

TOWN OF OSSIPEE
ZONING BOARD OF ADJUSTMENTS
Meeting Minutes
October 13, 2020

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

Call to Order: Roy Barron called the meeting to order at 7:03 p.m.

Members Present by Roll Call: Roy Barron, Jim Rines, Daniel Fischbein, William “Bill” Grover, and Rick Cousins, ZEO

Absent: Ed MacDonald and Alternate – Doreen French

Vice-Chairman stated the Board would move to new business and would come back to minutes after hearing the applications before the Board.

New Business:

- **Case #20-9-V: (Received a Request for Continuance)** Paul Desimone Rev Trust of 70 Hodsdon Shore Rd. Tax Map: 072 Lot: 004 is seeking a Variance from Article 6 Section 6.4.2.A to demolish an existing home, out house, and shed and construct a new home that is approximately 322 sq. ft. larger and construct a new septic system and install a new well. (Case continued from September 8, 2020)

A **Motion** by Rines to continue **Case #20-9-V:** Paul Desimone Rev Trust of 70 Hodsdon Shore Rd. Tax Map: 072 Lot: 004 is seeking a Variance from Article 6 Section 6.4.2.A to demolish an existing home, out house, and shed and construct a new home that is approximately 322 sq. ft. larger and construct a new septic system and install a new well until the next meeting to be held on November 10, 2020. Fischbein seconded. No further discussion. A unanimous vote was taken. **Motion passed.**

- **Case #20-10-V:** Terry & Virginia Combs of 73 White Pond Rd. Tax Map: 129 Lot: 023 is seeking a Variance from Article 6 Section 6.4.1.A Front Setback to add a 5 ft. x 20 ft. deck off the front of a non-conforming cabin, and **Case #20-8-SE:** from Article 23.3.2 Expansion of a Non-Conforming Structure.

Vice-Chairman Barron addressed the Applicants (under RSA 674:33) – noting since there is not a full 5-member board, with no additional alternates to serve. The applicant has the option of postponing the hearing until all members are present. If the applicant chooses to proceed with the hearing, he/she should be advised that a 3- or 4-member board will not be grounds for an appeal hearing in the event the application is denied.

Vice-Chairman Barron asked if he wished to proceed. Terry Combs stated he wished to continue.

Terry Combs presented his plan to the Board detailing that the cabin is elevated in the back due to the terrain. They would like to add a 5 ft. by 20 ft. deck off the front of the cabin and add stairs on the side to create a more ease of traffic.

Rines questioned if he had Shoreland Permit Approval. Combs noted he did not need to and refer the Board to copy in his file from NHDES Title L, Section 483-B:11 Sub-Section V. Rines noted even though they allow it a deck on the front up to 12 ft. Mr. Combs would still require a NHDES Shoreland Permit by Notification. Discussion of explanation ensued.

Terry Combs proceeded to read each of the 5- criteria’s for a variance. Barron asked if there were any abutters objected to the proposed plan. Two abutters were present and had no objections.

Vice-Chairman Barron called for any comments from the Board and the Public – None was heard.

Vice-Chairman Barron closed Public Input.

A **Motion** by Rines for **Case #20-10-V**: for Terry & Virginia Combs of 73 White Pond Rd. Tax Map: 129 Lot: 023 is Granted a Variance from Article 6 Section 6.4.1.A Front Setback to add a 5 ft. x 20 ft. deck off the front of a non-conforming cabin with the conditions:

1. Receipt of a letter *from NHDES stating no permit was needed or* a Shoreland Permit *issued by NHDES.*
2. All Federal, State and Local Regulations shall be followed

Fischbein seconded. No discussion.

Vice-Chairman Barron called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

Vote by Criteria:

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

2. **The spirit of the ordinance is observed:**

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

3. **Substantial justice is done:**

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

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 Fischbein – Yes Rines – Yes Barron – Yes

(A) 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:

ai) Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

and

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

(aaii) Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

Vice-Chairman Barron announced the **Motion Passed**. The Variance has been granted.

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.

- **Case #20-8-SE:** Terry & Virginia Combs of 73 White Pond Rd. Tax Map: 129 Lot: 023 is seeking a Special Exception from Article 23.3.2 for the Expansion of a Non-Conforming Structure.

Terry Combs read through the 8 – criteria’s

Vice-Chairman Barron called for any comments from the Board and the Public – None was heard.

Vice-Chairman Barron closed Public Input.

A **Motion** by Rines for **Case #20-8-SE:** for Terry & Virginia Combs of 73 White Pond Rd. Tax Map: 129 Lot: 023 is Granted a Special Exception from Article 23.3.2 for the Expansion of a Non-Conforming Structure with the following conditions:

1. Receipt of a letter *from NHDES stating no permit was needed or* a Shoreland Permit *issued by NHDES.*
2. All Federal, State and Local Regulations shall be followed

Grover seconded. No discussion.

Vice-Chairman Barron called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

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 Fischbein – Yes Rines – Yes Barron – 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 Fischbein – Yes Rines – Yes Barron – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – 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 Fischbein – Yes Rines – Yes Barron – Yes

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 Fischbein – Yes Rines – Yes Barron – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

Vice-Chairman Barron announced the **Motion Passed** the Special Exception has been granted.

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.

- **Case #20-11-V:** Dianne Valentine of 29 Bay Point Rd. Tax Map: 022 Lot: 010 is seeking a Variance from Article 6 Section 6.4.1.A Front Setback to remove an existing 20 ft. X 34 ft. home and replace with a larger 46 ft. X 48 ft. home.

Vice-Chairman Barron addressed the Applicants (under RSA 674:33) – noting since there is not a full 5-member board, with no additional alternates to serve. The applicant has the option of postponing the hearing until all members are present. If the applicant chooses to proceed with the hearing, he/she should be advised that a 3- or 4-member board will not be grounds for an appeal hearing in the event the application is denied.

Vice-Chairman Barron asked if he wished to proceed.

Dianne Valentine stated she wished to continue.

Rines disclosed he received a call from the applicant *asking* to clarify what the Board was requesting from her. Rines stated he provided her the information from the last meeting but did not go into details, otherwise he informed her he would need to recuse himself. But in full disclosure he wanted the Board to know he had spoken with her outside of a meeting. The Board was satisfied and did not ask Rines to recuse himself.

Dianne Valentine presented to the Board that the camp is 20 ft. x 34 ft. with a 12 ft. deck on the front. The camp is currently 40 ft. from the water's edge, less the 12 ft. deck, the actual *setback* is 28 ft. from water's edge. In an agreement with NHDES, she has agreed to move the whole structure back 1 ft. making it 29 ft. from the water's edge. She has received NHDES approval for this plan.

The new structure will be larger at 46 ft. x 48 ft. home and will have a second story for *additional* bedrooms. Dianne Valentine demonstrated her plans to the Board members. The well will be relocated and has NHDES Shoreland Permit approval. Discussion ensued over the dimensions on the plans from the water's edge to the structure which should have encumbered the 12 ft. deck dimensions. Dianne Valentine clarified to the Board satisfaction. Total acreage is .77 acres, total bedrooms is 3, and the driveway is a shared driveway, which is her sister's property.

Dianne Valentine proceeded to read the 5 – criteria's

Dianne Valentine clarified on question #3; this is a teardown the old cabin and build new and moving it back 1 ft. per agreement with NHDES.

Vice-Chairman Barron called for any comments from the Board and the Public – None was heard.

A **Motion** by Rines for **Case #20-11-V:** Dianne Valentine of 29 Bay Point Rd. Tax Map: 022 Lot: 010 is Granted a Variance from Article 6 Section 6.4.1.A Front Setback to remove an existing 20 ft. X 34 ft. home and replace with a larger 46 ft. X 48 ft. home, per plans submitted with a revised date of September 17, 2020 and All Federal, State and Local Regulations shall be followed. Grover seconded.

Vice-Chairman Barron called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

Vote by Criteria:

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

Grover – Yes

Fischbein – Yes

Rines – Yes

Barron – Yes

2. **The spirit of the ordinance is observed:**

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

3. **Substantial justice is done:**

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

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 Fischbein – Yes Rines – Yes Barron – Yes

Rines commented the special condition is the existing cottages is closer to the water’s edge and is being moved back 1 ft. Barron agreed.

(A) 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:

ai) Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

and

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

(aii) Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

Vice-Chairman Barron announced the **Motion Passed**. The Variance has been granted.

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.

The Board clarified the voting process to Dianne Valentine by having to receive 3- positive votes on each criteria.

A brief recess was called at 7:50 PM

Vice-Chair reconvene at 7:55 PM

- **Case # 20-12-V:** Bruce & Erin Madden of 104 Leavitt Rd. Tax Map: 031 Lot: 050 is seeking a Variance from Article VI Section 6.4.2.A – Side Setback Requirements to build a new 12 ft. X 24 ft deck with stairs and rails alongside of house.

Bruce Madden presented his plan stating he has a non-conforming lot on the front (water side) and wants to construct a 12 ft. x 24 ft. deck, which is the width of the house and will add a second egress. He wants add stairs on the south side of the house consisting of 4-5 steps from the deck down to the concrete walkway and run parallel between the house and the concrete walkway towards the road.

Rines noted that Bryan Berland noted on the plans “Incomplete – Plan Not Recorded.” This prompted concerns that the survey is not complete or that something is *amiss* with the plan. Discussion ensued and Madden is to follow up with Bryan Berland.

Madden read the 5- criteria's for a variance.

Vice-Chairman Barron addressed the Applicants (under RSA 674:33) – noting since there is not a full 5-member board, with no additional alternates to serve. The applicant has the option of postponing the hearing until all members are present. If the applicant chooses to proceed with the hearing, he/she should be advised that a 3- or 4-member board will not be grounds for an appeal hearing in the event the application is denied.

Vice-Chairman Barron asked if he wished to proceed.

Bruce Madden stated he wished to continue.

Vice-Chairman Barron called for any comments from the Board and the Public – None was heard.

A Motion by Rines for **Case # 20-12-V**: Bruce & Erin Madden of 104 Leavitt Rd. Tax Map: 031 Lot: 050 to Granted a Variance from Article VI Section 6.4.2.A – Side Setback Requirements to build a new 12 ft. X 24 ft deck with stairs and rails alongside of house with the following conditions:

1. Receipt of a letter of approval from NHDES for a Shoreland Permit
2. All Federal, State and Local Regulations shall be followed

Vice-Chairman Barron called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

Vote by Criteria:

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

2. The spirit of the ordinance is observed:

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

3. Substantial justice is done:

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

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 Fischbein – Yes Rines – Yes Barron – Yes

(A) 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:

ai) Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

and

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

(aii) Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes

Vice-Chairman Barron announced the **Motion Passed**. The Variance was granted.

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.

Meeting Minutes: Review to Approve Meeting Minutes of 09/08/2020 & 09/22/2020 determined that due to various members being absent at either of meetings there is not members to form a quorum the sign the minutes.

A **Motion** by Barron to move approving the minutes of 09/08/2020 & 09/22/2020 until the next meeting on November 10, 2020. Rines seconded. No further discussion. A unanimous vote was taken. **Motion passed.**

Notices:

Monday, October 19, 2020 - 4:30 PM: 2021 Proposed Budget to meet with the Board of Selectmen

Wednesday, October 21, 2020 - 6:30 PM: 2021 Proposed Budget to meet with the Budget Committee

Any Other Business Which May Come Before This Meeting:

Rick Cousins, ZEO explained to the Board how his job is going and issues he’s coming up against so far.

Next Meeting:

Regularly scheduled meeting will be on **November 10, 2020 @ 7:00 pm**

Adjournment:

A **Motion** by Grover to adjourn the meeting. Barron seconded. No discussion. A unanimous vote was taken. **Motion passed.** The meeting adjourned at 8:15 p.m.

Minutes were approved by majority vote of the Board:

_____	_____	Or	_____	_____
Ed MacDonald, Chairman	Date		Roy Barron, Vice Chair	Date
			<i>(In the absence of the Chairman)</i>	