**North Smithfield Zoning Board**

**Meeting Minutes of February 21, 2006**

**Present: Emilie Joyal, Chair, Linda Vario, Vice Chair, Mr. Kearns, Mr. Juhr, Mr. Marcantonio, Bob Benoit, Building Inspector and Richard Nadeau,**

**Call to Order: The Chair called the meeting to order at 7:00 pm in the Primrose Fire Station, North Smithfield, RI and reviewed procedures for all present.**

**Application of ZYX, LLC, appeal of a decision of the Administrative Officer of the Planning Department. Locus is Plat 10, Lot 58, Pound Hill Rd., Zoning District – RA.**

**The Chair stated that we would not be opening this application tonight as she heard from the attorney for ZYX and they asked for a continuance.**

**Mr. Peter Raggiero, Attorney for ZYX was sworn in and stated that he did not ask for a continuance, but knew that the Town Planning Official would not be available as he had to attend the Town Council Meeting.**

**The Chair stated that the Town Planner should be present and we would continue this application to Tuesday, March 21, 2006. The meeting place will be Kendall-Dean School in Slatersville, RI.**
**Notification will be sent to ZYX, Peter Raggiero's office and the Town Planner.**

**Application of Alan Tremblay requesting a dimensional variance for Section: 6.8 "Accessory Building and Structures". Locus is Plat 6 Lot 308, 527 Mendon Rd.**

**Mr. Alan Tremblay was sworn in by the stenographer.**

**Entered in as exhibits were the following:**

**Exhibit P1 Application for Certificate of Zoning Compliance**
**Exhibit P2 Application for hearing before the North Smithfield Zoning Board of Review.**
**Exhibit P3 200' Radius Plan**

**Mr. Tremblay stated that he had contracted Mr. Demers to complete a radius map for him when he put up his first shed. It was a hand drawn copy. The radius map submitted tonight was a different radius map completed by Mr. Nyberg. Mr. Tremblay was having difficulty remember the timing of events so Mr. Benoit, building inspector, Mr. Benoit was sworn in by the stenographer and stated the following:**

**Mr. Tremblay was issued a building permit for construction of his 20 X 24' storage building on or about May 16, 2002. Along with the application he submitted a site drawing of his property with the location of the proposed structure which indicated 15' from the property line which conforms to section 6.8 of 10' away. On or about September 25, 2002 I notified Mr. Tremblay that is was brought to my attention that the structure might not be 10' from the property line, so I requested that he provide me with a property survey performed by a RI licensed land surveyor. I notified Mr. Tremblay by certified mail. In October of 2002, Mr. Tremblay submitted a copy of a property survey which indicated the structure to be 8.52' from the property line, approximately 1.48' shy. He was informed to contact me with his plan of correction. Mr. Tremblay was notified again in December of 2002 with regards to making the corrections. On December 9, 2002 I notified Mr. Tremblay that he had constructed another shed on his property without the proper permits. He applied for and was issued a permit on December 30, 2002 with a site plan indicating that he was 12' from the property line for the second shed. Mr. Tremblay was in my office on January 28, 2003 stating he will move the structure as soon as weather permits. In May of 2003 Mr. Tremblay was notified again regarding moving the structure. Mr. Tremblay resubmitted a copy of the property survey dated October 15, 2002 drafted by Mr. Ray Demers, professional land surveyor, which indicated both buildings conforming to the 10' distance from the property lines in question. On August 4, 2003 I personally responded to Mr. Tremblays property and measured both buildings and both of the structures did**

**conform to the 10' requirement as per surveyors markings. In May of 2005 I informed Mr. Tremblay that his neighbor, Mr. Renaud, recently had his property surveyed and that this survey indicated both of Mr. Tremblays structures are closer than 10' to Mr. Renauds property. On May 18, 2005 I sent a letter to Mr. Tremblay to correct this situation. Mr. Tremblay was notified again in July of 2005 regarding the survey and how he was going to resolve this issue. Mr. Tremblay was notified again in August of 2005 and finally came in to make his application to appear before the Zoning Board.**

**The Chair asked Mr. Tremblay if there was any other room on his property for these sheds and he stated there was. Mr. Tremblay thought that other area's of his property were either to rocky or too wet.**

**Mr. Tremblay stated the sheds are not built on foundations, they are building footings.**

**Mr. Ronald Renaud, abutting neighbor, was sworn in by the stenographer. He entered into exhibit the following:**

**R1 thru R4 Photo's**
**R5 thru R14 are letters to the Building Inspector.**

**Mr. Marcantonio asked Mr. Tremblay if he operated a business out of his home and Mr. Tremblay stated he did not.**

**There were a few board members that asked questions regarding the first survey Mr. Tremblay had, but Mr. Nadeau stated that the board should only take into consideration the survey the applicant has submitted, which is the survey by Mr. Nyberg.**

**At 8:30 PM Mr. Kearns made a motion for a 5 minute recess, seconded by Mrs. Laprade, roll call vote was as follows, Aye: Mr. Kearns, Ms. Laprade, Mr. Juhr, Mr. Marcantonio, Ms. Joyal.**
**At 8:40 the Chair called the meeting back to order.**

**Ms. Joyal, in the petition of Allan Tremblay requesting a dimensional variance from section 6.8 of the North Smithfield zoning ordinance, for the property located at 527 Mendon Rd., plat 6 lot 308, I find the following findings of fact:**

**1. Mr. Tremblay testified that he is requesting a dimensional variance for two existing sheds on his property. Both of which are less than ten feet from the property line of his abutter which is plat 6, lot 309.**
**2. Mr. Tremblay testified that according to land surveyed by Mr. Demers back in about 2000 applied for a building permit and produced for the building inspector, the indication that the lot line was 15 feet away from this proposed shed back in the year 2000, Mr. Tremblays land was originally surveyed by Mr. Demers.**
**3. Mr. Tremblay testified that he received communication from the North Smithfield building inspector, Mr. Robert Benoit, stating back**

**on September 25, 2002, Mr. Benoit notified Mr. Tremblay that his shed of 20 X 24 feet was to be placed a minimum of ten feet from the neighbors property line. Mr. Benoit was questioning within this correspondence whether or not this structure was indeed more than or less than ten feet away.**

**4. Mr. Tremblay testified that on October 29, 2002, Mr. Benoit notified him that he was in violation of section 6.8 accessory buildings structures, that is 6.8 of the North Smithfield zoning ordinance.**

**5. Mr. Benoit stated in his October 29, 2002 correspondence to Mr. Tremblay that the structure may not be placed within ten feet of a lot line and that because of the violation, the building must be moved so to comply with section 6.8**

**6. Mr. Tremblay agreed with the dates Mr. Benoit gave as his testimony of the time line of the communications between Mr. Benoit and Mr. Tremblay. I'd like to just point out at this point in time that Mr. Tremblays recollection of his dates was not very clear, but his message to this board was that there was a difference in the belief that the lot, where the lot line exists, which caused this dispute between Mr. Renaud and Mr. Tremblay.**

**7. Mr. Tremblay testified that the lot does not have any sort of unique characteristics that would not allow him to build or move the shed to say a different location. The lot may have some small area of wetland, if you will, wetlands not defined by the DEM as this board understands, or there isn't any ledge or anything that wouldn't allow him to build elsewhere on this property which has a square footage of over 65,000 square feet.**

**8. Mr. Benoit of the North Smithfield building inspector did testify and support the testimony that was later given by Mr. Renaud of plat 6 lot 308 stating the dates of correspondence and the time line in which often times Mr. Tremblay was told that he needed to rectify this problem and there was a lack of response as exhibited through the exhibits submitted by Mr. Renaud and those exhibits and that correspondence would be exhibit R5 thru R14.**

**9. Mr. Renaud testified that he has noticed that there is an iron rod in the back corner of his property which is indicated on the radius map, exhibit P3 and with subsequent surveyors, each subsequent surveyor has shown no conflict of marking at the corner where the stakes have been indicated at that same spot. Several photographs were submitted to the Zoning Board, which would be exhibits R1 thru R4 by Mr. Renaud showing the 20 X 24 foot shed and perhaps some yard trash and other items that has caused a problem as they seem to be coming closer to Mr. Renauds property line. The North Smithfield zoning ordinance states that the hardship cannot be as a result of any prior action of the applicant.**

**I find that the action this evening of these existing buildings and that prior action has caused the request for dimensional variance, there will be no more than a mere inconvenience for the applicant to move these sheds so that they can conform with the North Smithfield zoning ordinance.**

**Based on the aforementioned findings of facts, I move to deny the**

**petitioners request for dimensional variance. Mr. Marcantonio seconded that motion. The chair asked if anybody had any findings of fact to add or any discussion on that matter…there was none. Roll call vote was as follows, Aye: Mr. Juhr, Ms. Laprade, Mr. Kearns, Mr. Marcantonio, Ms. Joyal. The variance was denied.**

**Mr. Nadeau suggested a time frame as to when the sheds should be moved. After discussion between Mr. Nadeau and Mr. Benoit, a date of April 30, 2006 was decided on.**

**The Chair will entertain a motion from the board to allow her to amend her motion to include the following stipulation:**

**1. In accordance with the denial of the dimensional variance, this board requests and stipulates that Mr. Tremblay move both existing structures so that they are in conformance with section 6.8 of the North Smithfield zoning ordinance. Such relocation needs to be completed by April 30th of 2006 at which time the building inspector will visit the property and verify that these structures have been moved. Mr. Kearns made a motion to approve, Mr. Juhr seconded, roll call vote was as follows, Aye: Mr. Juhr, Ms. Laprade, Mr. Kearns, Mr. Marcantonio, Ms. Joyal. Passed unanimously.**

**Mr. Kearns made a motion to approved the minutes of January 31, 2006, Mr. Juhr seconded, roll call vote was as follows, Aye: Mr. Juhr, Ms. Joyal, Ms. Laprade, Mr. Kearns, Mr. Marcantonio.**

**Ms. Laprade made a motion to adjourn, Mr. Kearns seconded, roll call vote was as follows, Aye: Mr. Juhr, Ms. Laprade, Mr. Kearns, Mr. Marcantonio, Ms. Joyal…meeting adjourned at 8:56 PM**

**Respectfully submitted,**

**Kris Fanning**
**Clerk**