Atty. Lyons said the BOH has limited it to two bedrooms. He felt that the original design had the leaching field outside of the 50-foot boundary and he asked the ZBA to clarify whether a leach field can be within the 50 setback.

Member Manugian said the regs may not speak to that but noted she has no problem with a smaller setback for the leach field.

Atty. Anctil, attorney for the Andersons, abutters, submitted photos/drawings. He said he has an issue with non-use. He said a number of variances/permits were granted by the ZBA, Cons. Comm. and the BOH. He said the ZBA decision was appealed and a new case came up during that time when Atty. Lyons felt a by right permit could be obtained. He said the use/non-use issue was discussed at that time but since the application was by right and there was no provision for a by right build, the non-use issue was not addressed. He said he wants it addressed now, noting that the property was not properly used prior to the application for a variance. He said Atty. Winner said that if the town caused the delay it would stay the time clock. He said the board needs to make a determination on that. He also noted that nine feet of fill needs to be brought onto the property, noting that if the board gets over the non-use hurdle, there is a horizontal/vertical issue between the Anderson's dwelling and the proposed dwelling. He said this would be building up from the additional 9 feet of fill being brought in, noting also that he feels a structure that is 2400 square feet will be difficult to deed restrict by the BOH to a two bedroom home.

Discussion ensued regarding whether this alteration would be more detrimental to the neighborhood.

Member Prager asked how it would be more detrimental.

Atty. Anctil said that it would be a tower because it is built on a nine foot mound. He said he feels there is developmental potential for this lot that would not be more detrimental, but bringing in this much fill will not make that possible.

Member Prager said the town provides height restrictions to protect the neighborhood. He said that if it falls in the meets and bounds, is that not by definition not more detrimental to the neighborhood, which is not specific to an individual neighbor. He asked whether there were more multi story dwellings in the neighborhood.

Mr. Anderson said his house is two-story, noting that previously submitted plans showed a three-structure dwelling proposed.

Member Prager asked how this dwelling could impede Mr. Anderson's view.

Mr. Anderson said it doesn't.

Member Manugian suggested conditioning that the building be constructed within the smaller yellow area, and that it shall be no higher than 35 feet from the existing grade of the existing dwelling.

Discussion ensued regarding the levels of grade, which are steep.

Member Prager said he felt that conditioning height to the existing grade is the way to go.

Mr. Anderson said that the nine-foot fill for the parking area and septic takes a large chunk out of the yellow area.

Atty. Anctil said that before that, the board should make a determination re: use/non-use.

Discussion ensued regarding use, and how a hospital or nursing home stay factors in, as opposed to actual non-use.

Member Prager said his position at the time was that the bylaw needed work, and because the owner was sick and could not be at the house, and within a year of his death, permits were applied for, such that non-use doesn't apply in the traditional way.

Discussion ensued regarding differing non-uses.

Atty. Lyons said he objected, noting that this is related to another hearing and issue.

Member Prager said a habitable dwelling that is not used because of sickness is not non-use, noting that that is his opinion, in reading the bylaw. He said there are extraordinary circumstances are here.

Atty. Lyons said the house was used, a packet was submitted in 2009, which had meals on wheels receipts, etc., and then a variance application was filed, which was appealed. He said that during an appeal, according to state law, everything freezes into place and this is a legally valid use. He said a decision was issued last fall and non-use was not addressed there. He said it would be useful for the board to address non-use in its decision because this decision would likely be appealed by the Andersons.

Mr. Anderson said the relevant part is that after 2002 Mr. Suslowcz lived with his sister and then a nursing and for 2.7 years did not live there.

Atty. Lyons said Mr. Suslowicz would have returned if his health allowed him to, noting that someone from his family maintained the property.

Member Prager said he wouldn't want to lose his house if he had to live elsewhere because of health issues.

Discussion ensued regarding what is a compliant septic system.

Member Prager said he is very troubled about the use issue.

Mr. Anderson said there has been a lot of discussion about Lost Lake, Duck Pond, and Knops Pond, noting that Duck Pond is a big conservation area with only four houses. He said this is a very different neighborhood and environment. He said that what gets built there should be compared to that of which is in the neighborhood and the environment. He said there is a 25-foot steep drop from the road, another steep drop to the pond and then wetland, noting that there is not much area to build. He said they are down to about a 10<sup>th</sup> of an acre on which to site a house, which undermines all the good protections put into place in Groton. He said with the nine feet of fill for the driveway and septic system, there is nothing left but cliff. He said that all recreation on the site would happen in the wetland buffer, noting that the four residences take good care of the pond. He said he has records of wildlife, etc and if the only recreation area for family next door is in the buffer zone, it is substantially more detrimental to the neighborhood. He also noted his willingness to work with the team to make a plan that makes more sense but any attempts have been rebuffed. He said it is not wise to grant a permit for such a non-specific proposal.

Member Cadle said he agrees with Member Manugian, that based on what information the board has, the permit could not be approved at this point. He said he wants a site walk.

Atty. Lyons said he wants to hear the board's opinion about Mr. Anderson's thoughts.

Member Prager said he feels non-use is not an issue but does want to address the dwelling size and having a more specific plan, noting that he feels there could be a more common ground found here.

Member Maxwell agreed and said she wants to see a plan.

Member Manugian said this is one step removed, noting that she sees that some structures will work and some won't, and understands that the owner will have trouble selling if too restrictive.

Atty. Lyons noted appreciation for looking at it that way, particularly since it has been in litigation since 2006. He said from a buyer's prospective, the property is radioactive and would need assurances for the buyer that it can be built on. He then submitted plans that were submitted to the Cons. Comm. that delineated a no-build area. The septic system has been approved for a two-bedroom that would limit the number and type of people who move in. He also noted elevations of 70 feet, 80 feet. He then showed the approved plans for the Andersons house, which show elevations of 88, 90, 92, which makes their lot 10 feet higher. He said that if the height is limited as discussed, that will make sure there is no conflict with the Andersons.

Discussion ensued regarding elevations of the Anderson's property vs. the Suslowicz property.

Member Prager said the original plan suggests that 26x36 is the only footprint that would work.

Discussion ensued regarding what limitations are likely.

Chairman Mulligan said he could not grant a special permit without specifics.

Atty. Lyons said there are limitations just by the laws of physics, noting the heavily wooded area that the Andersons have most control over. He said all setbacks are met, the biggest circle 142-foot circle will be used, and the restriction of height will work to make the house work. He said the constraints offered should take care of all concerns.

Member Prager asked whether they would have to come back to the board if a buyer wanted to build a smaller one-story dwelling.

Atty. Lyons said yes, but this permit will bring the buyers to the table.

Mr. Anderson said he thinks they can only go with past plans, but noted concerned re: pond protection.

Atty. Lyons said they have a Conservation Commission permit.

Mr. Anderson said that is being appealed.

Both Atty's. Anctil and Lyons said the only thing in court is the variance.

Mr. Anderson asked whether the proposal is to raise the whole lot.

Atty. Lyons said the proposal is to build a reasonable house in the yellow area on the plan.

Chairman Mulligan said he wants to see the lot.

Member Prager said he wants to see a layout of how a house fits onto the lot within the yellow area.

Member Cadle said he wants to see it marked out on the lot.

Mr. Anderson said he wants to be on the site walk.

Atty. Lyons asked whether it would be a site walk or a public hearing on the site. He said he would ask the engineer to mark out the site.

Member Cadle said Mr. Anderson keeps talking about nine feet of fill for the driveway.

Atty. Lyons said they would need to fill to build a septic system and make the driveway less steep.

Discussion ensued regarding when to have the site walk.

Site walk- Tuesday, June 17<sup>th</sup> at 6 PM.

Member Manugian made a motion to continue the hearing to July 9<sup>th</sup> at 6:30 PM. The motion was seconded and passed unanimously.

#### **Other business**

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#### **Minutes and Bills**

A Groton Herald bill was signed. No minutes were approved.

Member Manugian made a motion to adjourn at 10:20 PM pm. The motion was seconded by Member Cadle and passed unanimously.

Minutes approved 8/6/14.