

## Minutes of Development Review Board Meeting

April 14, 2011

Board Members Present: Paul Brierre, Vince Feeney, Sandra Paritz

Tim Roberts Sr.'s Appeal of the Zoning Administrator's denial of a Zoning Permit for a Handicap Ramp for the Marshfield Village Store

Present: Tim Roberts, Sr., Marshfield,  
Bob Light Zoning Administrator Town of Marshfield,  
John Warshow, Marshfield  
Clinton Holt, Marshfield

The Board took testimony regarding two preliminary Issues:

- 1) Applicant's request to remove Zoning Administrator, Bob Light from the hearing. Tim Roberts testified that he wanted Bob Light removed because of personal conflicts.
- 2) The Board was concerned that the Applicant did not post a Z poster to provide notice of the pending zoning application. Applicant did post the warning of the April 14, 2011 meeting on the side of the building, and the town clerk posted it on the bulletin on the front of the building. Applicant testified that he did deliver written notice of the hearing to adjacent landowners.

The Chairperson of the Board, Paul Brierre, announced that the request to remove Bob Light was denied.

The Board went into deliberative session at 7:25pm to discuss the notice issue.

The hearing resumed at 7:35pm The Board announced that the hearing would go forward with the notice that had been provided. The Board noted that the letter to the applicant did not specifically state that the Z poster must be used. Therefore the warning notices on the building, which were visible to the public, were acceptable.

Zoning Administrator, Bob Light testified that Tim Roberts, Sr. built a handicap ramp on the Marshfield Village Store without first obtaining a permit from the town. The Town Clerk, notified the Zoning Administrator about this. Next, the applicant put a roof over the ramp, also without a permit. Mr. Roberts told Mr. Light that he did not need a permit because the ramp is required by federal law. Mr. Light contacted the ADA Division in Boston, and consulted with the town lawyer. Both indicated that the federal requirements do not exempt the landowner from the town zoning process.

Mr. Light further testified that he sent Tim a package telling him what he needs to do to get his ramp approved by the town. Mr. Light stated that, because this was an addition to a commercial structure, Mr. Roberts needed to submit a conditional use application. He indicated that the letter that he sent to

Mr. Roberts contained a conditional use application. Mr. Roberts did not submit a conditional use application. Instead, he appealed the denial of his zoning application.

Tim Roberts, Sr. testified that he is seeking a variance from the zoning regulations. The side of the building is 15 feet from the property line, and the ramp is 4 ft wide. Therefore, the ramp is 11 feet from the property line. He stated that the town must grant him a variance because he is required to put in a ramp by federal law. He admitted receiving the letter from Bob Light with a conditional use application form.

The board inquired about whether a conditional use permit was issued when the store opened. Mr. Roberts stated that the store was grandfathered because the property had been in bankruptcy when Mr. Roberts acquired the property and applied for permission to continue operating it as a general store. See section 280(1)(iii) , which was the basis for allowing Roberts to continue operating a non-conforming use. Bob Light indicated that even if the building was granted a conditional use permit, Mr. Roberts would need a new conditional use permit for the addition of a ramp.

At 7:50 pm the Board went into deliberative session.

The Board came out of deliberative session at 8:18 pm and the meeting adjourned.