

**TOWN OF OSSIPEE**  
**ZONING BOARD OF ADJUSTMENTS**  
Meeting Minutes  
June 11, 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 7:00 p.m.

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

**Absent:** Shawn Marcotte and Sandra “Sam” Martin

Wurster raised Alternate-Fischbein to voting status in place of Shawn Marcotte.

**Meeting Minutes:** Review to Approve Meeting Minutes of 05/14/2019.

A **Motion** by Barron to approve the minutes of May 14, 2019 as submitted. Rines seconded. No further discussion. All voted to approve as amended. **Motion passed.**

**Financial:**

- Budget Report: Budget Report: 05/01/2019 – 05/31/2019
- Revenue Report: 01/01/2019 – 05/31/2019

Wurster compared both financial reports for the first – five months of the year and surmised the remaining budget of 66.50% would be acceptable. Rines inquired how to collect any outstanding debt from application submittals. Nash replied she usually sends ***an*** invoice to the applicant.

Wurster moved to discuss unfinished business after hearing Case #19-9-V for George & Michelle Couris.

**New Business:**

**PUBLIC HEARING**

- **Case #19-9-V:** owner – George & Michelle Couris of 3 Shorey Lane. Tax Map: 085 Lot: 002 is requesting a Variance from Articles 6.4.2.A (Side Setbacks), 6.4.2.B (Rear Setbacks) to build a 30 ft. X 40 ft. detached garage. Representing Agent: Mark McConkey of McConkey & Associates.

Mark and Jacob McConkey, as representing agents for the Couris’, presented the proposed plans of building a garage to house his boat and cars under cover and a driveway. The property contains a septic easement close to the road belonging to his neighbor. The property is located ***on*** the direct line of the Pine River and other wetlands, which is protected by NH Shoreland Regulations. McConkey noted they attempted to take the proposed garage as far away from the protected water way as possible. The property has underground utilities and trying to find openings to get past the utilities, septic and fire hydrants, McConkey ***comment*** is a chore. Allowing the garage to be built in the proposed location will not change the view, when traveling up the road.

Discussion by the Board included McConkey demonstrating to Barron the exact location garage and driveway in the drawings. Rines visited the location, drew the garage and driveway on trace paper, and proceeded to suggest an alternative location to McConkey that would be fully compliant, would take up less impervious coverage with the driveway and garage. Rines noted he did not understand why someone would request a variance when it could be built in an alternative space, be fully compliant and the in and out, access to the driveway would be much easier. McConkey noted the owners requested to have the garage tucked away around the corner as to not impose on the view shed of the neighbors and the owner would not be driving up on the lawn to make the turn into the driveway. Barron thought the whole purpose of a variance or special except was because there is not another location which is compliant. McConkey proceeded to read through the five criteria’s.

Barron **asked** Wurster **about** the purpose of a variance. **Was it** because there is no other location which is more compliant, **or** because the owner wants it in a particular location? Wurster chose **to discuss the answer to that** question until after public input.

Wurster called for public input from abutters or anyone from the public. None Heard.

McConkey stated the homeowner chose this location because of the two septic locations, visual deterrents, and McConkey not having a chance to digest the suggestions from Rines. McConkey requested a **continuance** until the July 9<sup>th</sup>, 2019 meeting to review and discuss with the owners the available options.

Wurster took the request for a continuous under advisement but did want the Board to have an opportunity to discuss the question **raised** by Barron. Rines spoke of the legal arguments and **criteria** for requesting a variance and this could set a precedence for future cases.

McConkey again requested a **continuance** until the July 9<sup>th</sup>, 2019 meeting to review and discuss with the owners the available options.

A **Motion** by Rines to grant a **continuance** until the July 9<sup>th</sup>, 2019 at 7:00 pm for **Case #19-9-V**: owner – George & Michelle Couris of 3 Shorey Lane. Tax Map: 085 Lot: 002. Barron seconded. No further discussion. A unanimous vote was taken. **Motion passed.**

### **Unfinished Business:**

Wurster addressed draft I of Instruction to Applicants Appealing to the ZBA. Wurster discussed with the secretary, if this is the direction to proceed with. Nash stated she developed the document but had reservations of incorporating it, for fear of confusing some applicants further. She explained the applicant would need to know to download the instructions and then download the application, equaling two separate attachments. Currently, each application has the instructions and mailing diagram as part of the application when they download it, equaling one attachment. Discussion on checklist to be included with application. Currently, there are checklist on applications it would be necessary but not all application need one.

- **Motion for Rehearing Application:** Barron questioned if an applicant can appeal a ZBA decision.

Rines explained if somebody can demonstrate that they are impacted by the decision, **they** can appeal, **but** it is not restricted to abutters or Board of Selectmen. Rines continued stating it's harder for someone who **is** not an abutter to demonstrate they are impacted by the decision.

Wurster noted one correction on page 1- **Reminder:** Complete your application request for a **Motion for Rehearing** or you may write a **STRIKE (form)** letter...

Rines addressed the fee schedule and applying postage stamps to the envelopes prior to submitting their application packet. Nash explained an applicant can either apply the appropriate amount of postage themselves or they can add the postage fee into the total check amount, and it can be run through the postage machine when it's time to mail out the abutters letters.

A **Motion** by Rines to adopt Draft IV of the Motion for Rehearing application as amended. Barron seconded. No further discussion. A unanimous vote was taken. **Motion passed.**

- **Appeal of Administrative Decision:**

Wurster questioned if someone appeals **an** administrative decision and is denied by the ZBA; can they appeal the appeal of the administrative decision of the ZBA's decision. Consensus was an applicant could appeal a ZBA decision but are unclear if the appeal is back to the ZBA or is it to Superior Court.

Wurster addressed page 2 of the checklist and questioned if all administrative **decisions** that could be appealed have to do with a building permit **because** decisions from the Board of Selectmen or the Planning Board may not. Rines suggested additional verbiage to include:

- Building Permit Denial letter from the Zoning Enforcement Officer (ADD) or a copy of the decision being appealed.

A **Motion** by Rines to adopt Draft III of the Appeal of Administrative Decision application as amended. Fischbein seconded. No further discussion. A unanimous vote was taken. **Motion passed.**

- **Rules of Procedure:** 2019 changes of adding Appeal of Administrative Decision and Variance and no new cases will be heard after 9:00 PM but action will continue on cases currently being acted upon.

Wurster noted since there is no one present to address any concerns, if there are no other changes and the changes were discussed at the last public hearing. The final draft of the Rules of Procedures can be adopted.

A **Motion** by Barron to adopt the Final Draft of the Rules of Procedures.

Discussion: Rines noted one change on 1, under Meetings – 2.

***2. To ensure that each applicant receives the attention and focus their application deserves, no previously continued hearings or new application hearings will commence after 9:00 PM unless voted otherwise (ADD) by 3 members...***

A New **Motion** by Barron to adopt the Final Revision of the Rules of Procedures as amended. Fischbein seconded. No further discussion. A unanimous vote was taken. **Motion passed.**

- **SB 339 – Voting by Zoning Board of Adjustments:** (The Bill amends RSA 674:33, III)

Wurster addressed the voting procedure *using the five criteria*. The Board reflected on the previous discussion, as an example: a variance requires that all 5 *criteria* need to pass in order for the variance to pass. If one does not pass, then the variance would get denied. Each criteria needs at least 3 votes to pass and all 5 *criteria* need to pass in order for a variance to pass. Wurster suggested adding this to the agenda for discussion for the next meeting and determine the wording to add to the Rules of Procedure.

A **Motion** by Rines that the ZBA will vote on each criteria separately, each criteria must have a least 3 affirmative votes to pass, and all *criteria* must pass for a variance or special exception application to pass. Fischbein seconded. Discussion: Wurster stated since this needs to be heard twice before a final vote to accept it into the Rules of Procedure. He suggested tabling the discussion until the next meeting. A unanimous decision occurred. Discussion and potential vote will take place on July 9, 2019.

**Any Other Business Which May Come Before This Meeting:** None heard.

### **Adjournment:**

A **Motion** by Rines to adjourn the meeting. MacDonald seconded. No discussion. All voted in favor, **Motion passed.** The meeting adjourned at 8:02 p.m.

**Next Meeting:** July 9, 2019 @ 7:00 pm

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

\_\_\_\_\_  
Ralph Wurster, Chairman

\_\_\_\_\_  
Date

Or

\_\_\_\_\_  
Ed MacDonald, Vice Chairman  
(In the absence of the Chairman)

\_\_\_\_\_  
Date