

Zoning Board of Adjustment Minutes
April 20, 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.

Also present were Marcia Galloway, Myra Mansouri, Cindy Westover, Tim Latham, Elizabeth Roos, Deborah Tobey, Maggie Suttles and Bruce Blanchette.

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

Call to Order: Ms. Leclerc called the meeting to order at 7 pm.

Minutes: Ms. Leclerc had something to say about the minutes. She said after our last meeting a board member asked if a member could send some additions to the minutes and she said "sure" and subsequently found out that that is a big no-no. "I should have said no," she said. She continued saying the Board cannot amend the minutes that way and today the Board will review minutes that were sent to members. The Board should not email one another on things he/she wants to change in the minutes. Also if any member wants to have his/her exact words printed in the minutes - that's not how minutes are usually taken or printed - but if that's what you want you must write down what you want to say, read it and give a printed copy to the secretary so the words can be printed in the minutes. Does that sound fair? Ms. Leclerc asked.

The Zoning Board's new member Mr. Winmill had another suggestion. He said instead of the secretary drafting the minutes and distributing the minutes to the public why don't we, as a board, look at preliminary minutes so we can make changes then. Ms. Barnes said that's what we are doing now. But the minutes that I received were the same one that were on The Walpolean, Mr. Winmill said. Ms. Leclerc said those are the draft minutes. They have to be distributed within a certain time limit. But, Mr. Winmill said, the secretary gets to distribute the minutes without any comments from the board members. That's her job, Ms. Leclerc said. The secretary writes a draft of the meeting and they are approved at the following meeting, she continued. "We're required to get the minutes out to the public within a certain amount of time. The board would have to have another public meeting to correct those minutes, Ms. Leclerc said. Mr. Winmill responded that he was concerned if Adolph Hitler were drafting the minutes and if he were to say on "March 16 Donald Duck came in and he made a presentation about Goofy" and that went out to the public, wouldn't we want to be able to change that process before it goes out to the public? Mr. Winmill asked. Ms. Leclerc said the members would say that wasn't correct at the next meeting and it would be corrected. Mr. Winmill said it seems very cumbersome and we're going to spend a lot of time making corrections to these minutes. If that's the only way, so be it.

We're also not going to consider one person's opinion on grammar versus another person's opinion, Ms. Leclerc said. A little bit of that is fine but the important thing is to get the facts out. So if you want your words in the minutes, word for word, please write them down. Mr. Vose said, "That makes sense."

Mr. Winmill said he had corrections to the minutes. He would be happy to go over them word by word
1.

but it may be annoying to everyone. In the second paragraph where it says the minutes were recorded, it should say the meeting is electronically recorded. In the paragraph beginning "Does the Chair set the agenda for the meeting," all those are things that Ms. Leclerc said but they are written as statements of fact. The secretary said that what Ms. Leclerc said "were facts." Unless there is something that is terribly erroneous it's not necessary make a correction unless it was something that was terribly erroneous, Ms. Leclerc said.

Mr. Winmill continued and said on the first page his name is misspelled and the paragraph suggests that these are facts. These were comments by Ms. Leclerc and not statements of fact. The problem is, Mr. Winmill said, it says things like applicants contact the secretary and they are put on the agenda. Where is that written? Mr. Winmill asked. Is that the case? They are not in the rules of procedure, Mr. Winmill said. Ms. Barnes said this is what happens. She didn't see what the problem was. Ms. Leclerc said if you're worried about this you can say that Ms. Leclerc said all those things. Likewise, Mr. Winmill said on page 2, Ms. Leclerc said it is a next paragraph is also a statement of fact. And the next line, the answer was the same as above. The reference to what was the answer was the same as above refers to a question Mr. Winmill had about a possible variance. The answer to both questions is "Ms. Leclerc said an applicant has to come to a meeting to explain to the board what he/she is going to do."

In the paragraph on the daycare center, Mr. Windmill continued, it says there is no update, but there is an update. The secretary said that Ms. Leclerc actually said there was no update and Ms. Leclerc agreed that she did say there was no update. But you go on to say, Mr. Winmill said, that the matter is in the hands of the Planning Board. That is an update, he said.

On page 3 the secretary writes New Member Agenda. "I was very put out," Mr. Winmill said. There was a list of about 20 items for the board to consider and the list wasn't even printed, he said. He didn't know what he had to do to get something on the agenda, Mr. Winmill complained. "I went through each one of these and they are not even reflected in the minutes," Mr. Winmill said. The secretary asked him to reread the minutes beginning at the bottom of page 3 and continuing on all of page 4 and the top of page 5. All that is about the items on Mr. Winmill's list and why it would be advantageous for the board to consider them. Mr. Winmill spent several minutes rereading what he said at the March meeting. It is attached to these minutes as well as the list of items he wanted discussed at the meeting.

Typically minutes aren't that detailed Ms. Leclerc said and she asked the board how they wanted to amend the minutes with the list that Mr. Winmill handed out.

Mr. Sellarole said he didn't have a problem with attaching what Mr. Winmill said to the minutes. He agreed that they are very detailed. So the secretary will attach the list of what Mr. Winmill said to tonight's minutes, Ms. Leclerc said.

In the future, Ms. Leclerc said, if a person wants what they say at a meeting put in the minutes word for word, the statement needs to be written and read and given to the secretary, Ms. Leclerc said. Ms. Barnes said this is a good compromise, but she agreed that the minutes are not supposed to be word for word. They are a comprehensive summary of the business of the meeting. If exact replication is important to the speaker, then they should provide a copy of what is said.

Ms. Leclerc asked if there were any other thoughts. The Board was happy with attaching Mr. Winmill's comments to the minutes. A motion was made and seconded that this would be the procedure. The motion passed 4 to 1. Mr. Murray opposed the motion.

The Board continued to consider the minutes. Ms. Trow made a couple of corrections. On page 1, 7th paragraph, lets is repeated. Page 2, paragraph 5 and 6, board is repeated. on page 2. Mr. Winmill's corrections are mentioned above. A motion was made and seconded to approved the amended minutes. The motion carried.

New Business:

Possibly Variance or Expansion of a Non-Conforming Use:

Elizabeth Roos, 14 Middle Street, Article V D-2, Tax Map 20, Lot 77, Residential B. Ms. Roos would like to change and slightly enlarge her deck on the west side of the house. The door to the deck is the second egress from the house. The door is even with the deck and gets frozen shut in the winter. Her plan is to drop the deck down one step. Request for a Public Hearing.

Ms. Deborah Tobey spoke about the proposed project. She is Elizabeth's sister and the person residing at 14 Middle Street. She explained that she would liked to rebuild a deck at the back of the house. It is attached to the house and on the same level as the first floor. This winter there were several times she had to enter the house through the back door because the door on the deck was covered in ice and a couple of feet of snow. Ms. Tobey would like to rebuild the deck and extend it back six feet longer than now. The piece of land is 36 feet wide at the back and 39 feet at front. If you are building something it must be 20 feet from your lot line. That would mean part of the deck would be in Maggie's yard or the parsonage yard, she said. The deck will no longer be attached to the house and she thought it would be safer if it were one step down. This way the door won't be restricted from opening from either inside or outside the house. It would be the second egress from the house and be better in case of an emergency.

Ms. Leclerc said from the drawing presented it appears that the deck will not be any closer to the side boundaries than it is now and while it would be closer to the back of the property it would still be 20 feet away. Ms. Leclerc said she didn't think she needed a variance, she needed an Expansion of a Non-Conforming Use. Mr. Vose also thought she needed an Expansion. It doesn't involve the five criteria, Ms. Leclerc said. Your lot is non-conforming because of the date in which it the house was built.

Ms. Tobey said that is what she was told she needed. Ms. Leclerc said that you need an application for an Expansion of a Non-Conforming Use and you will need a public hearing next month. Ms. Tobey asked about the check she already submitted and Ms. Leclerc said that that would pay for the new application. A motion was made to have a public hearing for an Expansion of a Non-Conforming Use next month contingent on having received the application and fees paid. Mr. Winmill asked, "Why does she need a motion." Ms. Leclerc said in order to hold a public hearing it has to be approved by the Board. Ms. Leclerc made a motion to hold a public hearing next month for an Expansion of a Non-Conforming Use for 14 Middle Street and contingent on an application being filled out and fees paid. Ms Barnes seconded the motion and the motion passed with 4 yeas. Mr. Winmill abstained.

Application corrections

Ms. Leclerc said some of our applications have a few errors or confusing language, but the Expansion application is okay to give to Ms. Tobey. Mr. Winmill said he wanted a copy too. So the secretary will send a copy of the application to both parties.

Mr. Winmill said that the application should be on the website as soon as possible. Ms. Leclerc said that she did not want the applications on the website if there were any errors. She suggested a

workshop so corrections could be made, or she could give each member an application to work on and bring back to the next meeting with corrections. Ms. Trow suggested that all the board members look at all the applications and at the next meeting the members would come back with suggestions on what corrections should be made.

Mr. Winmill asked if there was a list of applications. Ms. Leclerc said "no." It was suggested that the secretary make a list of all applications and send the list as well as copies of all the applications to the board. The secretary said she would do this after the minutes have been completed.

Signage:

US Cellular, 48 North Meadow Access Road. Article IV, D-6, Tax Map 12, Lot 55-13A, Commercial District. Owner of building is Blacker Holdings LLC. New sign company called. April or May meeting. Evelyn Negron contact. The secretary said as of today the sign company hasn't send her of copy of the design but it may be on the agenda next month.

Special Exception in a rural/ag district:

Tim Latham has a sales agreement to purchase property on March Hill Rd. **Article VIII, C, Tax Map 11, Lot 53, 455 March Hill Road.** He was at the meeting to ask for a special exception so he can use that property for his electrical business. He also attended the last planning board meeting to ask for a hearing to get the recommendation the ZBA will need. He will have his PB hearing May 10th.

Mr. Latham handed out pictures of the building he plans to move his electrical business. He is moving it from his house, which is up the road from 455 March Hill. Picture No. 1 showed a building in back of a garage. Picture No. 2 is of the garage, which he will be removing because it is in disrepair and its very near the road. That will take care of a blind spot in the road, Latham said and removing the garage will give him more room for parking for his employees and customers. He has two employees. Ms. Leclerc said he's been to the Planning Board and they set a public hearing for next month. If the ZBA decides to put a public hearing for this matter next month the board will be able to make a decision on the special exception. Mr. Sellarole asked Ms. Leclerc to explain. She said Mr. Latham wants to run a commercial business in a rural/ag district and that is allowed with a special exception. It was slaughterhouse originally, Mr. Latham said and then it was a place where they made pizza dough and the owner of the building uses it for storage now. Mr. Vose said these other businesses had to get special exceptions too. The secretary reminded him that he needed a letter from the owner. They already had one so it will go in the file. Ms. Leclerc said she did ask the Planning Board chair if we could both the notices in one envelope and he agreed. The secretary checked with the NH Municipal Association to see if that was permissible and Attorney Jonathan Cowal said it was permitted. So Mr. Latham will have to pay for only one set of abutters who will receive certified/return receipt letters.

Mr. Murray made a motion to hold a public hearing in May for Mr. Latham to get a Special Exception in a rural/ag district at 455 March Hill, Map 11, Lot 53, for his electrician business contingent on an acceptable application and fees being paid. The motion was seconded and it carried unanimously with the board.

Bruce Blanchette, Signage at 8 Prospect Hill Road, Article IV D-4, Tax Map 19, Lot 70, Residential A.

Signs shall be permitted no larger than six (6) square feet in the Residential District. Free-standing signs shall be located no closer than ten (10) feet from a front, side or rear lot line. A free-standing sign shall not exceed ten (10) feet in height.

Mr. Blanchette was at the meeting to show his sign and asked if it conformed to the Zoning Board of Adjustments ordinance.

Ms. Leclerc said it might be a good idea to either go to a Planning Board meeting or get in touch with Chair Jeff Miller about the proposed gallery that the Zoning Board approved last month. Mr. Murray asked if that means he has to have a public hearing. Ms. Leclerc didn't think so but said in the last month there has been some confusion and she didn't want to hear that again.

Mr. Blanchette brought a picture of the proposed sign. He said the dimensions were 24 inches by 36 inches. It would be double-sided, not illuminated and on a 96-inch post, 10 feet from the street. The sign would go between the mail box and a speed sign further up the hill.

Mr. Winmill asked if there were an application for a sign. Ms. Leclerc said "no." He asked why there was no application. Ms. Leclerc said the applicant needed to comply to the ordinance in his/her particular situation and that size of signs varied from one district to another district.

Ms. Leclerc said it appears to meet the setback, it is no larger than 6 feet and not more than 10 feet in height. Mr. Winmill asked if this information should be submitted in writing? It is standard practice that a copy of the sign dimensions and placement are submitted and put in the file. Ms. Leclerc asked if the board agreed the sign conformed to the ordinance. The board indicated that it agreed. After the sign is up, she asked Mr. Blanchette to take a picture of the sign and send it to the secretary to put in his file. He said he would.

Old Business:

Clarion article for April. What is a Variance? Pauline Barnes.

Ms. Barnes submitted the next article that will be published in The Clarion. The secretary said a variance goes with the property. Should that be part of the article? she asked.

Mr. Edkins praised Ms. Barnes for the explanation of variance. He thought it was very well done. Ms. Barnes said it was a joint effort of three people, she, Ms. Mansouri and Mr. Vose. Regarding adding the additional information about going with the property, several board members thought it might be confusing.

Mr. Sellarole worried about the word "relaxation." Ms. Barnes said she saw that used elsewhere. Mr. Sellarole seemed to think it was a funny choice of words. The idea is that a variance means that someone is asking for something that is not allowed but you are asking the board to relax the reason for the ordinance. Mr. Edkins suggested using the words "strict enforcement of an ordinance." This means allowing or relaxing that strict enforcement, he said. The rest of the board did not have a problem with the wording.

Ms. Barnes will be out of the country and won't be back until a couple of days before the last meeting. She asked someone else from the group if he or she would take over the writing of the next article. Ms. Mansouri and Mr. Vose agreed to do so. The Clarion deadline is after the date of the next meeting.

Copies of Zoning Map from Antioch.

Don Sellarole said he asked Peter Palmiotto if he could remove the contaminated sites from the map that the Zoning Board would like printed. He said he could. He could provide the board with 20 size A

copies of the map and 2 size B copies for \$100. Everyone on the board would receive a copy of this map. They would all be in color and the invoice would be sent to the Town Offices, PO Box 729 to the attention of the secretary.

The board wondered where it might be placed. Several members checked areas near the tax map and thought it might be hung out there in the hallway. Ms. Leclerc will ask the Select Board if the zoning board can have permission to hang the map.

Mr. Edkins suggested waiting until the board gets copies of the map until anything is done.

Adjournment:

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

Attachment of Mr. Winmill's list and comments.

It was decided at the April meeting that Mr. Winmill's list would be included at the end of the minutes of the regular meeting. Also, included are minutes he read.

Following is the list of items that Tom Mill he would like discussed at the March 16 meeting. It was discussed by the board that since it was such a long list that maybe one or two items should be discussed at upcoming meetings. In the March 16 there was an explanation of a couple of items on the list.

Mr. Winmill then circulated to all present copies of a list of certain items for the Board to consider.

Adoption of NH model rules of procedure in place of 2019 Bylaws

Adoption of NH model forms of notices and applications

APPLICATION FORMS

- Appeal from an Administrative Decision
- Special Exception
- Variance
- Equitable Waiver of Dimensional Requirements

NEWSPAPER NOTICE

PERSONAL NOTICE

INDIVIDUAL BOARD MEMBER VARIANCE WORKSHEET

FINDINGS OF FACTS

NOTICE OF DECISION: GRANTED

NOTICE OF DECISION: DENIED

Adoption of form of agenda

91-A:3 II (a), (b), (c) - Nonpublic session to discuss personnel

Access to the Town website for posting agendas, minutes, notices, etc.

ARTICLE XIV Penalty fines limit of \$500

Building and Code Inspector outside of Flood Plain District

Discussion of New Hampshire Office of Strategic Initiatives, Innovative Land Use Planning Techniques, Chapter 3.4 Preserving Dark Skies.

This a copy of Mr. Winmill read to the public at the April meeting.

"With respect to the NH model rules of procedure and NH model forms of notices and applications, Mr. Winmill stated that they were taken from the Zoning Board Handbook, The Board of Adjustment in New Hampshire: A Handbook for Local Officials – Updated 2021, which outlines the organization, functions, and duties of Zoning Boards of Adjustment in New Hampshire. The materials are freely available on a website provided by the NH Office of Strategic Initiatives. The Office of Strategic Initiatives (OSI) is part of the Executive Department within the Office of the Governor.

"Mr. Winmill noted that these model procedures and forms are intended to provide a manner by which the work of the board can be carried out in a fair and effective manner. Importantly, he stated that potentially the adoption of the model procedures and forms might also be helpful to the people of Walpole to understand what is going on and simplify how to approach the Walpole Zoning Board in appeals from an administrative decisions, special exceptions, variances, and equitable waivers of dimensional requirements. Likewise, he said having standard forms of newspaper notice, personal notice, individual board member variance worksheet, findings of facts, notice of decision: granted, notice of decision: denied would give a greater assurance of equal treatment and fairness to all applications.

"Next, Mr. Winmill then explained the benefits of the adoption of a form of agenda whereby any matter before the board would be linked to the underlying application. For example, if a variance were on the agenda, then the variance application would be attached so that all interested Walpoleans and others could be apprised of the matter in detail.

"Next, Mr. Winmill then requested that the Zoning Board have more immediate access to the Town website for posting agendas, minutes, notices, etc. He noted that currently <https://www.walpolenh.us/zoning-board-of-adjustment.html> does not have agendas to provide notice of upcoming meetings or historical reference for past meetings. Likewise, he noted that <https://www.walpolenh.us/document-center.html> might be an ideal location for all existing documents of the Zoning Board, such as its 2019 Bylaws, but also the model forms discussed above if adopted. Ms. Blaine responded by stating that 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. Ms. Leclerc stated that 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 stated that she 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.

Next, Mr. Winmill then raised the issue of the ARTICLE XIV Penalty fines limit of \$500 contained in Walpole Zoning Ordinances (south of the Cold River). It was discussed that the limit negates the ability of Walpole to enforce its zoning ordinances, and past examples were discussed. Mr. Winmill

requested that the Board consider ways to work with the Planning Board and Selectboard to correct this issue. He then volunteered to draft language, such as "Any violation of this Ordinance shall be made punishable by a fine of not more than \$100.00 for each day such violation may exist after the conviction date; provided, however, that the total fines imposed for any single violation shall not exceed \$500.00 to the extent permitted under the New Hampshire Revised Statutes Annotated, Title LXIV (64) Planning and Zoning, or any successor statute as may then be in effect."

Next, Mr. Winmill then noted that Walpole Zoning Ordinances (south of the Cold River) provide for no "Building and Code Inspector outside of the Flood Plain District, and that he was not sure that there even was a Building and Code Inspector for the Flood Plain District. Mr. Winmill requested that the Board consider ways to work with the Planning Board and Selectboard to correct this issue.

"Next, Mr. Winmill then requested a discussion of New Hampshire Office of Strategic Initiatives, Innovative Land Use Planning Techniques, Chapter 3.4 Preserving Dark Skies. The matter was discussed and a general consensus appeared to be in favor in reducing stray light pollution in Walpole. Mr. Winmill requested that the Board consider ways to work with the Planning Board and Selectboard to correct this issue."

Respectfully submitted,
Marilou Blaine

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