

**Zoning Board of Adjustments  
Walpole Town Hall  
March 18, 2020 minutes  
7pm**

**Present:** Chair Jan Leclerc, Vice-Chair Myra Mansouri, Tom Murray, Pauline Barnes. Absent: Ernie Vose, Bob Anderson, Don Sellarole.

**Recording:** Marilou Blaine. **These minutes are unapproved and will be reviewed at the April 2020 meeting for corrections, additions and/or omissions.**

**Meeting Opened:** Ms. Leclerc called the meeting to order at 7 pm.

**Roll Call:** There were four Board members present for a quorum.

**Minutes:** Mr. Murray made a motion to accept the minutes of the February 19, 2020 meeting as presented. Ms. Barnes seconded the motion and the motion carried.

**Election of Officers:** Ms. Leclerc said she thought the Board members who were present should hold off voting until next month when more of the Board is hopefully here. Ms. Barnes made a motion to postpone the election of officers until our following meeting. Ms. Mansouri seconded the motion and the motion carried.

**Old Business:**

**Public Hearing No 1:**

**Expansion of a Non-conforming use: Robin Sanctuary** proposed a 6-foot-by 26-foot farm-style porch across the front of the building at 73 Main St., Map 20, Lot 52, Commercial District. Setback from the center of the road. Article VI, Land Standards.

Ms. Sanctuary explained that currently there is an old porch on the left side of the building. That porch would be removed and she would like to have a porch built across the front of the former American Legion building. The steps would be on the driveway side of the porch. It would also have a roof and pillars. It's the same depth as the previous porch. It would allow for an entrance for the tenants and provide a second egress from the building. Right now there's only one way out of the building and that is in the back. She also thought it would make the building look nicer. Ms. Barnes said the porch was a natural extension of what is already there.

Mr. Murray asked about a memorial there. Ms. Sanctuary said that right now it's a couple of rocks. He asked if there were a headstone. There is no headstone. Ms. Barbara Kasper, the previous owner of the building, said that when she was the owner of the building that the Legion removed the plaques.

Ms. Sanctuary said Walpole Fire Chief, Mark Houghton, has looked at the building and he discovered that the front entrance was sealed and there was no way you could open it and go in or out. It didn't even have a door, Ms. Sanctuary said. So the building didn't have any front access.

There being no further questions from either the audience or the Board, Ms. Leclerc closed the Public Hearing. Ms. Mansouri said the ordinance says a non-conforming use may be expanded or enlarged or changed to another non-conforming use after the Board of Adjustment determines, after a public hearing, that the proposed expansion, enlargement or change will not materially increase the hazard

or nuisance value of the non-conformity. Mr. Murray made a motion to accept the proposed expansion, based on that premise. Ms. Mansouri seconded the motion and the motion carried.

**Public Hearing No2:**

**Expansion of a Non-Conforming Use: Ryan and Megan Keefe Harrison, 113 Prospect Hill, Map 8, Lot 68.** Residential A district. Setback from center of the road for an attached one-car garage. Article VI, Land Standards.

Mr. Harrison said that he and his wife bought the former Richard Neilson house on Prospect Hill. There was a fire in the back of the house and there are outbuildings along the back of the property. His proposal is to add a one-car garage to the building. He and the architect tried a bunch of different scenarios based on egress, trees, topography and they came up with a one-car attached garage on the south side of the house. However, it is less than the required 65 feet from the center of the road.

Ms. Mansouri asked about the driveway permit. Mr. Harrison said he has been talking with NHDOT about a driveway permit and NHDOT said there could be two entrances as long as the property line hasn't changed since 1971. They went to Cheshire County Registry of Deeds and looked back at the records and they were fine with another entrance. He said he met all of the conditions. So the Harrisons are waiting for all the paper work from DOT to come through. Ms. Mansouri asked if Mr. Harrison had met with Walpole's Road Agent. Mr. Harrison said he advised us to contact NHDOT. Prospect Hill is a state road.

Ms. Harrison said they've been researching the house and it's been there from around 1797. Right now the back section where there was a fire has been torn down and removed. The original cape is there now. Right now it will be a one-story living arrangement. The upstairs will be closed off at this time. The focus is to create a living space for one person and a caregiver, Mrs. Harrison said. Currently the garage is being used by her husband who is a designer. She said that they thought they would have to dismantle the entire house but after they brought it down to the studs, they found a beautiful solid interior. Now they intend to restore it but want to move as quickly as possible to get the ADA space completed and move her parents up from North Carolina so they can be nearby. Mr. Rob Kasper said as a neighbor, he wanted it known that he and his wife were in support of the project.

There being no further questions, Ms. Leclerc closed the Public Hearing. Ms. Harrison was worried about the timeline and asked if they would have to have a second Public Hearing. She was assured there could be approval with the condition of them getting a permit from DOT. If they got the permit by email, it could be forwarded to the rest of the Board.

Mr. Murray made a motion to allow the expansion based on the ZBA ordinance Article X, letter D. The ordinance says a non-conforming use may be expanded or enlarged or changed to another non-conforming use after the Board of Adjustment determines, after a Public Hearing, that the proposed expansion, enlargement or change will not materially increase the hazard or nuisance value of the non-conformity on the property of Ryan and Megan Harrison with one stipulation - that you get final approval, an email confirmation, from NHDOT, approving the driveway. Ms. Mansouri seconded the motion and the motion carried.

**New Business: Sherri McGuirk,** Valley Road wants approval of an office to administer and send personnel to homes with people in need. She needs state approval for D&S ElderServices LLC, 258 Valley Road, Walpole.

Ms. McGuirk said D&S ElderServices is a LLC, employs an accountant and provide Workers Comp.

Ms. McGuirk said she has lived in Walpole for 35 years. Her business partner is Deb Miller. The business offers services for people who need errands done, rides to appointments and light housework. She said she had a state ID number when they opened. The state said she needed an office. She said basically what she does is make calls from her home. No one comes to her house on Valley Road. She needs to follow state guidelines and get ZBA approval, approval from the fire department and approval from Walpole's health officer. She was required to put an ad in The Sentinel, which she did. She showed a picture of her office to Board members.

Her home is in the rural/ag district. It's a log cabin on 52 acres. Fire chief, Mark Houghton, has already been to her house to install smoke detectors, which were required in her office. Ms. Leclerc filled out the ZBA section of the state licensing form. She needed the ZBA's OK before Mr. Houghton would sign the form. Now she will get in touch with Mr. Houghton again and contact Chuck Shaw, the health officer. She also received a letter from the Board approving her home business on Valley Road.

**Ruggiero Processing Facility:** Tom Hanna introduced himself and said he represented Ruggiero Processing Facility LLC. He is a Keene lawyer with BCM Environmental & Land Law and has practiced in Keene for 40 years. He said he went to the Planning Board last week to file Ruggiero's application, which was all he needed to do. But the Planning Board felt he should come here first.

Mr. Hanna said the proposal is on the same property that this Board granted a Special Exception on in 2011 and subsequently at the site for which that DES has given a permit. The proposal now is to install a driveway on the same site that was approved. Currently Ruggiero is using this driveway (he pointed to it on the map) with a right-of-way over Hodgkins property. But DES would like Ruggiero to use the driveway directly on his site. This driveway was approved by this Board 10 years ago. Also, there will be a scale on that driveway and next to that a 24-foot-by-40 foot modular office building will be installed for people to monitor the scale. Mr. Ruggiero's mother will move in there, not to live, but she's an employee. Actually a couple of people will be in this office. Because of the office, there will be a state approved septic system and well. Those are the only changes.

Mr. Joseph Ruggiero purchased land over here, Mr. Hanna said pointing to the map. The land was previously owned by John Hodgkins. And then Mr. Hanna pointed to the former property line. This proposal, he said, will be limited to the prior lot that received the approval and will not use any additional land. Mr. Ruggiero may have to come back for a Special Exception if we expanded to that land, but have no plan to do that at this time. Mr. Hanna continued, "I want to tell you why I'm here." Ms. Leclerc answered, "You're here to get an application for a Special Exception." Mr. Hanna said, "No."

What Mr. Hanna said he was back for is ask this board to indicate that this is not an expansion of use, this is not an expansion of activity, so there is no need for a Special Exception. Mr. Hanna passed out a letter written by the town's lawyer, Jeremy Hockensmith, dated February 11, 2019. It was written after Mr. Ruggiero got his permit from DES allowing him to process MSW (Municipal Solid Waste).

The paragraph Mr. Hanna was interested in was the the third paragraph in the letter. It reads, "While the Cheshire Superior Court has ruled that the Town of Walpole cannot regulate what type of waste the facility accepts, it must comply with the Town Ordinances and Regulations concerning the Permit modifications, ie. the relocation of the entrance and expansion into the neighboring lot. Before those changes are put in place, both modifications require site plan review, and the later modification requires a Special Exception." Mr. Hanna said he agreed with the last sentence.

But Mr. Ruggiero is not moving onto a neighboring location, there is no expansion of use and no change of use that would would require a modification of the use back in 2011 that would mean it has to come back to the Zoning Board. It has to be a change of use under which the Zoning Board has

jurisdiction and there is no change of use and no expansion of the activity that allows the Zoning Board of Adjustment to have a hearing and determine on whether a site plan is allowed. Hanna stated that he thought what the Planning Board is hoping for is the Zoning Board's imprimatur on that position. Mr. Hanna said he had no problem with the Board seeking counsel from the town attorney.

Ms. Leclerc said in her view she would consider it as a change but she thinks that she should contact Jeremy Hockensmith. So Ms. Leclerc will get in touch with Mr. Hockensmith and try to resolve this before the next PB meeting. As of now all meetings are canceled until April 6, she said.

Mr. Murray asked Mr. Hanna to point to a particular boundary line. Whose land is that, he asked. It's Ruggiero's land and had been annexed to the site. And the original site plan is this land, pointing to the map. That's the boundary of the original approval of a site plan and the new activities will be confined to that site. Ms. Barnes asked how many employees. Same number that are working now, three, Mr. Hanna said. Mr. Ruggiero said they have been working in the basement of Mr. Ruggiero's home. It's his wife and his daughter. Isn't there already an office on the property? There is a mobile home on the property that was called an office, but it's for Mr. Ruggiero's brother who dispatches the trucks. Is the scale going to cause a change in traffic flow? Mr. Hanna said it will be the same tonnage as previously permitted, which is 200 tons per week. What does he do now regarding a scale? Mr. Ruggiero explained that right now he uses the Cold River Material's scale and it costs him \$25 each time he does that.. How much do the trucks weigh? Mr. Ruggiero said about 26,000 pounds, when loaded between 23,000 and 28,000. Ms. Barnes said that a condition for the Special Exception the Board granted you 10 years ago said that the permits should be filed with the ZBA and have to be kept up to date. Do you have those? Mr. Hanna gave Ms. Leclerc copies of the permits.

Mr. Hanna asked Ms. Barnes if she was at the Planning Board hearing 10 years ago. He said he remembered her and she was very active, more than most of the audience. He said he needed to know if she were at the Planning Board hearing a couple of years. You were very active, he said. He asked Ms. Barnes if she could be objective on the Ruggiero matter while sitting on the this Board. Ms. Barnes said, "I've already decided that if you come back for a hearing, I will recuse myself."

"But you participated tonight," Mr. Hanna said. "This is not a Public Hearing," Ms. Barnes responded.

"I would think you would taint the entire process if you participated," Mr. Hanna said. "It is nothing personal. I recall very specifically you're involvement and it was very accentuated."

Ms. Barnes responded, "If you ask the chairwoman, she will tell you that I've already discussed this with her. I am not doing it (recusing myself) at your request, I am doing it because it is the right thing to do. And I discussed it with Ms. Leclerc." Ms. Leclerc confirmed her statement.

Mr. Hanna said the right thing to do was not to have participated now.

Ms. Barnes said, "I disagree with that." Mr. Hanna said, "you've already participated with your colleagues. I object to the fact that you have done this so far but I appreciate the fact that you're going to disqualify yourself if there's a Public Hearing, which I don't think there will be."

### **Rob Kasper – signage at Walpole Creamery, Main Street, Commercial District.**

Mr. Kasper explained that there are going to be improvements at the Creamery. The Creamery has taken over the Wash & Dry space and Mr. Kasper is going to the Planning Board for a site plan for the redesign of the parking lot and a new look at the front of the building. Regarding the existing sign, it measures 224 inches by 48 on each of the three signs. That's 19 feet by 4 feet for each sign.

Mr. Kasper wants to reduce that to 112 inches by 3 feet. The posts will be approximately 6 feet shorter and the existing lighting will be under the new roof. The sign will be relocated to the southern boundary of the property and there will be two signs instead of three signs. The setbacks follow the ordinance. So basically it will go from an 18½-foot sign to a 9-foot sign. Each of the signs will be reduced to 9 feet by 3 feet.

Ms. Leclerc said the question is about reducing a non-conforming sign. We have an ordinance about expanding a non-conformity, but not reducing it.

Mr. Kasper was asked when the original signs went up and he thought about 50 years ago and that the tire company has been there about 25 years.

Ms. Leclerc asked Mr. Kasper if she could call the NH Municipal Association and get their opinion and then she would get back to him. He agreed.

It was decided that in case the Municipal Association said no a Public Hearing would be held next month for the signage. A motion was made and seconded and approved by the Board to have a Public Hearing if needed.

**Signage on Route 12.** Joanna Andros has concern about the “feather flags” that are currently in front of a gas station on Route 12. They’ve have been in place continuously for several weeks. They advertise products, which are already advertised on existing signs. They may also be in violation of the distance from the road, but she was not sure. Therefore, some specific rules may need to be developed. Ideally this should be tackled very soon. The reason for this is that Feather Flags can be ordered very easily, can easily be customized to the business and are very inexpensive. They are probably cheaper by the number, which could encourage large quantities to be placed. They tend to be placed near the road to capture attention of drivers. In some cases they can be not only unattractive but can also distract drivers.

She gathered that there have been several complaints already in New Hampshire. It’s not like this is a temporary sign. They’ve been there for several weeks and could be popping up all over the place. I’m not sure where to go with it, Ms. Andros said. Ms. Andros said the flags are moving. Ms. Barnes said there is already an ordinance about oscillating signs.

Ms. Leclerc said it seems like our ordinance prohibits them unless they are 100 feet from another sign and the signs are too close to the road.

That evening the Board also received a letter regarding the same issue and a photograph of the two feather flags from Eric Merklein. There are now four, two on each side of the driveway as well as two stand-up signs.

It was decided a letter should be written to the Select Board regarding these signs, as they are now placed. They are in violation of at least two sign ordinances. In regard to the type of sign they are, that may need a new ordinance.

Ms. Andros was asked to do some research to see if she could find any ordinances that are written about these types of signs.

**Executive Session** at 8:27 pm. Ms. Mansouri made a motion to go into executive session. Mr. Murray seconded the motion and the motion carried. The Board came out of executive session at 9:05 pm.

**Short-term rental ordinance.** Ms. Leclerc consulted town counsel about this matter. Mr. Hockensmith sent her copies of an ordinance in Laconia that addressed the matter. Copies were sent to the Board.

There was a short discussion about copies of the Short-term rental ordinance and Mr. Hockensmith's letter, in which he said that there should be an ordinance on this matter sooner rather than later. The Board was in agreement that they weren't against short-term rentals, but they should be regulated especially when it came to the safety of the lodgers. This topic will be discussed at the next Board meeting.

**Handout:** Log of 2019. The log was handed out to the members who were at the meeting. The remaining members will get a copy at the next meeting.

Ms. Mansouri made a motion to adjourn the meeting. The motion was seconded and approved by the Board.

Next meeting Wednesday, April 15, 2020.

Respectfully submitted,  
Marilou Blaine  
ZBA secretary

cc: ZBA, WPB, Town Offices, Walpolean.

Posted: Inside the Town Offices, on the outside bulletin board at the Post Office, [www.walpolenh.us](http://www.walpolenh.us)