

OSSIPEE ZONING BOARD
Meeting Minutes
March 22, 2017
Rescheduled from March 14, 2017

Minutes were recorded by and transcribed 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, Chairman Vice-Chairman, Ralph Wurster, Bob Freeman (Selectmen's Rep), Jim Rines, Bill Grover (alternate) and Steve McConarty (ZEO). **Absent:** Ski Kwiatkowski

Elect a New Chairman: Brothers called for any motions for the Chairman position:

Motion by Rines to nominate Brothers as Chairman for the ZBA. Freeman seconded. No discussion. All others voted in favor. Brothers abstained.

Elect a New Vice Chairman: Brothers called for any motions for the Vice-Chairman position:

Motion by Freeman to nominate Wurster as Vice Chairman for the ZBA. Rines seconded.

With no more nominations.

Brothers called for a vote all those in favor of Wurster as Vice Chairman. No discussion. All others voted in favor. Wurster abstained.

Brothers raised Freeman and Grover to voting status to complete a full five member Board.

Meeting Minutes:

- Meeting Minutes of February 14, 2017 were reviewed. Rines read corrections he submitted to secretary earlier in the day. **Motion:** By Rines to approve the February 14, 2017 meeting minutes as corrected. Wurster seconded. No further Discussion. A Unanimous vote was taken.

- Meeting Minutes of January 10, 2017 were previously reviewed and corrected.

Motion: By Rines to approve, the January 10, 2017 meeting minutes as amended. Seconded by Freeman. No further Discussion. A Unanimous vote was taken.

PUBLIC HEARING

- **Case #16-11-V: Mark McConkey c/o Dummer Boys, LLC.** 1605 Route 16, Tax Map: 53 Lot: 30 – has applied for a Variance from Article 35.2.p of the Ossipee Zoning Ordinance to permit alterations to existing building to make 1 bedroom apartment. ([Continued from 10/11/2016 ZBA meeting](#))

Rines provided background decision of previously recusing himself from this case. Rines left the decision up to the Board members and the applicant, if they wished him to recuse himself or remain on the Board as a voting member. With no opposition, Rines remained as a voting member for this case.

Due to several continuances, the application and plans were re-copied for a few Board members.

Mark McConkey, agent for the applicant was present to present case to the board. McConkey submitted plans previously presented on 06/08/2010, with no changes to the exterior. McConkey requested the Board to consider the neighborhood, when deciding on this case. There are several mixed-use commercial and residents in this neighborhood. Proposing to add a studio apartment to an existing single family dwelling. The owner wants to house an employee on site for the 24 – hour emergency and phone service of Carroll County Oil. Mark read all five criteria's in the application.

Grover questioned zoning district, which roadside/commercial. Rines questioned total square footage which is 750 sq. ft., to number of bedrooms on property which is 4, compared to the well capacity. Requirements are acceptable.

Brothers opened discussion to the public. No discussion. Public discussion closed.

Motion by Rines to approve for purpose of discussion. Freeman seconded.

Board discussion:

Rines does not find it offensive or contrary to the neighborhood, it meets sewage loading requirements and does not see any reason not to grant the variance.

Freeman questioned any changes to the outside of the building ex. Windows, siding, etc.... Mostly inside work except new siding.

Grover commented on the need to updating the Master Plan; Zone charting and setting a precedence for the future. Because the ZBA is allowing for the commercial and mixed residential in the village zone and commercial node.

Brothers questioned what needed to be changed in the other resident's apartment. Mike Riley noted a window was added to meet fire codes.

Brothers asked if the same will need to be done for this apartment. McConarty replied an egress window and a door to meet fire codes.

Rines noted there are two letters of support and no letter and no one present in opposition.

Motion by Rines to approve the variance and to meet all Federal, State and Local Regulations and Requirements. Freeman seconded.

Criteria Vote:

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

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Rines commented because it will not going to alter the essential character of the neighborhood.

2. The spirit of the ordinance is observed because:

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Rines commented because it will not going to alter the essential character of the neighborhood.

3. Substantial justice is done because:

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Grover commented even though the applicant wants this to have an employee on site, does not mean at some point they could rent it out in the future. Nothing in the Zoning Ordinances prevents this from happening.

Rines believes it meets the criteria according to the handbook which states, "Any action the Board takes that harms the applicant more than it benefits the public is an injustice." Clearly, the owner would be more harmed than the public and I do not see any harm to the public.

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

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Rines commented there are letters of support and none in opposition. Plus they're improving the value of the property, which typically improves the value of the surrounding properties.

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:

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Rines commented this property has had many different types of occupancies and the character of the neighborhood.

Ai. Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:

(i) 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:

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Aii. The proposed use is a reasonable one because:

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Motion GRANTED for Variance, meeting all Federal, State, and Local Regulations. Chairman Brothers noted there is a 30 days appeal process of the ZBA decision which starts tomorrow morning. The Selectmen or any party to the action or any person directly affected has a right to appeal this decision.

New Business

- **Case # 17-1-SE:** Michael & Wendy Houle – 112 Hodsdon Shore Rd. Tax Map: 73 Lot: 133 – has applied for a Special Exception from Article 23.3.2 Section: XXIII of the Ossipee Zoning Ordinance to remove existing roof and add (4) feet to an existing bedroom along with a (8) foot deck on top of existing structure below.

Rines addressed the Chairman stating under full disclosure, his company surveyed the property that abuts the applicant's property. They discovered prior to this owner some encroachments of this property and wanted the applicant to know. Rines left the decision up to the Board members and the applicant, if they wished him to recuse himself or remain on the Board as a voting member. With no opposition, Rines remained as a voting member for this case.

Mike Houle present to present case to the Board. Houle illustrated from the plans on the side facing the lake, has a peaked roof. Wanted to remove the roof, extend the bedroom out 4 feet and have a walk out deck for the master bedroom. Currently, there is a one foot space between the bed and walls. The expanding of 4 feet would allow ease of access. Houle presented letters of support from all abutters.

Rines questioned if just the bedroom was extended out 4 feet. Houle replied yes, the foot print of the building is staying the same.

Grover questioned what the non-conformity to the property is now. Rines noted side yard setback. Grover asked how many feet is the encroachment. Houle does not have that information because it has not been file with the Town and State yet. Houle commented he has been in contact with the abutter, they have walked the property lines and there is a shed on the abutter's property, which will be moved in the spring. Rines provided a scaled estimate of 12 feet encroachment.

Wurster inquire about a well pump. Houle noted there is a well and pump but will be removed in the spring as well.

Brothers read letters from the abutters in support.

Motion by Rines to approve the Special Exception for **Case # 17-1-SE: Michael & Wendy Houle – 112 Hodsdon Shore Rd. Tax Map: 73 Lot: 133** – has applied for a Special Exception from Article 23.3.2 Section: XXIII of the Ossipee Zoning Ordinance to remove existing roof and add (4) feet to an existing bedroom along with a (8) foot deck on top of existing structure below. Freeman seconded.

Brothers open to public discussion.

Wurster commented since he's keeping it to the same footprint, he has no problem with approving this application.

Vote by Criteria:

1. The use is permitted by Special Exception under Table 1 (Article 34 of the Ossipee Zoning Ordinance), or elsewhere in the Ordinance (for example, see Article 6.2)

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

2. The use is so designed, located and proposed to be operated that the public health, safety, welfare, and convenience will be protected.

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes .

3. The specific site is appropriate for the proposed use or structure.

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

4. No factual evidence is found that the property values in the district will be reduced, due to incompatible land use, by such use.

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Rines commented yes, since all the abutter's wrote letters in support.

5. Adequate and appropriate facilities and parking will be provided for the proper operation of the proposed use or structure, as required by the Ordinance.

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

6. There will be no undue nuisance or serious hazard to pedestrian or vehicular traffic.

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Brothers noted the property is on a dead end street, so there's no serious hazard involved.

7. The proposed use shall not violate the provisions of Article IV and V of the Ordinance.

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

8. There is no valid objection from the abutters based on demonstrable fact.

Grover – Yes Rines – Yes Freeman – Yes Wurster – Yes Brothers – Yes

Motion to Grant the Special Exception and meet all Federal, State and Local Regulations. No further discussion. A unanimous vote was taken. **Special Exception GRANTED.** Chairman Brothers noted there is a 30 days appeal process of the ZBA decision which starts tomorrow morning. The Selectmen or any party to the action or any person directly affected has a right to appeal this decision.

Financial:

- Budget & Revenue Reports: 2/1/2017 – 2/28/2017

Any Other Business Which May Come Before This Meeting

- Approval of Variance instructions & application – **Motion** by Rines to approve as amended pending minor corrections. Freeman seconded. Board requested to have a pdf copy emailed to them. No further discussion. A unanimous vote was taken.
- Approval of SE instructions & application - **Motion** by Rines to approve as amended pending minor corrections. Freeman seconded. Board requested to have a pdf copy emailed to them. No further discussion. A unanimous vote was taken.
- Approval of Motion & Decision of Rehearing - **Motion** by Grover to approve. Rines seconded. No further discussion. A unanimous vote was taken.
- Approval of ZBA Fee Schedule – Brief discussion ensued and notation needed for public hearing before final approval would be granted. Discussion tabled until next meeting.

Next Meeting: April 11, 2017 @ 7:00 pm

Adjournment:

Motion by Rines, and seconded by Freeman to adjourn the meeting.
All in favor, motion passed. The meeting adjourned at 8:21 p.m.

Minutes approved by majority vote of the Board on:

Stanley Brothers, Chairman

Date