

Zoning Board of Adjustment Minutes
March 16, 2022
Town Hall
7 pm

Roll Call: Board members present: Chair Jan Leclerc, Vice-Chair Ernie Vose, Clerk Tom Murray, Pauline Barnes, Tom Winmill. Alternates present: Don Sellarole, Judy Trow, Dave Edkins. Myra Mansouri was also at the meeting.

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

Call to Order: Ms. Leclerc called the meeting to order a few minutes after 7 pm. She welcomed new board member Tom Winmill and Mr. Vose thanked Ms. Mansouri for all her years of service.

Minutes: Review minutes of February 2022 meeting. Ms. Barnes made a correction on page 3, second paragraph from the bottom, fifth line. Add the word "is" between "what" and "going" on the warrant. Mr. Sellarole said when the Board was talking about the maps last month, the Board discussed if they were going to be laminated. Mr. Vose made a motion to approve the minutes as corrected. Mr. Murray seconded the motion and the motion passed.

Election of Officers

Ms. Barnes nominated Ms. Leclerc as Chair. Mr. Murray seconded the motion. Mr. Winmill asked what are the responsibilities of the Chair. The description of officers and their responsibilities are in the ZBA Bylaws. Ms. Leclerc read the following.

"Section 1. A Chairperson shall be elected annually at the first meeting following the town meeting by a majority vote of the board. The Chairperson shall serve for one year and shall be eligible for re-election. The Chairperson shall preside over meetings and hearings, appoint such committees as directed by the Board, and shall affix his/her signature in the name of the Board."

Does the Chair set the agenda for the meeting? Mr. Windmill asked. The agenda sets itself, Ms. Leclerc said. Applicants contact the secretary and ask to be put on the agenda. Things come up at a regular meeting that are continued to the next meeting. They are put on the agenda. Sometimes Ms. Leclerc adds something she wants on the agenda or knows what other people want on the agenda and she lets let the secretary know. The vote for Ms. Leclerc as chair was unanimous.

Ms. Leclerc nominated Ernie Vose as Vice-Chair. Mr. Murray seconded the motion. Mr. Murray said he is highly qualified, he has held the position before. There being no discussion Ms. Leclerc read the ZBA definition of responsibilities for a Vice-Chair.

Section 2. A Vice-Chairperson shall be elected annually at the first meeting immediately following the town meeting by majority vote of the Board. The Vice-Chairperson shall preside in the absence of the Chairperson and shall have full powers of the Chairperson on matters which come before the Board during the absence of the Chairperson." The vote was unanimous to elect Mr. Vose as Vice-Chair.

Ms. Barnes nominated Tom Murray as Clerk. Ms. Leclerc seconded the motion. There being no comments, she read the duties of the clerk.

“Section 3. A Clerk shall be elected annually at the first meeting following the town meeting by a majority vote of the Board. The Clerk shall serve for one year and shall be eligible for re-election. The Clerk shall maintain a record of all meetings, transactions, and findings of the Board, and perform such other duties as the Board may direct including the affixing of his/her signature in the name of the Board.” Ms. Leclerc said this was originally written before a secretary was hired so now these are the duties of the recording secretary. The vote was unanimous in favor of Tom Murray as Clerk.

Possible variance:

Regarding Elizabeth Roos’s request, Ms. Leclerc said she has to come and explain to the Board what she is going to do. Then the Board will decide what kind of application she needs.

Mr. Winmill asked if she had submitted an application. Ms. Leclerc explained that that’s why she has to come to the next board meeting and explain what she is intending to do and then the Board can decide if she needs a Variance or possibly an Expansion of a Non-Conforming Use. The same thing with US Cellular and a new sign. Mr. Winmill asked if there was an application. The answer was the same as above. The secretary sent the sign ordinance to the caller from the sign company.

Clarion article for March:

Ms. Barnes said, as agreed by the board, she didn’t submit an article to the The Clarion for the March edition so there wouldn’t be any confusion about the zoning article on the warrant and the article on Special Exceptions. She was trying to decide what the topic would be for next month. Variance or Non-Conforming Use? Ms. Leclerc said she thought the article on Special Exceptions was perfect. Mr. Murray said at first he got confused because of five zoning districts and the five criteria for variances. Special exceptions don’t have five criteria, he said. When he read it more slowly again, he understood its meaning. Ms. Trow said most people won’t have those five criteria in their head when they read it. She added that Non-Conforming Uses and Appeals should be last because we don’t see a lot of those applications. We do variances more often. Mr. Vose said you need to understand Special Exceptions and Variances in order to understand the reason for a Non-Conforming Use.

Update on Day Care Center

There is no update, Ms. Leclerc said. It’s in the hands of the Planning Board Board.

Applications on Website:

At the January Planning Board Board meeting Dennis Marcom noted that the Special Exception application that the secretary gave the applicant was different from the one on the website. So Mr. Dalessio said you have to fix this. Ms. Leclerc said, “So I did and in the process made it a little clearer. But it’s still not perfect.” She was looking at other applications that should be put on the website. In 2019 the Board changed the Special Exception applications so that there was an application for a special exception for each district because the criteria for approving the application is different for each district. But Ms. Leclerc said the end result is that it is not easy to understand. “I don’t think we helped it the way we did it,” she said. So Ms. Leclerc passed out copies of the applications and asked the Board to look them over and next month the Board will try to straighten them out so the applications are more easily understood. In the process she saw an error in the special exception application for the industrial district. The words “is inadequate” are missing.

She remembered that while working on the Special Exception applications there was wording to allow

industrial uses. Some of the problem stems from the Planning Board Board's recommendation application, their criteria is different from the Zoning Board's criteria. Their recommendation doesn't include all of the criteria that the Zoning Board needs to consider. She said she needs everybody's help on this. She thought these could be written much more clearly. In both of these situations she realized that in an application to the Planning Board to give a recommendation that the instructions aren't clear.

Mr. Edkins wondered whether it is necessary to have two applications. Is it necessary that the Zoning Board is making recommendations to the Planning Board and the Planning Board is making recommendations to the Zoning Board. Applicants have to come before both boards anyway and this makes the process more cumbersome. The Zoning Board okays variances and the Planning Board board has site plan reviews. It seems that there's that extra step.

Ms. Trow said the Planning Board doesn't have to have a hearing. Mr. Vose disagreed and said that a recommendation does have to a public hearing. Ms. Leclerc mentioned the Walker Road hearing when the applicant wanted to put in a gas station by the vet's place in the rural/ag district. They had a hearing to make sure it conforms to the Master Plan and other things. Ms. Trow said they did have a hearing but I don't think they had to. Ms. Leclerc read from the zoning ordinance on special exceptions in rural/ag. "Consideration of Planning Board recommendation on the project based on its determination following a Public Hearing." The process is very cumbersome and the criteria is different for the different boards. They generally come to the Zoning Board and then have to go to the Planning Board. That's when I started the joint meetings and it was ridiculous, Mr. Vose said. It obviously didn't work.

Mr. Edkins said variances and specials exceptions are heard by the Zoning Board. But the first call should be the Select Board's. It seems we might be able to streamline the process a bit without having to give up any control. Mr. Edkins said he would think more about that. Ms. Leclerc said applications will be discussed at the next meeting.

Zoning Map from Antioch

Mr. Sellarole sent everyone electronic copies of the map and related material created by Antioch. We talked about size and how many copies. He knows people didn't want potential contamination sites on the map. It's been sitting on his desk and he'll go back to it but he doesn't think Peter Palmiotto will want to modify the map and the copy Sellarole received can't be modified. If he doesn't want to modify the map, do we still want to go ahead with it and get 20 copies from him? Mr. Sellarole will find out and report back to the Board at the next meeting.

There were also two maps about the Well Head Protection Overlay District Area - Watkins Hill and the Connecticut River, Article 19 in the Ordinance.

New member agenda

Mr. Winmill had some thoughts about the Zoning Board. He had copies of about 20 items for the board to consider. Some of the items are New Hampshire models about adoption and procedure, he said. Models come from the state of New Hampshire at the advice of the attorney general and they are available for Zoning Boards of Adjustments. It would seem advisable for the Board to look at these forms, and unless there's a reason not to, there are a number of reasons to use these forms. One is that they are vetted by the state and probably kept up to date with any new statutes. But also they have been vetted in various court rooms etc. to stand the test of time. It also provides new forms and new disclosures that would be helpful to the people of Walpole to understand what is going on in

zoning boards. For example, notice of decision granted. It's a two-page form. It states who the applicant is, location of the parcel, reasons and conditions for the request and why it is approved. You can look back years later and see what was decided.

The secretary can draft these resolution in the minutes. It provides a legal basis for the decision and also the applicant can go to court if they wish to and have all the facts to act on and the applicable rule and for us it provides additional evidence and support for our decision months or even years after the event. It's a tidier package, Mr. Winmill said. Applicants know what the answer was and the reason why and they take whatever action they want to. And the Zoning Board is off the hook to do further research. And there are other things that are very helpful and they are just sitting there in PDF form. You fill in a blank here and there. They can be put on the website.

Look at the NH model rules of procedure and it looks at the responsibilities of the chair and vice-chair and clerk. The bylaws or models, if we adopt them, are only fair to the people of Walpole in that they would know what to do. It isn't a real mystery. And you don't have to remember them because it's all written down.

The third item is the adoption of the form of agenda. Now there are many ways to do an agenda and there's nothing wrong with how the board is doing it now but it seems that the Zoning Board should be acting on stuff. A variance application, a special application, an equitable waiver of dimensional requirements. These are action items. The rest can just be talked about. Milford, a town just east of Walpole, has an agenda and items that refer to the application, so anyone who can see the application and what should really be acted on. I think that will save us a lot of time. This is how some items are discussed and it's very efficient.

The next item is nonpublic session, which speaks about personnel, and that speaks for itself.

Access to the town website for posting agendas, minutes, notices, etc. It seems that everything should be on the website. Currently the process is that there is a person who has been hired to put things on the website. He/she does not work in the Town Offices. Mr. Winmill said notices, agendas, minutes could all go on the website and maybe the secretary could have contact with that person and notices will be distributed to that person. Ms. Leclerc said that Mr. Dalessio told her that anything that goes on the website has to go through Sarah Downing.

Another problem is that someone might call the day of the meeting wanting to be put on the agenda. Or actually any person could walk right in tonight and ask questions of the Board, get advice on what application he/she would need after there is an explanation of what the person would like to do. The secretary would be willing to send the agenda to Sarah if that's what the chair thought best. Ms. Leclerc said she would like to think about it but she likes the idea that anyone can walk in and make a request or ask a question without being on the agenda.

Mr. Murray asked how many zoning boards go into this kind of depth. There are lot of things on this list. Ms. Leclerc said she has already given the board an assignment to look at the applications so that maybe we can look over the list and take one thing at a time.

The secretary said that a lot of this is already being done. A legal notice is written and placed in a local paper, in Walpole's case that is the The Keene Sentinel. Every abutter, plus the applicant and conservation groups, gets a certified letter telling them the applicant's name, what the application is for, the location, the article it pertains to in the ordinance, the tax map number and lot number. On the applicant's letter, it tells the abutters that there is an application in the town offices so any citizen may

look at the application and accompanying information, for example, a map or diagram of a project. There is an approval letter that the applicant gets after the public hearing decision. The Town Offices gets a copy and it is put in the applicant's file. It also includes all the above information as well as the reasons for approval.

The really neat thing is that this is a way to save some time because someone has already done the brain work, Mr. Winmill said.

Ms. Barnes asked Mr. Winmill to send the Board a link so members can check it out for themselves. After some discussion about further items on the list it was decided that maybe they would like to start with the forms for Notice of Decision Granted and Notice of Decision Denied and discuss them next month.

Mr. Winmill said he would send the link to the secretary and she could distribute it to the Board.

Nonpublic Session Minutes

Board members received a copy of the nonpublic session minutes and had a chance to read them. Ms. Leclerc asked if there was any discussion. There being none Ms. Leclerc made a motion to approve the minutes and seal them. Mr. Vose seconded the motion and the motion carried by roll call vote.

Mr. Vose made a motion to adjourn the meeting. Mr. Winmill seconded the motion and the motion carried.

Respectfully submitted,
Marilou Blaine
Recording Secretary

cc: ZBA, WPB, Town Offices, The Walpolean.

Posted: Inside the Town Offices, on the bulletin board outside the Post Offices, www.walpolenh.us