

## Zoning Board of Appeals Minutes, 02/03/2016

**Zoning Board of Appeals  
Minutes  
February 3, 2016  
Landuse Meeting Room**

**Members present:** Acting Chair Shawn Leary Considine, (SLC); Robert Fuster, (RF); Al Harper (AH); Ned Douglas, (ND); Clifford Snyder (CS)  
**Absent with notification:** Chair Ethan Berg, (EB)

**Tsungda Hsu, 10 Birchwood Lane (Map 18, Parcel 24)**, Special Permit and Variance under Section 4.1.1 "Table of Dimensional Requirements", Footnote 6 to place a shed less than 25 feet from the property line. The shed size is 12' x 16'.

Present was Paul Smegal, the contractor for the project, and Mr. Hsu.

There were no members of the public present and there was no correspondence.

There was a brief discussion regarding missing materials in the original application. Staff had contacted both Mr. Smegal and Mr. Hsu, informing them to bring in a map or drawing depicting the location of the shed. Mr. Smegal provided drawings and images to demonstrate the location of the shed to the Zoning Board of Appeals.

Mr. Smegal reviewed the pictures and drawing with the ZBA and pointed out the location of the shed on the property. The shed, already constructed, is partially on the brick driveway 12 feet from the property line in a wooded area. The location chosen was for ease of vehicular egress from the garage and to be out of sight of the abutter. The Board questioned why the petition was filed post construction. Mr. Smegal said that he had spoken to Mr. Fitzgerald prior to construction and Mr. Fitzgerald told Mr. Smegal that provided the shed was less than 200 square feet and movable, a building permit was not necessary. Mr. Smegal could then apply for a variance and if not approved, the temporary nature of the structure would allow for it to be moved. The structure was built just before Christmas. Mr. Hsu said that he had spoken to the neighbor prior to construction and they had no objections. GM added before today Mr. Fitzgerald did not know the shed was already built on the property.

GM pointed out that the lot is located in the R1A zone and it is less than one acre. She said that a Special Permit, not a Variance, is required and referred to Section 4.1.1 "Table of Dimensional Requirements", Footnote 6.

CS made a motion to close the public hearing and move to the decision phase. RF seconded the motion and the Board voted to agree 5-0.

The Board made it clear that they were not pleased with the fact that the shed had been constructed before seeking their approval. RF said that it was inconceivable that Mr. Fitzgerald would say an application for a variance or special permit could be filed after the fact, but RF said that he was not implying that Mr. Smegal was being deceitful. The Board agreed that the requirements of a special permit had been met.

RF made a motion to grant the Special Permit as presented, not a Variance. ND seconded the motion and the Board voted to approve 5-0.

RF made a motion to add the condition that the shed would not be permanently affixed. AH seconded the motion and the Board voted to approve 5-0.

RF will write the decision.

**Minutes:** January 6, 2016-SLC made a motion to approve the minutes as published and AH seconded the motion. The Board voted to approve 5-0.

Respectfully submitted,  
Peggy Ammendola