

OSSIPEE ZONING BOARD
Meeting Minutes
July 12, 2016

Minutes were recorded by Laura Nash, Board Secretary.
Revisions of these minutes are noted by ***bold/italic*** type.

Call to Order: Stanley Brothers, Chairman called the meeting to order at 7:00 p.m.

Members Present by Roll Call: Stanley Brothers, Ralph Wurster, Ski Kwiatkowski, and Jim Rines, and Bob Freeman (alternate). ***Late Arrivals:*** David Babson, Bill Grover (alternate)
Chairman – Stanley Brothers appointed Bob Freeman as a voting member in the absence of Dave Babson.

Meeting Minutes: Ralph Wurster and Jim Rines commented on proper parliamentary procedure for amending corrections to prior meeting minutes. Decision is to follow Robert's Rules: the minutes can be amended and corrected and then the motion is to accept the minutes as corrected. Ski K., will research where he read on how to amend minutes. Ralph addressed Robert's Rules for generating the minutes. Robert's Rules says "What goes in the minutes is what is done at a meeting, not what is said." All the discussions that go on in the meeting is extraneous to the minutes and according to Robert's Rules "does not belong in the minutes." Point of Orders, Rulings of the Chair, Motions and Voting Results need to be recorded word for word.

Motion: by Jim Rines and seconded by Ralph Wurster to follow Robert's Rules for minute taking and records. Chairman, Stanley Brothers called for discussion. No further discussion. **All others in favor, motion passed. Dave Babson abstained** because he was not present for the discussion.

Chairman Stanley Brothers asked Bob Freeman to step down from voting status since Dave Babson is now present.

Motion: by Ski K., seconded by Jim R., to accept the June 14, 2016 meeting minutes as written.
Chairman, Stanley Brothers called for discussion.
Jim Rines and Ralph Wurster noted a couple of typos to the June 14, 2016 minutes for correction.
All in favor, motion passed.

New Business

- **Case #16-6-V – Bethe McBride** – 6 Cold Spring Circle; Tax Map: 66 Lot: 37 – has applied for a Variance from Article 6.4.2-A of the Ossipee Zoning Ordinance to expand the garage and the rear deck. Bethe presented her request for a variance to 1. ***Square off*** a rear deck ***and convert the new shape*** into a farmer's porch 2. Expand a 1 car garage into a 2 car garage and 3. Add dormers to the attic. Property is odd shaped and is non-conforming to both the town's and her association's setbacks. Bethe presented a letter from the Indian Mound Property Owners Association indicating they do not have any problems with her plans for the garage but she must remain within her own property lines. Bethe presented a new plan design to the Board with the garage measuring 25.2 ft. x 20 ft. She is requesting approval from the ZBA to build just to the edge of the property line but not to exceed onto the IMPOA property. After Board discussion it was determined Article 6.4.2-A is for side and rear setbacks which covers her request for the farmer's porch. Bethe will need a separate variance application for the front setbacks to cover the garage expansion.

Chairman - Stanley Brothers gave Bethe McBride the option of moving forward with only the deck but they would not address the garage. Bethe wanted to move forward with the variance for the deck.

Motion: by Jim Rines and seconded by Dave Babson to **GRANT** the Variance for side setback according to Article 6.4.2-A to allow a 15 ft., side yard setback for the proposed porch with plans(dated 07-12-2016) and application (dated June 21, 2016) and subject to all state, federal and local regulations.

Vote by Criteria:

1. The variance will not be contrary to the public interest because:

Jim – Yes Ski – Yes Ralph – Yes David – Yes Stanley - Yes

Jim Rines reasoning: it will not change the essential character of the neighborhood not threaten the health, safety and public welfare.

Ralph Wurster reasoning: the abutter that would be most affected has no reason to deny.

Dave Babson reasoning: no opposition to invasively... and she is just squaring up the house.

Stanley Brothers reasoning: she is just squaring up the house and there's no objections from the abutters.

2. The spirit of the ordinance is observed because:

Jim – Yes Ski – Yes Ralph – Yes David – Yes Stanley - Yes

Jim Rines reasoning: because the character of the neighborhood is not going to be altered and the most **affected** abutter has no problems what so ever.

3. Substantial justice is done because:

Jim – Yes Ski – Yes Ralph – Yes David – Yes Stanley - Yes

Jim Rines reasoning: because the harm done to the applicant by denial is a greater than any harm done to the public or any individuals.

Dave Babson's reasoning: I see no negative affect on anything

Stanley Brothers reasoning: because 6 Cold Spring Circle is already non-conforming and encroaches on the property but it's not making it more non-conforming.

4. The values of surrounding properties will not be diminished because:

Jim – Yes Ski – Yes Ralph – Yes David – Yes Stanley - Yes

Jim Rines reasoning: clearest evidence is the most directly affected abutter is here supporting it so I don't think it will any diminish in value.

Ski K., reasoning: because it's to the rear of the house and won't change anything.

Dave Babson reasoning: because it will increase the value of the house.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the "Special Conditions" of this property that distinguish it from other properties in the area are as follows:

(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:

Jim – Yes Ski – Yes Ralph – Yes David – Yes Stanley - Yes

Jim Rines reasoning: the character of the neighborhood is being maintained and the hardship is this property was developed before the adoption of zoning ordinances and it is not making any non-conformities more non-conforming.

All in favor, motion passed with standard 30 day appeal process that starts 07/13/2016.

- **Case #16-7-V – John Puchacz** – 946 Route 16; Tax Map: 123 Lot: 9 – has applied for a Variance from Article 23.3.2 of the Zoning Ordinance to enclose the part of the cabin that had been built around a tree, and extend the length of the cabin by 4 ft.

Jim Rines requested to recuse himself from this case due to **the fact that** he had provided the applicant a work proposal.

Chairman: Stanley Brothers appointed alternate, Bill **Grover** as an active voter for this case.

- John Puchacz presented his request for a variance. Property has 4 cabins on it, Cabin #2 which was built around a tree and very irregular shaped. Looking to square it off by enclosing the part of the cabin that had been built around a tree and damaged when the tree fell on the roof, and to extend the length of the cabin by 4 ft.

The Board had a brief discussion and review of the plans and article 23.3.2 and question 5 of the application. Currently the cabin is 16 x 16 and wanting it to increase it to 26 x 16.

Chairman: Stanley Brothers open discussion to the public. No Discussion occurred.

Motion: by Stanley Brothers and seconded by Dave Babson to **GRANT** the Variance Article 23.3.2 of the Zoning Ordinance to enclose the part of the cabin that had been built around a tree, and extend the length of the cabin by 4 ft. and to meet all state, federal and local regulations.

Chairman: Stanley Brothers open discussion the Board. No Discussion occurred.

Vote by Criteria:

1. The variance will not be contrary to the public interest because:

Ski – Yes Ralph – Yes David – Yes Stanley - Yes Bill - Yes

Ralph Wurster reasoning: privately owned and not well seen by the public and it would not be contrary to the public interest

Dave Babson reasoning: because no one is present to object to the plan.

2. The spirit of the ordinance is observed because:

Ski – Yes Ralph – Yes David – Yes Stanley – Yes Bill - Yes

Stanley Brothers reasoning: *feels* he is not making it more non-conforming

3. Substantial justice is done because:

Ski – Yes Ralph – Yes David – Yes Stanley - Yes Bill - Yes

Ski K reasoning: but unhappy the permit was not obtained first.

4. The values of surrounding properties will not be diminished because:

Ski – Yes Ralph – Yes David – Yes Stanley - Yes Bill - Yes

Ski K reasoning: it will increase the property values

Ralph Wurster reasoning: I agree

Dave Babson reasoning: it will definitely increase the property value

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the “Special Conditions” of this property that distinguish it from other properties in the area are as follows:

Ski – Yes Ralph – Yes David – Yes Stanley - Yes Bill - Yes

(Ai) No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property because:

(Aii) The proposed use is a reasonable one because:

Ski – Yes Ralph – Yes David – Yes Stanley – Yes Bill – Yes

Ralph Wurster reasoning: I’m not sure I agree with the applicant’s argument but I am in agreement there are some special conditions with this property because of the 4 structures and pine trees, he needs to take *care* of.

Dave Babson reasoning: anytime you have a project like this, you’re going to make the area more conforming and it’s to our advantage to agree.

All in favor, motion passed with standard 30 day appeal process.

Special Note: Bill Grover noted article 23.3.2 – Non-conforming Structures: May be expanded or altered by Special Exception under Article 26.2. The applicant filed a request for a variance but the denial was for a

special exception. In a case like this it's not a non-conforming structure, it's a non-conforming property. Where there is more than one main structure on the property. Had the applicant had worded it differently, we would not have been able to accept the application tonight. It could have been a special exception but reading the application it was for a variance.

Letters:

- GMCG c/o Blair Folt – Ltr received July 5, 2016 addressing several concerns related to WWSCG
- Town of Effingham: Ltr received 06/27/2016 - Response to “potential regional impact” abutters notification
- Ossipee Lake Alliance: letter received on 05/25/2016; denouncing favorability of WWSCG as referenced in Bob Reynolds letter.
- Freedom Conservation Commission: Ltr Received on June 1, 2016 - Concerns for “Potential Water Contamination & Development Regional Concerns of RSA 36-A: 2
- Hastings – Malia, Public Attorney's: Letter Received 06/02/2016 - clarifying potential miss quotes from previous meetings.
- Hastings – Malia, Public Attorney's: Letter Received 06/06/2016 – responding to allegations that had been made in the local newspaper regarding statements made at a ZBA meeting by his client's and have since been posted to Ossipee Lake Alliance website and additional allegations from Freedom Conservation Commission.

Any Other Business Which May Come Before This Meeting

- Budget Report: June 2016
- **Corey Lane** of GMCG – thought WWSCG would be at this meeting for lot merging. Corey was informed that is incorrect and lot merging will go before the PB. Corey Lane questioned ZBA policy on receiving misinformation after the fact of granting a variance or special exception. **Chairman: Stanley Brothers** stated they can only go by the information presented to them at the night of the meeting. It's not the ZBA's authority or responsibility to make sure the PB acts on something. **Bill Grover** continued as a previous PB member, he knows that lots would need to be merged before final Site Plan Review approval. But is it the responsibility of the ZBA, the answer is No, that's the responsibility of the PB. **David Babson** commented does the ZBA share information with the PB...probably not as well as we should. But that's also why there is a 30 day appeal process and why discussion is open to the abutter's and public.

Jim Rines called for a Point of Order that we are getting away from ZBA business and discussing issues without the applicant or representative present and setting ourselves up for trouble.

Chairman: Stanley Brothers acknowledged the Point of Order and stopped the discussion with Ms. Lane.

- Variance application checklist – Jim Rines questioned when the variance checklist form was changed because the one he's used to seeing is dated 2006. Laura Nash explained that Xann's and Pat Jones files had been gone through for the latest versions in order to put the instructions/applications on the website. After discussion and determining how to ensure application material is complete. Jim Rines and Ski K., will develop a new checklist to put with the applications by next ZBA meeting on August 9, 2016. Also, Stanley Brothers will review applicant's packets when Laura Nash notifies him of an application submission.

Adjournment

Motion: by Dave Babson., seconded by Jim Rines., to adjourn. **All in favor, motion passed.**

The meeting adjourned at 9:06 p.m.

Minutes approved by majority vote of the Board on:

Stanley Brothers, Chairman

Date