

Zoning Board of Adjustment Minutes
January 17, 2024
Town Hall
7 pm

Roll Call: Present Board Members Chair Dave Edkins, Clerk Tom Murray, Pauline Barnes and alternates Don Sellarole, Carolyn Vose and Shane O’Keefe. Absent were board members Tom Winmill and alternate Myra Mansouri.

Call to Order: Mr. Edkins called the meeting to order at 7:02 pm. Since the Board was two people shy of a full board, Mr. O’Keefe was asked to sit in for Mr. Winmill and Mr. Sellarole was asked to sit for the empty position on the board.

Minutes of December 2023: There were three corrections. In an email Peggy Pschirrer attributed the statement in the first paragraph of page 3 saying that “the preschool took in younger children than the local education system” to Carolyn Vose. Ms. Vose said she asked presenter Mark Houghton if the application for a variance was necessary to making changes to the preschool and Ms. Vose said Mr. Houghton said yes. On page 5, Mr. Murray noted that his name was listed as voting on the motion to grant a variance to The Foundation and the name should have been Ms. Mansouri. Mr. Murray had recused himself from sitting in and voting on the matter because he is a board member of The Foundation. He was actually sitting in the audience. Mr. Murray made a motion to accept the December 2023 minutes as corrected. Ms. Barnes seconded his motion and the motion carried unanimously.

Voting on Variances

Regarding the vote last month that the Zoning Board made on a public hearing for a variance, Ms. Barnes reminded the Board of how voting should go when determining its decision on a variance. She read from the Zoning Board of Adjustment’s Bylaws.

Section 4. h. “Voting on Variances: The Board will discuss each of the five criteria separately but have one vote on the decision for the application for a Variance.”

Old Business: Short-term rentals and/or definitions.

Ms. Barnes said while she thinks the board should eventually look at the topic of short-term rentals, as town counsel Jeremy Hockensmith suggested, the more pressing issue is definitions. For example, she said Walpole’s Zoning Ordinances document Article XVII defines a “dwelling” as “means a building of common foundation.” Mr. Edkins recalled that was written in reaction to a particular situation in town. Ms. Barnes said recently the Supreme Court ruled against the city of Conway, NH regarding short-term rentals on its basis of their zoning ordinance definition. Ms. Barnes didn’t think Walpole’s definition could stand a court challenge and called it “meaningless.” The court said it might rule differently based on another town’s ordinance. Mr. Sellarole asked what her thinking was. Ms. Barnes thought our board should take note of this decision and work on our definitions.

Ms. Barnes read a definition of “dwelling” from an example in a 2021 New Hampshire Revised Statutes. III. “Dwelling” shall mean any building, structure, trailer, mobile-home or camp or part thereof, used and occupied for human habitation or intended to be so used and includes any appurtenances belonging thereto or usually enjoyed therewith.”

Ms. Barnes added that there are groups of definitions in several different places within the 43-page Walpole Zoning Ordinances and the definitions should be grouped in one place and they should be alphabetized. She suggested selecting some definitions and honing the language saying it is probably more important right now than trying to come up with a new ordinance on short-term rentals. Also, she mentioned, there are two types of owners of short-term rentals: owner-occupied and investor-owned. The latter was of more concern than the former. Mr. O’Keefe said Walpole doesn’t seem to have that problem as yet.

Shane O’Keefe works as Town Administrator for the town of Londonderry, Vt. The town is not far from Okemo, Magic and Bromley ski resorts and there’s also a state park with a lake in the town. Its population is smaller than Walpole’s population – about 1900 compared to Walpole’s 3700. But short-term rentals can be a problem there. He said a resident recently brought in a video showing a neighbor’s home, a short-term rental, being used as a “party house.” A man on a balcony is firing a machine gun. Londonderry, he said, is in the process of hiring a person to oversee the short-term rental ordinance in the town. The Town’s recently approved ordinance provides for compliance with state health and safety requirement including inspection by the state fire marshal. Mr. O’Keefe gave another instance on how short-term rentals could affect a town. He said someone purchased a former farm and has put up houses on stilts all over the property for short-term rentals. It has completely changed the “aesthetics” of that neighborhood, he said. He estimated that there were about 150 short-term rentals in Londonderry.

Getting back to definitions Mr. Edkins said that the zoning ordinances were originally written in 1968. In the intervening years there have been additions within the last ten to 20 years - sections called DADU or Detached Accessory Dwelling Units (2019) and Wellhead Protection Overlay District (2014). But right now it’s all “hobbled together” and, in his opinion, it needs to be recodified so it makes sense. He wondered and talked about getting some help from Southwest Regional Planning Commission (SWRPC).

Mr. O’Keefe thought that the town’s Walpole Zoning Ordinances document could be quite intimidating to the public as to what all the ordinances mean and suggested looking for some grant money so the board could have some professional help. There was no way the board could tackle this task on its own. He threw out a figure of it costing maybe about \$20,000.

The secretary explained that a planner from SWRPC usually works with the Planning Board in updating its Master Plan. Recently, over the summer, a planner was supposed to help the Planning Board finish up its Natural Features section of the Master Plan. For three months in a row, a planner was supposed to come to a workshop meeting, but for three months in a row, they canceled because the Commission was short-handed. Eventually, Carol Ogilvie, an independent planner who assisted with the update a decade ago, was contacted. It was arranged that she would help the Planning Board finish the project while working under the auspices of SWRPC. Mr. Edkins, who knows Ms. Ogilvie, said maybe the zoning board could make a similar arrangement. He said he would talk with Planning Board chair, Jeff Miller, and look into getting help for the ZBA. Members of the board agreed that was a good idea.

Voting in March

Mr. Edkins said that two people on the board had three-year terms that were ending this year and there was a one-year term to fill in for a board member who resigned last year. Ms. Vose said she might be interested in the one-year term vacated by Jan Galloway-Leclerc. All must file their intentions at the Town Clerk’s office, which is open Monday through Thursday: 7-12 and 1-6 on Mondays; 9-12 and 1-7:30 on Tuesdays; 9-12 and 1-5 on Wednesdays; and 8-12 and 1-4:30 on Thursdays. They

were reminded that the Town Clerk's office is closed for lunch from noon to 1 pm on all those days. Filing starts the day after the primary election, on January 24. It lasts about a week. However, the Town Clerk will also be open on Friday, Feb. 2 from 3 to 5 pm for the sole purpose of candidates wanting to file for an open seat on any board or position.

Adjournment

Mr. O'Keefe made a motion to adjourn. Mr. Sellarole seconded the motion and the motion carried. The time was 8:05 pm.

These are unapproved minutes and will be reviewed at the February meeting for corrections and omissions.

Respectfully submitted,
Marilou Blaine
ZBA Recording Secretary

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