

ALSTEAD ZONING BOARD OF ADJUSTMENT
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MEETING MINUTES

August 1, 2022

Note: These minutes are furnished for public inspection in accordance with RSA 91-A:2 and are unapproved until offered for disposition by the Board at a regular meeting. **Accepted As Corrected 10/3/22.**

ZBA Members present: Dennis Molesky/Chairman, Mike Rau, Joe Levesque, Max Zurmuhlen, Kevin Clark, David Konesko/Alternate Member and Allan Kauders/Zoning Officer. Laurence and Ben Howard, Bill Blaiklock, Mike Jasmin, and Gordon Kemp were also present.

At 7:30pm Molesky/Chairman opened the Meeting. Marsden distributed updated Handbooks to the six ZBA Members present. The 6/20/22 Minutes were reviewed. A Motion (Levesque/Clark) was made to accept them as corrected. Motion passed.

An email from Zoning Officer about a denied Building Permit for Matthew and Julie Goodell on River Street was reviewed - they are seeking to put in a mother-in-law apartment above a proposed garage, and *they have been advised to reach out to Marsden regarding the Special Exception process. Marsden reported she has not heard from them yet.

An update on the Walpole Valley Road driveway situation took place. Jacob Stoddard, owner, has reached out to get his driveway improvements approved – *Marsden to notify the Planning Board and reach out to Prescott Trafton/Road Agent about this. *Marsden still needs to ask Mary Schoppmeyer about the address assigned (500 Walpole Valley Road – and find out who in Town assigns the numbers (Road Agent/Trafton or Steve Reynolds/Emergency Management).

Ken Vivo Amore plans to move his mobile home onto his lot this month on Griffin Hill Road. Member Rau is aware of the situation, and has said his tank and leach box have been located in the front yard. His paperwork was reviewed, and he turned in all required documentation last November, so he is all set to go. As his Building Permit is over a year old, *Rau to tell him he needs to apply for a new one before the new mobile home gets set.

At 7:45PM, the Motion for Rehearing for Application #1A/2022 for a Special Exception for Bonnie N. and Laurence E. Howard of 3 Warwick Terrace, Marblehead, MA, for property located on Tax Map 11, Lot 99, on 5 Prospect Street in Alstead, NH, was opened. Molesky reviewed the 6/30/22 email from L. Howard to Marsden requesting the Rehearing, as well as the septic system inspection report from 2019. All Members present were Full Members except Konesko. He was appointed a Full Member for this purpose, as he had been a Full voting Member in all the four Special Exception Hearings pertaining to this request. Brief discussion on quorum requirements took place. All Members were in agreement that sufficient information/documentation was provided to grant the Rehearing. After discussion with Members present, and L. Howard, a Rehearing date was set for 9/19/22 at 7pm. *Marsden to send a letter to L. Howard regarding the process and cost.

After the meeting date was set, Blaiklock stated that Marsden had told them they would be evicted if anyone was to be in that space before any official approval was given. Marsden stated that she had said no such thing, and that when she had met with them on Monday 7/25/22 for 30 minutes there had been no discussion of occupancy

at all. Blaiklock accused Marsden of lying; Marsden inquired if he had recorded the interaction – and if he had to please replay the interaction for the Board to hear. Marsden stated that three Town employees were also present in the front office area when she met with L. Howard and Blaiklock.

Levesque asked if this was good time to discuss the letter that B. Howard submitted to the ZBA and Select Board concerning her situation – the letter that she requested to not be read at the next meetings of both aforementioned Boards as she could not be present, but to be included, in full, in the Minutes of the meetings. Levesque stated that he had a concern that if the letter was included in the Minutes that the public could view it as truths, and being accepted by the Boards, when he felt it was full of lies. Marsden and Molesky spoke on how the NH Municipal Association was contacted about this situation, and Steven Buckley had made it clear that that request did not need to happen – that the Board(s) could acknowledge the receipt of said letter, and place it in their records, but it did not need/nor should be included in the Minutes. Molesky stated that is the approach the ZBA would take – officially acknowledging the receipt of a letter of correspondence from B. Howard and placing it into Town record. Several Members had not seen the letter, and it was passed around. It was noted that said letter had also been posted on social media on a site by L. Howard.

It was announced that Member Zurmuhlen was a Full Member, and Joe Cartwright is now an Alternate Member.

Changing the ZBA fees was discussed. The ZBA decided to change the Application fees to \$120 from \$85 on all their Application processes.

At 8:15pm the Steven and Emily Stocki Variance Public Hearing was opened, regarding property located on 331 Homestead Road, Alstead, NH on Tax Map 39, Lot 5, concerning Article III Section E. They would like to build a porch within the setbacks from the road. Their neighbor's young son was the only Abutter present – and he was interested in viewing town practices.

The Application was reviewed, and deemed as complete. (Marsden received the additional \$15 owed for two additional certified letters that were sent). S. Stocki provided a brief overview of the project, stating that the addition of the porch will help with the dust problem in their house. They propose to build a one-story high porch across the front, down one side and across the back of their home. S. Stocki explained that half their house is one-story high; the other is two-story high. The Public Hearing was closed.

The Deliberations were opened. Right-of-Way and edge of the traveled way was discussed (Konesko used the white board to demonstrate discussion). Molesky discussed hardship requirements when granting a Variance, and that this ZBA uses a common sense approach when considering this matter. Molesky also explained how precedence on other situations does not matter – as each Application is considered separately.

Molesky inquired if a Deed was needed to clarify the Right-of-Way; Rau stated he was very familiar with the lot and surrounding land; Levesque stated he did not think one was needed. Konesko stated 'in theory' utility poles get placed at the edge of the Right-of-Way near the property line. Kauders added that this was one of the best Applications he had received. Marsden added that one of the Abutters (Stephanie from Rascal Baby LLC) had called about the proposal, but had stated she had no problem with a porch being added. At 8:40pm the Board closed the Deliberations.

Molesky reviewed the criteria and the Board voted:

As it pertained to criterion 1) Granting the Variance would not be contrary to the public interest – all Members (Molesky, Rau, Clark, Zurmuhlen, Levesque) were in agreement that this criterion was met.

As it pertained to Criterion 2) The use is not contrary to the spirit of the Ordinance – all Members (Molesky, Rau, Clark, Zurmuhlen, Levesque) agreed this criterion was met.

As it pertained to Criterion 3) Granting the Variance would do substantial justice – all Members (Molesky, Rau, Clark, Zurmuhlen, Levesque) agreed it met this criterion.

As it pertained to Criterion 4) Granting the Variance would not diminish surrounding property values – all Members (Molesky, Rau, Clark, Zurmuhlen, Levesque) felt this criterion was met.

As it pertained to Criterion 5) Denial of the Variance would result in unnecessary hardship to the owner seeking it; special conditions of the property distinguish it from other properties in the area so no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property – all Members (Molesky, Rau, Clark, Zurmuhlen, Levesque) felt this criterion was met.

At 8:50pm, Chairman Molesky stated that the Variance request had passed unanimously. A Notice of Decision was given to the Stocki's.

Discussion returned to changing Application fees. *Marsden to change all appropriate forms, and update the website, by September.

Discussion returned to the B. and L. Howard Special Exception situation. Marsden provided an update/overview to all Members present, stating that other than Molesky/Chairman, Kauders/Zoning Officer and Levesque/Select Board Members, most Members had no idea as to how much activity had been taking place on this situation, especially since the denial on 6/20/22. Marsden clearly explained that the issue is about USE, not the Building Permit. By itself, the Building Permit meets the requirement of doing 'barn renovation and addition' as stated on the Building Permit, so Kauders' approval of it is not in error - the Howards could have been simply doing that work to create a new/better space, and it met all requirements to gain approval, even in light of Kauders not seeing the attached building plans that showed the work that was to be done to make an apartment. When it was later discovered (during review of Building Permits, and Marsden's memory of an earlier email from Town Clerk Julie Bacon) that an apartment was going in, the ZBA asked Kauders to follow-up with L. Howard about the need for a Special Exception process to gain approval for an apartment/Accessory Dwelling Unit.

Marsden stated that this issue has gotten way out of control ('a mountain made from a molehill') not only from the Howards, but also from an apparent lack of support from the Select Board - not only to Kauders/Zoning Officer, but also to the ZBA performing their roles. Marsden announced that Kauders had given his notice after the 5/6/22 Meeting, after feeling unsupported by the Select Board in this matter; he will continue in his role until the end of September, giving the Select Board time to appoint a new Zoning Officer. Marsden commented that Kauders' leaving was a great loss, as the way he performed his role was extremely commendable; she added that she was also proud to be working with the current Boards, and the commendable work they were also doing – and that she felt quite frustrated and disappointed with the lack of support from the Select Board, especially in light of the current situation with the Howard Special Exception. Marsden added that she has recommended to the other front office employees that all interactions/correspondence on this matter go directly to her or the ZBA, so they (the Town Clerk, Assistant Town Clerk and Admin. Assistant to the Select Board) do not need to be involved with the ZBA matter in light of the way the Howards were interacting with Town employees on this matter. Marsden also stated she let the Select Board know she will only meet with L. Howard, or anyone involved with her situation, with another witness present, especially in light of Blaiklock inquiring if she had liability insurance, and the statements of legal action against the Town or their employees. Marsden stated she has reached out to the Select Board on this matter (both Kauders' resignation and the

ongoing Howard situation) but has never heard anything back from them. Marsden did directly ask Levesque if her concerns had ever been discussed at their meetings – Levesque stated they had in a non-public session.

Other Business:

A 4/12/22 email from Levesque concerning the Table of Allowable Uses; *to continue discussion on this when both Boards meet to discuss proposed Zoning Ordinance updates.

A 7/9/22 email from Kauders regarding a question that Daniel Burrows has about starting a meat cutting business at his property on 306 Gilsum Mine Road. He will be the only employee, and only do work for one person. The Board discussed and decided this request falls under Home Occupation, and is Allowed in the Town's Zoning Ordinance. *Kauders to reach out to him to let him know this.

A Motion (Clark/Rau) was made to adjourn the Meeting. The Meeting adjourned at 9:20 PM.

Respectfully Submitted,

Melanie Marsden/Administrative Assistant to the Board

The next Regular Meeting is scheduled for Monday, October 3, 2022 at 7:30PM. There is no meeting in September due to the Labor Day holiday.