

**Deering Zoning Board Of Adjustment
762 Deering Center Road
Deering, New Hampshire**

**Minutes of the Meeting of January 20, 2010
Deering Town Hall**

Call to Order: By the chairman, John Lassey, at 7:02 p.m.

Members Present: John Lassey, chairman, Larry Sunderland, Phil Bryce, Bob Fuller, David LeFevre, alternate Douglas Lalmond for preliminary items.

Others present: Atty. Gordon R. Blakeney Jr., Craig Ohlson, Zoning Administrator, and Mike Martin.

Minutes of the meeting of December 16, 2009: Bob moved to approve with one minor correction. Unanimously approved.

Annual report: The Board reviewed a draft of its annual report to the Town.

Motion for Rehearing in Case No. 09-03, Appeal of Michael and Carol Martin:

The Board discussed the Motion for Rehearing filed by Attorney Blakeney in response to the ZBA's November 24, 2009 denial of the Martin's appeal from an administrative decision interpreting the conditions attached to the variance granted by the ZBA on June 24, 2009 so as to deny a building permit sought under that variance. Concerning the setback from the two tributary streams, John explained that the variance was granted for a 44' setback from one and the Ordinance does not differentiate between a stream and an associated wetland, thus changing the actual setback to 40'. Bob pointed out that the rationale for differentiating between a 40' and a 44" setback was the desire to preserve as much setback as possible.

In regard to the five foot buffer between septic system and road and differing views on which point it should be measured from, if applicants felt that, in view of the discussion of this point and the great sensitivity to the number of feet involved during the public hearing, this condition in the variance was unclear, they should have appealed this aspect of the variance when it was granted in June 2009.

As there was general agreement that Craig had interpreted the variance conditions correctly, John moved to deny a rehearing for the reasons stated. Motion carried unanimously.

Consultation per Article 5, Section 1.6 of the Zoning Ordinance

The consultation requested by the Martin's was to determine if there were a way to proceed with greater dispatch while an appeal was pending, such as a supplement to the variance. Dave doubted our ability to have this sort of consultation and it was made clear that since it was allowed under the Ordinance we could proceed but discuss legal issues only, not the issues of the septic system placement itself. Possibilities mentioned or discussed included a new plan showing that conditions can be met, a Clean Solutions system, an application to amend the conditions, whether a change in law concerning the hardship criteria would constitute a new condition, whether we could go back to an older statute having heard the original appeal under a newer statute, and prospective legislation to create a commission to study the whole question of septic systems allowed in New Hampshire. In conclusion, John stated that applicants could not assume that any promises had been made. Attorney Blakeney stated that he hadn't heard any promises.

Motion to adjourn by Larry, approved 7:55 p.m.

Respectfully submitted,

L. Sunderland