

Nonpublic Session Minutes Walpole Zoning Board of Adjustment

August 17, 2022

Members Present: Jan Leclerc – Chair

Judy Trow

Pauline Barnes

Tom Murray

Tom Winmill

Judy Trow made a motion to move into nonpublic session and Pauline Barnes seconded the motion.

Reason: Approve previous month's nonpublic session minutes and discuss attorney's advice.

Roll Call vote to enter nonpublic session:	Jan Leclerc	Yes
	Judy Trow	Yes
	Pauline Barnes	Yes
	Tom Murray	Yes
	Tom Winmill	Yes

Entered nonpublic session at 7:40 pm.

Other persons present at the nonpublic session were three alternates:

Don Sellarole
Carolyn Vose
Myra Mansouri

The Board spent about 20 minutes reading the nonpublic minutes.

One question about Mr. Hockensmith's visit was about knowing the owner of an appeal. In a small town like Walpole everyone is likely to know everyone else but if you are known to be an especially good friend of the person making the appeal or having a relationship with him/her, you are more likely to have it thrown out in court, he said.

Mr. Winmill asked Mr. Murray if he was disqualifying himself because he had a grandchild going to the day care center. Mr. Murray said yes. Mr. Winmill wondered if he really had to do that.

Ms. Leclerc said Mr. Hockensmith said definitely if you have grandchildren you should disqualify yourself but not necessarily cousins or great-grand children.

Ms. Trow said Mr. Hockensmith made it very clear that each person must make up own mind.

Mr. Sellarole asked you obviously know that person but you're not a good friend. You don't have to disqualify yourself?

Unsealed 11/15/22

Mr. Windmill said he never said he would recuse himself. Ms. Trow said that is not what the minutes say. It says that three board members may recuse themselves. Ms. Leclerc said she said exactly that. Mr. Winmill made a motion to put in the numbers five or two, and eliminate the number three regarding the sentence about who was going to recuse himself/herself. Ms. Leclerc asked if there was a second. No one seconded the motion so no vote was taken on the motion.

There are a couple of typos, Ms. Barnes said.

Mr. Murray wanted some explanation of the two following questions. Can the board go into executive session ~~into~~ at the public hearing? Ms. Trow said yes. Does that mean the audience must leave the room? Ms. Trow said yes or if room were packed, the board could go elsewhere.

There shouldn't be an even number of board members hearing the appeal. Why? There could be a tie. Ms. Barnes was surprised to hear that because she thought if the applicant agreed to not having a full board hear the appeal, the hearing could take place. Ms. Leclerc said maybe we should get Mr. Hockensmith to clarify that statement.

Who administers this hearing? Mr. Sellarole asked. Ms. Trow said the chair, but if the chair recuses herself/himself, then it's the vice-chair. If the vice-chair recuses herself/himself, it's the clerk. It's just like any other hearing with the exception that the board is only deciding one issue - if the Planning Board made the right decision in requiring a variance.

Ms. Trow made a motion to approve the minutes as corrected. Someone added and to seal them. Mr. Winmill opposed the motion to approve the minutes and said that the minutes should not be sealed.

Ms. Trow made a motion to approve the minutes as corrected. Ms. Barnes seconded the motion. The motion carried with board members and alternates agreeing with the exception of Mr. Winmill.

Ms. Barnes made a motion to seal the minutes. Ms. Trow seconded the motion. Mr. Winmill wanted to speak to that motion. He said the Municipal Association said minutes should be sealed only for three reasons.

1. Divulging information about the person would adversely affect a person's reputation.
2. It would render the proposed action of the board ineffective.
3. The information pertains to preparation or carrying out of actions regarding terrorism.

Ms. Barnes said that pertains to a nonpublic session. Actually what we have here is called a "non-meeting," she said. Ms. Leclerc asked for a vote. The members, with one exception, voted to seal the minutes.

Mr. Winmill requested a list of all former ZBA nonpublic sealed minutes.

That motion about sealing must be done in public session, Mr. Winmill said. The secretary collected all the copies of the written minutes and gave them to the chair. Mr. Winmill did not want to give up his copy. The secretary picked up his copy. Ms. Barnes said minutes can only be reviewed by board members when acting as a board. No single board member may review sealed minutes.

While still in nonpublic session Ms. Leclerc brought the Board up to date on what she has been doing about what was discussed with town counsel about applications. After the last meeting she went to a Select Board meeting and explained to them how Mr. Hockensmith said that the Board needs to have the application completed and given to them at a regular ZBA meeting before the Board ever talks to the applicant. The Select Board said that didn't make sense, the ZBA has never done it that way. So the Select Board suggested Ms. Leclerc talk to the NH Municipal Association. Ms. Leclerc called the Municipal Association and she talked to Stephen Buckley. He said that they, meaning the Municipal Association, would never contradict what town counsel tells a board. What needs to happen is that the town provide a point person for the townspeople to get the information and the applications. So the applications would be filled out before the ZBA sees the application. In the meantime, Ms. Leclerc asked Mr. Hockensmith to talk to the Select Board or write to them. Mr. Hockensmith spoke to the Select Board and explained to them that this needed to happen. So the ZBA ~~Board~~ ^{members} are not talking to people before an application. The Select Board authorized Ms. Leclerc to ask Ernie Vose if he would like to be that point person. He is the person to whom everyone who has a zoning question is now directed. Ms. Leclerc wrote an article to put in The Clarion explaining the new process for zoning board applications.

Ms. Leclerc gave everyone a copy of the article to be put in The Clarion and the members commented on the article and the new process.

Ms. Trow made a motion to come out of nonpublic session at 8:52 pm. Ms. Barnes seconded the motion and the motion carried. The public session reconvened.

Ms. Trow made a motion to seal the minutes. Ms. Barnes seconded the motion and the motion carried.

Roll Call vote to seal minutes:	Jan Leclerc	yes
	Judy Trow	yes
	Pauline Barnes	yes
	Tom Murray	yes
	Tom Winmill	No

The motion to approved the corrected minutes passed.

These minutes recorded by Marilou Blaine.