

**TOWN OF OSSIPEE**  
**ZONING BOARD OF ADJUSTMENTS**  
Meeting Minutes  
February 12, 2019

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

**Call to Order:** Ralph Wurster called the meeting to order at 7:05 p.m. and instructed everyone in attendance to put their cellphones on mute.

**Members Present by Roll Call:** Ralph Wurster, Ed MacDonald, Jim Rines, Roy Barron, and Alternate - Daniel Fischbein. **Absent:** Sandra “Sam” Martin and Steve McConarty, ZEO

**Attendees:** Condict “Connie” Billings, Michael Durant and Mark & Jacob McConkey.

Chairman Wurster raised Alternate - Daniel Fischbein up to voting status in place of the vacant position, previously held by Stanley Brothers. The Board was now able to provide a quorum.

**Meeting Minutes:**

The Board reviewed the ZBA meeting minutes of January 8, 2019.

MacDonald referenced on page 5, a “d” needs to be added to excuse. “Sandra “Sam” Martin requested to be ***excused*** from ...”

A **Motion** by Barron to accept the minutes of January 8, 2019 as amended. Fischbein seconded. No further discussion. Rines abstained. All others voted to approve as amended. **Motion passed.**

**Financial:** Budget Report: 2018 Year End Report

The Board reviewed and questioned when line items; Health Insurance, Life Insurance and telephone is disbursed for payment.

**Unfinished Business:**

Rules of Procedure: Final revision for approval

A **Motion** by Rines to approve and adopt the final version of the Rules of Procedure and to be placed on the Town of Ossipee website under the Zoning Board of Adjustment page. Barron seconded. No discussion. A unanimous vote was taken. **Motion passed.**

**Notices:**

- **Appeal of Administrative Appeal:** Ossipee resident Sandra “Sam” Martin has filed a letter of Appeal of Administrative Decision rendered by the ZBA on **January 8, 2019 for Case# 19-1-AA: William Dawson**, owner – 80 Route 16B. Tax Map: 93 Lot: 015, who requested an Appeal of Administrative Decision by the Ossipee Zoning Officer’s interpretation of the Ossipee Zoning Ordinance as it relates to the J. William Dawson, Jr. property.

Wurster read the appeal letter to the Board of an Appeal of an Administrative Decision by the ZBA on 01/09/2019. Martin identified the ZBA erred in hearing this appeal, when the abutters were not properly notified, thus rendering their decision invalid. Wurster identified two issues with Martin’s appeal request:

1. Does not believe she can request an Administrative Appeal but should be requesting an Appeal for Rehearing, and
2. Does not believe she has “Standing” as an individual citizen. Wurster read in part per **RSA**

**677:2** “Motion for Rehearing of Board of Adjustment, Board of Appeals, and Local Legislative Body Decisions. – Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order,...”

Board discussion ensued on how to proceed with the request.

Jim Rines requested to recuse himself from the discussion, since he is the representing agent for the applicant of the case being discussed. Wurster granted. Rines suggested seeking legal counsel to determine a course of action. Board discussion ensued.

A **Motion** by Barron to seek legal counsel from Town Attorney, Rick Sager on the validity of Martin’s appeal letter, how to proceed with rehearing Case# 19-1-AA for William J. Dawson, Jr. and to notify Martin the Board is seeking legal counsel for advice. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion passed.**

Jim Rines rejoined the Board as a voting member.

Billings questioned if the variance granted for Dawson was valid, since the appeal is not valid. Billings was informed when the ZBA approved the Appeal of Administrative Decision; it determined a variance was not required.

Wurster continued the meeting with reading the remaining notices.

- **Ossipee Budget Committee** will hold a Public Hearing for their recommendations of the 2019 Municipal Budget on Wednesday, February 13, 2019 at 6:30 PM in the Bub Avery Memorial Gymnasium at Town Hall. Wurster asked for a copy of the 2019 proposed ZBA budget for the public hearing.
- **Meet the Candidates:** March 4, 2019 at 6:30pm at the Town Hall. The notice was passed around to members so they could see who is running for office.

Wurster proceeded into the public hearing.

### **New Business:**

### **PUBLIC HEARING**

For the following Applications

- **Case #19-1-V&SE:** owner – Patricia & Donald Simpson of 16 Frost Rd. Tax Map: 066 Lot: 049 is requesting a Variance from Articles 6.4.2.A (Side Setbacks), 6.4.2.B (Rear Setbacks) and a Special Exception from Article 23.3.2 Expansion of a Non—Conforming Structure to build an addition in the rear of an existing home. Mark and Jacob McConkey are the representing agents.
- **Case #19-2-V&SE:** owner - Pierre & Michelle Barton of 124 Leavitt Rd. Tax Map: 031 Lot: 045 is requesting a Variance from Article 6.4.2.A (Side Setbacks) and a Special Exception from Article 23.3.2 Expansion of a Non - Conforming Structure to build an addition, infill a deck on the front of the home and add a storage shed. Mark and Jacob McConkey are the representing agents.

Wurster brought to light the application for the variance was incomplete because the separate attachment answering the 5 criteria’s was not included in the application packet. The same situation applies to Case#19-2-V&SE. The second item missing is the 11X17 size plans.

Mark McConkey identified the description of work to be done for both cases were reversed on the abutter letters, the public and newspaper notices. McConkey requested to have both cases continued. But if possible; if the rehearing of the administrative appeal is scheduled before the March meeting, they would request to have the cases heard at the same meeting.

Wurster address the issue if an applicant is requesting a variance for one issue and a special exception from Article 23.3. Does the applicant need to apply for both or only a variance? Discussion ensued.

Discussion with McConkey over re-noticing both cases, or requesting to withdraw both cases and resubmit. Without being able to continue to a date certain, McConkey requested to withdraw both cases and resubmit.

A **Motion** by Barron to grant the request from McConkey to withdraw **Case #19-1-V&SE:** owner – Patricia & Donald Simpson and **Case #19-2-V&SE:** owner - Pierre & Michelle Barton and resubmit the applications. Rines seconded. No discussion. A unanimous vote was taken. **Motion passed.**

Wurster returned discussion to, if an applicant is requesting a variance for one issue and a special exception from Article 23.3. Does the applicant need to apply for both or only a variance? Discussion resulted in the decision that the applicant will need to apply for both applications.

#### **Public Input:**

Michael Durant (was delayed due to snowstorm) was here as an abutter to **Case #19-1-V&SE:** owner – Patricia & Donald Simpson. Mr. Durant has expressed concerns. Mark McConkey was going to speak with Mr. Durant outside the meeting.

#### **Any Other Business Which May Come Before This Meeting:**

Billings called the Board's attention to Zoning Ordinance 25.3.4 – Referral to Planning on page 67 which states:

*"25.3.4. REFERRAL TO PLANNING: The Board of Adjustment may, before taking final action on any matter, refer it to the Planning Board for review and recommendation. Where the approval of the Planning Board is required under this Ordinance, the Board of Adjustment shall, before taking final action on any matter, refer it to the Planning Board for review and recommendation. The action of the Planning Board shall be reported to the Board of Adjustment within thirty (30) days of such referral. Any recommendation received from the Planning Board shall be disclosed at the public hearing and shall become a part of the record of the matter."*

Billings provided case examples where he felt the Planning Board was "never" notified and/or asked for an opinion of cases heard by the ZBA. Billings vented his grievance on several cases.

#### **Adjournment:**

A **Motion** by Rines to adjourn the meeting. MacDonald seconded. No discussion. All voted in favor, **Motion passed.** The meeting adjourned at 7:58 p.m.

**Next Meeting: March 12, 2019 @ 7:00 pm**

**Minutes approved by majority vote of the Board:**

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**Ralph Wurster, Chairman**

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**Date**

Or

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**Ed MacDonald, Vice Chairman**

*(In the absence of the Chairman)*

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**Date**