

**Zoning Board of Adjustment
Wednesday, October 20, 2021
Hybrid Meeting – In-person and Zoom
Town Hall
7 pm**

Present: Board Members Chair Jan Galloway-Leclerc, Vice-Chair Myra Mansouri, Clerk Tom Murray, Ernie Vose. Alternate Don Sellarole. Board member Pauline Barnes was at home on Zoom. Absent: Alternates Judy Trow and Dave Edkins. Jeremiah Phaneuf was present to facilitate a hybrid meeting.

Recording: Marilou Blaine. These minutes were recorded. **They are unapproved and will be reviewed at the November 2021 meeting for corrections, additions and/or omissions.**

Roll Call: Ms. Leclerc called the meeting to order two minutes to 7pm. Ms. Leclerc asked Mr. Sellarole to fill in at the Public Hearing for her since she would recuse herself because the applicant is her daughter. He agreed.

Minutes: Minutes of September 2021: Ms. Leclerc asked that it be recorded that she recused herself prior to the presentation of her daughter's application for an addition to her home on Ford Avenue for the public hearing on Oct. 20. Other corrections by Ms. Barnes: the to they, hope to hopes, delete two words. Mr. Vose made a motion to approve the corrected minutes. Mr. Murray seconded the motion and the motion carried.

October 5, 2021 Workshop meeting: Corrections: Ms. Barnes corrected the spelling of the word rigid, has to have, now to know, sign to signs, seconded to second. Mr. Vose made a motion to approve the corrected minutes. Mr. Murray seconded the motion and the motion carried.

Old Business:

Public Hearing: Expansion of a Non-Conforming Use.

Jennifer Jones, 15 Ford Ave., 14-foot-by-24-foot two-story addition to the west side of the house for a dining room and a bedroom upstairs with a dormer. Tax Map 19, Lot 9, Residential B. The house was built in 1962 before zoning.

As noted above Ms. Leclerc recused herself and Mr. Sellarole took her place on the Board for the public hearing. Ms. Jones said she was at the meeting because her home was not the required 65 feet from the center of the road. The house dates to 1962 before there were zoning ordinances

Ms. Jones went to the easel, which displayed a drawing of her house and showed, in red, a 14-foot-by-24-foot addition. The home is two stories so the addition would be two stories. The downstairs addition will be used for a new dining room. Currently, the downstairs dining area was in the kitchen and the table was just large enough for six chairs. Ms. Jones said she and her partner have five children together. There are two 2-year-old boys, two 7-year-old girls and a 13-year-old girl. Right now there is enough room for the children to sit and eat and she and her partner eat standing up. This will solve that problem, as well as give her additional space. On the second story there will be a large dormer off the back and a bedroom will be built for the two youngest children. The downstairs addition will use part of the existing deck.

Vice-chair Ms. Mansouri, who was now in charge of the public hearing, asked if the application was complete. Had the abutters been notified, the fees paid and a legal notice printed in the paper? The secretary replied in the affirmative.

Ms. Jones said all the neighbors knew what they were doing and were supportive of the project and

some were even willing to help.

Mr. Sellarole asked is everything else about the home okay? The only problem is the distance from the middle of the road? The answer was that was correct.

Ms. Mansouri asked if there were any other questions. There being none she asked for a motion. Mr. Murray made a motion that an Expansion of a Non-conforming Use be approved for Ms. Jones at 15 Ford Avenue for a 14-foot-by-24-foot addition to their home as presented and that they get a building permit. Mr. Vose seconded the motion and the motion carried.

Ms. Jones said they had a builder, who would start next April and she said the builder thought it would take four weeks to complete construction. She has already picked up an application for a building permit. The secretary will send her a letter saying that the Zoning Board of Adjustment has approved the Expansion of a Non-conforming use for the addition to her home.

New Business:

Signage: Dr. Rhea Waite, Wild Heart Medicine, Map 21, Lot 12, Commercial District, 42 Main St., double sided, 45-inch-by-25-inch sign underneath an LPL Financial sign. The signs are between two posts in front of the building. Ms. Waite's husband, Joseph Waite, attended the meeting as Dr. Waite was at a conference.

Mr. Waite showed a picture of the sign, which had been sent to all board members. He explained that it would go below a LPL Financial Sign and he brought along a picture and showed it to the board. The photograph showed that the building where the sign would go is next to the library. The sign was between two posts and Dr. Waite's sign would go below the sign that was visible. Several board members pointed out that there had been signs there before, the last one being the lawyer Pam Little.

Ms. Mansouri asked what kind of doctor Dr. Waite was and was she affiliated with a local hospital? Mr. Waite said his wife followed naturopathic care and was an independent provider.

Ms. Leclerc said a multiple use sign in the commercial district can be 32 square feet. This sign conforms to our ordinances so it can be put up. Mr. Waite had already filled out the sign application form and gave it to the secretary. He was asked to take a picture of the sign after it was up and send it to the secretary so the photo could be put in the files.

Report on how Planning Board public hearing went regarding recommending two amendments to the ordinances and then to be placed on the warrant next March.

Ms. Leclerc said she went to the Planning Board meeting and explained the two new minor changes that the Zoning Board had made to the amendments that were presented at the previous meeting. The Planning Board approved a motion to recommend the amendments with six (6) yea votes and (1) one abstention. Ms. Barnes asked who abstained. Ms. Leclerc said Mr. Steve Dalessio. Ms. Barnes asked why and Ms. Leclerc said she didn't know, maybe because he represented the Select Board. Mr. Murray said maybe he thought his suggestion for the wording of the amendments should have been used.

Gravel Pit Inspections:

Ms. Mansouri pointed out that there were a couple of misspellings in the gravel pit inspection form. It is the same form that has been used for the last several years. Ms. Leclerc gave the secretary the form

she had downloaded from the Internet so that the misspellings would be correct on future gravel pit inspection forms.

Cold River Materials: Jan Leclerc and Myra Mansouri, inspected October, 8, 2021. Ms. Mansouri said there were no problems.

Ms. Mansouri said it has been a couple of years since she had been there and she was very impressed.

Hodgkins gravel pit Old Drewsville Road: Tom Murray and Dave Edkins, inspected October 8, 2021.

Mr. Murray said the owners weren't there but they were given permission to go through the pit with our clipboard. Mr. Edkins has a question about the tanks on the fuel island. There are two types of tanks. There's one for off-road diesel and one for on-road diesel. On-road diesel had a secondary containment around it, but the off-road diesel did not. So Mr. Murray asked fellow board member Judy Trow about it and she said that was usually regulated by the state.

The other thing Mr. Murray noted is something on the checklist No. 4 - Vegetation is maintained within the peripheral areas of items 2 and 3 above. "We've got a serious problem and it's growing every year," he said. "It's called Japanese knotweed." In the middle of the pit there is an island of loam and it's filled with a Japanese knotweed plot. This a concern of the state gets that it gets moved around and can be transferred it to another site. So I made a memo on the checklist that said "Care urged not to transfer any material near invasive Japanese knotweed plot."

Ms. Barnes asked if he should report that to someone. Someone recommended the Select Board, Ms. Mansouri suggested the Conservation Commission.

Former Hodgkins gravel pit at the Industrial Parks was sold at the end of July 2020 to Cold River Bridges who is using the property to store equipment. Cold River Bridges did not file an intent to finish out last year and has not filed an Intent to Excavate this year, according to Sarah Downing.

Tim Graves, Wentworth Road: Pauline Barnes and Judy Trow: Ms. Trow will bring in the form at the next meeting. Ms. Barnes said Mr. Graves had a whole pile of asphalt near the pit.

Ms. Barnes said that a comment by Sue Fillion in the September minutes made her realize that the language in our variance application is different from that in the RSA. In the criteria section, the RSA says the variance "will not be contrary to the public interest." But the Walpole variance application says "granting the variance would be of benefit to the public interest." This since this has a different meaning, should the application be changed to conform to the RSA? Ms. Leclerc said our paper work should be the same as the state's.

A new appeals board called the Housing Appeals Board hears appeals from local land use board decisions involving "questions of housing and housing development." Ms. Barnes attended a webinar that reviewed the jurisdiction and procedures of the HAB by detailing the key elements of the governing statutes, RSA chapter 679, and the currently applicable administrative rules. A discussion was also provided on recent decisions by the HAB involving the Town of Frankestown and the Town of Pembroke. Governing statutes: RSA 679:1 - :29.

Some new legislation was discussed. They are permitting homes of less than 400 square feet. There's an RSA that permits notice of a public meeting on the web site instead of a newspaper, although it comes with many conditions. Decisions by land boards should be based on the ordinances, not the

master plan. The reasoning is that townspeople vote on ordinances but do not vote to approve the master plan. The Supreme Court addressed the hardship criterion for variances saying, We have never held... that special conditions must relate to the physical characteristics of the land." Buildings can count, as well.

The conference lectures recommended what some call the Bible of reference books on land use legislation and court decisions. The Supreme Court uses it as a reference. It is titled "Land Use Planning and Zoning" by Peter J. Loughlin. A clip about this book says, "Make the right decisions and avoid costly errors with this veritable "bible" on land-use planning and zoning in New Hampshire. Municipal officials will benefit from four detailed sections dealing with zoning, zoning boards of adjustment, planning boards, and other controls affecting land use. This treatise covers nearly every issue public officials face on a daily basis, from zoning enforcement and subdivision control to historic district controls and wetlands protection. As an applicant's attorney, optimize your representation by knowing how the public entities operate and how the courts have ruled." This eBook features links to Lexis Advance for further legal research options. Ms. Barnes suggested we ask the Town Office to purchase it as a reference book.

Ms. Barnes offered to send ZBA members the materials from the conference and webinar. There is a Land Use Conference coming up in November that board members may attend either in-person or on Zoom. There is a fee for attending.

Mr. Sellarole asked where we were on short-term rentals. Ms. Leclerc said as far as she knows she's waiting for a decision in the Conway case. That involves 500 or more short-term rentals. Conway has a permissive zoning ordinance, just as Walpole has. If the decision goes the way Conway wants it to all current short-term rentals will be affected and have to follow a new zoning ordinance. If it doesn't, things remain the same. Legislation did pass regarding the rooms and meal tax applying to short-term rentals, Ms. Barnes said. Now revenue people are dealing with how it's going to be applied.

Mr. Sellarole asked about where Dunkin' was. Ms. Leclerc said Dunkin' did not receive approval based on the traffic safety, however the solar array was supposed to come to the ZBA for a special exception to have an industrial operation in a commercial district. The ball is in the applicant's court. No one has heard anything. Do they have a time limit window in which they can come back with a new application? Someone thought there was a window and it may be a year.

There being no more business Mr. Vose made a motion to adjourn. Mr. Murray seconded the motion and the motion carried.

Respectfully submitted,
Marilou Blaine
ZBA Secretary

cc: ZBA, WPB, Town Offices, The Walpolean.
Posted: Inside Town Hall, on the bulletin board outside the Post Office, www.walpolenh.us