

**TOWN OF OSS�PEE**  
**ZONING BOARD MEETING MINUTES**  
**September 8, 2015**

Minutes were recorded by Xann Horn, Board Secretary.  
Revisions to these minutes are noted by ***bold/italic*** type.

**Call to Order**

The meeting was called to order at 7:00 p.m.  
***23 people were present in the audience.***

**Roll Call**

Members present by roll call: David Babson, Jim Rines, Ski Kwiatkowski, Ralph Wurster, Stanley Brothers.  
Bob Freeman, Alternate. ~~***Frank Riley was not present.***~~

**Old Business** – None.

**New Business**

**Case #15-2-SE – Dan and Betteanne McMahan**, 110 Hodsdon Shore Road, Tax Map 73, Lot 134, Special Exception Request, Article 23, Section 3.2 to expand a non-conforming structure.

Josh Valley, Ridgeline Builders, was present to speak on the McMahans behalf and explained the request. Discussion was held regarding the septic plan prepared by Mark McConkey which was submitted with the application. McConkey was present in the audience and stated that he had no objection to his plan being used for reference purposes but did note that the ~~***scale was off plan was not to scale.***~~ There were no public comments.

**Motion:** by Jim, seconded by Ski, to approve the application for Case #15-2-SE for Dan and Betteanne McMahan at 110 Hodsdon Shore Road, Tax Map 73, Lot 134 for a Special Exception from Article 23, Section 3.2 to expand a non-conforming structure by going vertical in accordance with the application submitted herewith and that all state, federal and local laws and ordinances be complied with.

Jim stated that when an approval or denial is granted, the Board should ~~***prove***~~ ***provide*** findings of fact. ~~***He concurs that***~~ ***He suggested the following findings of fact:*** the use is permitted; it is not going to be detrimental to the public health, safety, or welfare; the site is appropriate for the use; no evidence has been submitted by any abutters; it will not reduce property values; there is adequate parking; there is no undue nuisance or hazards or vehicle traffic; and no evidence has been presented that it will be contradictory to the Zoning Ordinance. They have satisfied all of the criteria.

**Roll Call Vote on Motion:** 5 in favor (Jim, Ski, Ralph, David, Stanley), 0 opposed, 0 abstained. Motion passed.

**Case #15-3-SE, Abundant Harvest Family Church**, 530 Route 16, Tax Map 266, Lot 3, Special Exception Request, Article 34.3.a, for church use in the Corridor District.

Cory Johnston and Pastor Williams were present. Cory reviewed the application. They are not proposing any exterior changes. They are strictly in front of the Board because it a church use in the Corridor District requires a Special Exception. There was minimal Board discussion. There were no public comments.

**Motion:** by Jim, seconded by David, that the board approve Case #15-3-SE for Abundant Harvest Family Church, 530 Route 16, Tax Map 266, Lot 3 for the Special Exception request from Article 34.3. a, for church use in the Corridor District with the following conditions:

- 1.) they receive a change of use from NH DOT regarding the entrance permit;
- 2.) if they have church suppers they be limited to 100 seats until and unless a state approved septic system has been designed and installed for the number of seats that they wish to have;
- 3.) that there be no living space in the structure, and
- 4.) they obtain all other state, local, and federal approvals and comply with all state, local, and federal ordinance.

Jim ~~concurs that~~ ***suggested the following findings of fact:*** the use is permitted by special exception; it is not going to be detrimental to the public health, safety, or welfare; the site is appropriate for the use; no evidence has been submitted by any abutters; it will not reduce property values; there is adequate parking; there is no undue nuisance or hazards or vehicle traffic; and no evidence has been presented that it will be contradictory to the Zoning Ordinance. They have satisfied all of the criteria.

**Roll Call Vote on Motion: 4 in favor (Jim, Ski, Ralph, David), 0 opposed, 1 abstained (Stanley).  
Motion passed.**

Mark McConkey was present as owner's agent for the following two cases. Jim Rines stated that White Mountain Survey, ~~Co.,~~ ***& Engineering***, Inc. performed the survey for the prior estate for the land. If anyone thinks he should recuse himself he will. Nobody had any objections to him hearing the case as a board member.

**Case #15-12-V – Eric and Elizabeth Burgon**, 73 Broad Bay Road, Tax Map 31, **Lot 18**, Variance Request, Article 6.4.2a for side line setbacks.

Mark McConkey was present as agent and reviewed the request and read through his responses to the criteria. There was minimal board discussion. Jim and David both discussed the possibility of shifting the ~~building~~ ***garage*** to comply ***with the southerly setback similar to the house or make it smaller like the garage on the next application.*** Mark stated it is the potential homeowners wish to have the ~~house~~ ***garage*** located as requested.

Public Comments: Frances Connor, John Conner, Roy Parker, Elliot Parker were present and voiced their objections to the request. John Connor read an objection letter and requested that it be included as part of the minutes (see attached). Elliot Parker spoke her objection, specifically with the garage location and removal of trees which provide a visual and auditory buffer. She stated that mutual consent between property owners is not necessarily in the best interest of the neighbors. Roy Elliott stated has walked the property and stated his objection of jamming two pretty good size houses in a small area. Eric Burgon, property owner, stated that both lots are average if not bigger than most other lots on Lake Ossipee and both have 50' of road frontage and 100' of lake frontage and are very deep lots. He noted that Connor

(abutter) has items within the setbacks on his property. Connor stated he applied for a building permit and built the shed approximately 10 years ago. He stated that his lawyer said he would qualify for an equitable waiver. Mark McConkey noted that the lots are pre-existing and the subdivision was approved by the town for the size and shapes of the lots. He addressed the abutters' issues, some of which were not concerns with the variance request, noting that before building permits are obtained, they will have to get approval. Jim Rines stated that after hearing testimony, it might be beneficial to grant a continuance that would give an opportunity for the applicant to refine the application and address some of the abutters' concerns. Mark noted the footprint does reflect decks and house which could change during the building process. Ski agreed with Jim that there are too many "ifs"; it is not refined enough and it would be granting a broad variance. Mark stated the application is asking to stay within the sideline setbacks for the house ***on the southerly boundary line***. They have developed a building envelope that is evolving inside a flood plain which will be addressed during the building permit process. The perspective buyers gave him an envelope that they want to build in. Mark stated he believes the abutters' concerns should be heard, but they must be valid. Mark conferred with Eric Burgon and then requested to continue the case for Lot 18 until next month.

**Motion:** by Jim, seconded by Ski, to continue Case #15-12-V, 73 Broad Bay Road, Tax Map 31, Lot 18 for a Variance Request to October 13, 2015. **All in favor, motion passed.**

**Case #15-11-V – Eric and Elizabeth Burgon**, 75 Broad Bay Road, Tax Map 31, **Lot 19**, Variance Request, Article 6.4.2a for side line setbacks.

Mark McConkey noted that the home is skewed and looking to the right (***northerly***). When putting this plan together this was the wish of the buyer that house and decks are looking in that direction. Since this application was submitted, they have met with the Browns (abutters to the ~~right north~~) and the house is going to be pulled away from the Brown's property ~~on the right~~ and shifted slightly toward the ~~centerline~~ ***southerly boundary***. The house and garage location will change. Donna Taylor Brown, abutter was present and stated that she feels one way or another this lot will be built on and she decided to contact Mark and discuss this in an effort to work together as she may be rebuilding in the future and feels the need to work together. Walter Day of 79 Broad Bay Road stated he is glad to see that something is being put there and thinks this would be an improvement to the neighborhood. Mark requested a continuance.

**Motion:** by Jim, seconded David, to continue Case #15-11-V, 75 Broad Bay Road, Tax Map 31, **Lot 19**, for a Variance Request to October 13, 2015. **All in Favor, motion passed.**

**Appeal of Case 15-4-V for Four Long Pond Realty Trust, by Whittier Coalition, LLC.**

Jim Rines stepped down as a board member as he is agent for Four Long Realty Trust; Bob Freeman was elevated to voting status.

Mark McConkey was present as a Member of the Whittier Coalition, **LLC** which ~~are is an~~ abutters. He reviewed his reasoning of why he believes the Board should not have granted an appeal and stated his issue is not that there is going to be convenient store or gas station on the property, but that the construction of tanks are proposed to be below grade.

Stanley noted the filing was made ~~within~~ 31 days ~~of~~ ***after the*** granting ~~a of the~~ decision, not 30 days ***as required by RSA 677:2..*** The Appeal was received by the Selectmen's Office on August 14, 2015. Discussion ensued on time and place of submittal. Attorney Marshall Hickok was present on behalf of Four Long Pond Realty Trust and stated the he believes a Motion for Reconsideration should have been filed, not

an Application for ~~Zoning Board of Adjustment Appeal~~ *Appeal of an Administrative Decision, but regardless of that fact, the request is untimely per RSA 677:2.*

**Motion:** by Ski, seconded by David, to deny the application for appeal because it was untimely submitted. **By Roll Call Vote: 4 in favor (Ralph, Ski, David, Bob), 0 opposed, 1 abstained (Stanley). Motion passed, appeal denied.**

Bob was returned to alternate status; Jim resumed his position as a board member.

~~Old Business~~ — *None.*

### **Any Other business Which May Come Before This Meeting**

Dennis Lagender was present to discuss 9 Dorrs Corner Road property. Dennis stated his abutters at 9 Dorrs Corner Road has a trailer on it with no running water, *no septic*, and no electric. They were issued a building permit and nothing has been done in a year. Now another building permit has been issued. Now a porta-pottie has been placed on the property, right near the property line. He asked how can *a* town that has zoning issue these people an occupancy permit? He believes the zoning office is not doing is job properly. Stanley suggested that he go to a selectmen's meeting and make them aware of his concerns. Jim Rines explained the Zoning Board's charge and believes if Dennis has concerns with the zoning officer, he should bring it to the selectmen's attention. Frank, another neighbor, stated that this trailer is a building construction office trailer and there is nothing in it; it is not habitable. Dennis stated he has gone to Dave Senecal twice and was told there is nothing he can do about it. The Zoning Board members highly recommended that Dennis attend the next Selectmen's meeting and voice his concerns.

**Motion:** by David, seconded by Ralph, to request that the code enforcement officer go to 9 Doors Corner Road and report back to the Board on how something like this can go on make a suggestion on how to fix this problem; and have a copy of these minutes be sent to Dave Senecal. **All in favor, motion passed.**

### **Approval of Minutes of August 11, 2015**

**Minutes:** by Jim, seconded by Ralph, to approve August 11, 2015 meeting minutes. **All in favor, motion passed.**

### **Adjournment**

**Motion:** by Jim, seconded by Brothers, to adjourn. **All in favor, motion passed.**  
The meeting adjourned at 9:50. p.m.

**Minutes approved by majority vote of the Board on** \_\_\_\_\_

\_\_\_\_\_  
**Stanley Brothers, Chairman**