

## **OSSIPEE ZONING BOARD MINUTES**

**APRIL 9, 2013**

**7:00 PM**

A meeting of the Ossipee Zoning Board of Adjustment was held on April 9, 2013 at the Ossipee Town Hall.

### **Roll Call**

Jean Simpson Present	David Babson Present	Ski Kwiatkowski Present
Stanley Brothers Present	Alt. Bob Freeman Present	Alt. Lynn Clarke Present

Chairman Jean Simpson opened the meeting at 7:05pm. ZEO Dave Senecal and Attorney Rick Sager were present.

### **Rehearing Case #448 Alexander Bakman, property located at 12 Old Broad Bay Road 1, Tax Map 35, Lot 15. Applicant is seeking a Variance from Article 6.4.2 for setbacks.**

When the Chair opened the meeting, Attorney Hogan reviewed the case to date. He said that the case has gone on for a long time, not usual for a residential case. He said he was not able to tell why the Variance was denied from the minutes nor the reason why the decision was made to rehear the case. Mark McConkey reviewed the earlier changes made in the plan. Attorney Hogan reviewed the 5 points for a Variance. He said that the property will increase in value, as will the surrounding properties. It would not alter the essential character of the locality. It is in the public interest because it doesn't violate the basic objectives of the Ordinance to retain the natural beauty and stabilize the value of the land.. Also there are no septic concerns. There is a hardship owing to the specific conditions of the property with its small building envelope.

Attorney Deyvlder speaking for his client, Mr. Millar, responded that the reason the case has gone on so long was that the applicant asked for continuations. He said no realtor or assessor has been present to prove property values. The changes will alter the basic character of the area from part time "camps". The land shape hasn't changed nor has the Zoning Ordinance.

Mr. Millar read a statement outlining how the application fails to meet the 5 points necessary for a Variance. He said that it would lower property values, is contrary to the spirit of the ordinance which is to retain natural beauty and prevent overcrowding. He said that everyone there has the same land shape, so it is not a hardship.

Attorney Hogan then made his point that the public interest and the abutters interest are not the same thing. He was not able to speak to the reasons that the rehearing was granted because they were not included in the minutes.

Mr. Bakman spoke about pursuing his dreams. He says that the changes will make a reasonable size for a house, not a mansion. It is normal to have life changes and to have a garage. The others use the property for recreation, not full time. He is not blocking their water views.

Public input was closed at 8:22,

At this time Attorney Sager led the Board through the five points for a Variance. The Board studied the plan to review setbacks being asked for. For deciding about public interest, Ski asked if it would change the character of the neighborhood. David said the whole town should be considered. **Stanley Brothers made a motion that granting the Variance would not be contrary to the public interest. Bob Freeman seconded the motion. The vote was 3 to 2.**

**David Babson made a motion that granting the Variance would not be in the spirit of the Ordinance. Ski Kwiatkowski seconded the motion and the vote was 4-1 that it would not be in the spirit of the ordinance.** Reasons given were that it was too big, creating congestion and violating Article 1 of the Zoning Ordinance.

**Ski Kwiatkowski made a motion that granting the Variance would not do substantial justice. David Babson seconded the motion.** Discussion was that the individual loss was not greater than the gain for the public. With a vote of 3-2, this requirement was not met.

**Stanley Brothers made a motion that property values would not be diminished by granting the Variance. Bob Freeman seconded the motion and the vote was 4-1 in agreement.** One thought that property values of the abutters might be reduced because the property is less marketable.

**Jean Simpson made a motion that there is a relationship between the purpose of setbacks and this application. David Babson seconded the motion.** Reasons discussed include keeping green space and reducing fire danger and congestion. The vote was 3 in favor and 2 opposed.

**Stanley Brothers made a motion that the proposed use is reasonable and Bob Freeman seconded the motion. The vote was 2 in favor and 3 not. For consistency, David Babson restated the motion to say that he made a motion that the proposed use is not reasonable, Ski Kwiatkowski seconded the motion and the vote was 3-2.**

**David Babson made a motion to deny the Variance for case #448 because it does not meet all 5 requirements for a Variance. Ski Kwiatkowski seconded the motion and the vote was 4-1.**

The Board asked the secretary to send a card and his nameplate to the family of fellow ZBA Member Len Shurtleff who passed away.

**David Babson made a motion to adjourn at 9:45, Ski Kwiatkowski seconded the motion and everyone voted in favor.**

Patricia Jones  
Secretary to the Boards and Commission