

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF
FEBRUARY 23, 2006**

REGULAR HEARING

Chairman Roy Maxfield called the Loudon Zoning Board of Adjustment meeting on February 23, 2006 to order at 7:30 PM at the Loudon Community Building.

I. ROLL CALL:

The following members were present: Roy Maxfield, Chairman; Ned Lizotte, Vice Chairman; Steve Ives, Dave Powelson and alternate George Saunderson. Roy Merrill and alternate Jon Huntington were not present. George Saunderson will be a voting member.

II. ACCEPTANCE OF THE JANUARY 26, 2006 MINUTES:

Ned Lizotte made a motion to accept the minutes as written. Seconded by Steve Ives. All were in favor.

III. PUBLIC HEARINGS:

1. Case #06-01 – Volunteers of America – Amended special exception for elderly housing. South Village Road, Map 20, Lots 10 & 9. Abutters have been notified. Roy Maxfield stated the VOA was negotiating for an additional 2 acres to get the lot up to 10 acres, and looking at the well radiuses. Cindy Namer from Volunteers of America stated they had an appraisal done that shows the 2 acres did not appraise out at fair market value. Ms. Namer stated HUD will not allow them to move forward with a project that is not at fair market value; VOA contacted the property owner and told him they were not interested in buying the property and stopped the transaction. Ms. Namer stated the VOA looked at the eight acres and the well radius; when the VOA contacted the State they found out they did not need two wells, therefore the whole project can fit within the 8.1 acres including the well radius. Tony Marcotte from Bedford Design Consultants handed out plans for the site. Mr. Maxfield stated the 8 acre site is still overvalued according to the appraisal. Ms. Namer stated that is still in negotiation since HUD will not let them pay over for this piece either. Ms. Namer stated the appraiser will also re-evaluate Ms. Brown's property. Mr. Maxfield asked if VOA owns the property. Ms. Namer stated they have a purchase and sales while they wait for the appraiser to recheck his numbers. Mr. Marcotte stated there is only one well now because in November 2005 DES changed their requirements for elderly housing, which allows them to only have one well. George Saunderson stated when he hears "sales and purchase agreement" usually it means you own the property; is this true for VOA. Ms. Namer stated it is an option to buy contingent upon the property valuing out at acceptable values that HUD will allow. Mr. Saunderson asked since they are down to one well, will the plan work on the original lot. Mr. Marcotte stated because the Town of Loudon opted out of the flood program,

when the maps for the State were being updated, the maps for Loudon are not a detailed flood study and large areas of the original property are in the flood zone. Mr. Marcotte added to place a well and building on the original lot is difficult on the back portion of that property. Ned Lizotte stated a year ago it was assumed the project would work out fine and the VOA received a hard to get variance; now the VOA is pulling back and petitioning for another variance. Mr. Lizotte stated the VOA still does not have it all worked out before asking the Board for another variance. Mr. Lizotte stated Mr. Merrill, Ms. Wilcox and Ms. Brown are not here as principal parties to this application and Mr. Lizotte does not feel the Board can make a decision tonight without their input. Mr. Marcotte stated this is not a typical site and if the VOA does not start construction by September they loss their funding; this project benefits the Town of Loudon and if there is not a little bit of give and take the facility will not be funded. Mr. Lizotte stated he sees a 10 acre parcel that fits the building, fits the well, is zoned for elderly housing and has received a variance; so whether the VOA builds the project or someone else there is a piece of property in Town to support an elderly housing project. Mr. Marcotte stated the VOA has a lot of experience in Maine and they came to Loudon and ran into the reality of land deals. Ms. Namer stated they cannot move forward with HUD unless they get some assurance from the Town they can do the project on the 8.1 acre piece. Mr. Lizotte stated the Board has already given you a variance and then the project fell apart. Mr. Maxfield stated he agrees with Mr. Lizotte and would like a purchase agreement in hand. Ms. Namer stated what more could she do then give a deed to the property; VOA has a purchase and sales that is contingent upon the land valuing out at fair market. Mr. Lizotte stated the agreement must be in hand, not contingent upon something. Bob Ordway stated he chairs the advisory board to the VOA for this project and he has followed this project for the last couple of years; what Mr. Marcotte has said puts this project into perspective, the VOA cannot go forward without some assurance it is going to be acceptable to the Town. Mr. Ordway stated this project is important to the Town and the Town can give, HUD cannot. Mr. Maxfield stated he read Mr. Merrill's letter and Mr. Merrill feels the variance is his because it is based on Map 20, Lot 10. Mr. Maxfield stated he has read the approval and it was given to VOA. Mr. Maxfield stated in his humble opinion he feels the variance is VOA's for the building, it was never an issue of the land use. Mr. Maxfield stated there were conditions on the property owner as to the number of additional units that could be built. Mr. Saunderson stated this project has already fallen through once and it looks like it could easily fall through again. Ms. Namer stated there is no way around HUD's process. Mr. Lizotte stated the Town already has made a move with the first variance; what more does HUD need from the Town when they have already given a variance in good faith and it has fallen through. Mr. Ordway stated he agrees the variance on the building follows the contractor and therefore there is no problem if by necessity the VOA changes the property. Mr. Ordway stated he does not see why the Board cannot give a variance for the land which is different from the variance for the building, contingent upon these other pieces falling into place. Mr. Saunderson stated the VOA is welcome in Loudon and it seems the original piece fits the zoning, is further back from neighbors and it would be a better piece of land to do it on. Mr. Saunderson stated a notified hearing will have to be done on this new piece. Ms. Namer stated they have spoken with the abutters and modified their plan to fit the needs of the abutters. Mr. Ordway stated the Merrill piece is a dead issue. Mr.

Marcotte stated the 10 acre piece is not going to work because the issue was which 10 acres of the property Mr. Merrill was willing to sell. Mr. Marcotte stated the Planning Board cannot accept an application as complete without a variance from this Board. Dustin Bowles stated he is behind this project but he feels the Board should be sure proper notification takes place. Mr. Maxfield stated abutters were notified last month. Steve Ives stated the Board did work with VOA on the Merrill property and the VOA tripped and fell on its face. Mr. Ives stated he is inclined to vote in favor of the variance but he wants it known the Board did work with the VOA. Mr. Maxfield stated he would like to run the building variance and 8 acre land variance by town council for recommendations; he would like to check that the building variance belongs to the VOA. Mr. Maxfield stated the Board should review the special exception for elderly housing on Mr. Merrill's property and make sure he is whole with the number of houses he should be able to have, since the VOA project cut that number down. Mr. Saunderson stated he feels this application should be tabled for a month while the Board does some research. Mr. Marcotte stated he would like to suggest the Board grant an area variance subject to the use variance getting cleared up. Mr. Bowles stated he thought variances were lot specific and stayed with the land. Mr. Maxfield stated this new variance is lot specific but the previous variance was granted to the applicant not the land owner. Mr. Maxfield stated it seems a gentlemen's agreement on the price of the property can be reached before next months meeting. Ms. Namer stated absolutely. Dave Powelson stated we should talk to our attorney before making a decision. Mr. Ordway stated he would like to see the Board come to some conclusion so the Planning Board can act on the site plan in March. Mr. Maxfield stated the asking price and the appraised values on lot 9 are a ways apart and if it cannot be rectified he does not see the deal going through. Mr. Maxfield stated he is inclined to conclude that if the building variance can be moved from one lot to the other and an agreement is forthcoming on the purchase price, he would be willing to proceed with a land variance for the 8.1 acre lot. Mr. Ives asked the Board if it would be better to vote on this application while he is still on the Board. Mr. Powelson stated he is not comfortable with the application right now. Mr. Saunderson stated he would like the attorney's opinion. Mr. Saunderson stated he understands the VOA is up against a time line but he does not feel it is this Boards fault things have not gone smoothly. Ms. Namer stated she is not blaming anybody but just stating that if they do not close by August they lose the grant. Mr. Ordway stated he would like something to take to the Planning Board before the ZBA meets again. Mr. Maxfield stated the ZBA can share the legal opinion with Mr. Ordway within the week. Mr. Maxfield stated the Board could bring Mr. Ives back for one meeting since it is a continuation of an application he sat on the Board for. Mr. Ordway stated he thinks the Planning Board could approve the plan contingent upon them receiving their variance. Mr. Marcotte stated they will send out abutter letters for an area variance and a use variance for this property for next months meeting. Roy Maxfield stated the application will be continued to March 23, 2006, at 7:30 pm, at this facility. This is the only notice.

IV. DISCUSSIONS:

1. Paul & Darlene Johnson – Major Home Occupation. Mr. Johnson stated he would like to do what he has been doing at his home for the last 15 years; park the trucks

in the yard. Roy Maxfield stated this is a good move on Mr. Johnson's part and he looks forward to seeing him next month. Dave Powelson asked how many trucks are at the house. Mr. Johnson stated three and showed the Board the plans of his property. Mr. Johnson showed the area where extra toilets are occasionally stored.

2. Mike Minery Letter – Roy Maxfield showed a letter to Mr. Minery's real estate agent stating if the brown house was lost it could not be rebuilt. Mr. Maxfield stated Mr. Minery represented to the Board the house would be removed when its usefulness ceased. Mr. Maxfield stated he feels Mr. Minery cannot replace or expand its use. The Board concurred.

V. ADJOURNMENT:

Steve Ives made a motion to adjourn this meeting at 8:37 p.m., seconded by Ned Lizotte. All were in favor.

Respectfully submitted,

Tammy Davis
Secretary