

TOWN OF OSSIPEE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
May 10, 2022

Minutes have been recorded for the convenience of summarization by Laura Nash, Boards & Commissions Secretary and are deleted once the minutes are board approved; any amendments to the minutes are noted in ***bold & italic*** type.

Call to Order: Roy Barron called the meeting to order at 7:00 p.m.

Members Present by Roll Call: - Chairman - Roy Barron, Vice-Chairman, Daniel Fischbein and Dallas Emery

Absent: William "Bill" Grover, Jim Rines and Jonathan Smith, (Zoning Officer)

Meeting Minutes: Review to Approve Meeting Minutes of April 12, 2022

A **Motion** by Dallas Emery to approve the minutes of April 12, 2022, as written. Daniel Fischbein seconded. All voted in favor. **Motion passed.**

New Business:

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.

- **Case #22-02-V:** Larry Klingler of 3 Route 16B. Tax Map: 095 Lot: 013 is requesting a Variance from Article 6.4.1 (a) for a wood fence structure at the height of 8 ft. 6 in., for a short distance along the property line on Route 16B to be allowed within the zoning setback from the highway. (Continued from April 12th, 2022)

Brian Newbury of 4 Route 16B on behalf of Mr. Klingler. Chairman Barron asked if Newbury has come up with any more information. Laura Nash advised that she has not heard from Mr. Klingler. Newbury advised that if this case gets continued again that he will not be here to represent Mr. Klingler as he is moving. Newbury called Mr. Klingler and put him on speaker phone so the Board could speak with him. Barron advised him that the Board only had 3 members present and asked Klingler if he would like to continue. He advised yes. Fischbein read concerns from Board member Grover to Mr. Klingler. Barron advised that the State of NH changed the requirement for fence height from 6 feet to 7 feet about 2 years ago. Klingler advised that he had pine trees there and the power company came to him and asked if they could trim them. Klingler gave them permission and they advised that they build a fence for a barrier for sound. Asplundh tree services did the work and built a fence. Barron advised that they were responsible for checking with zoning regulations on height requirements and in his opinion, Asplundh should correct this for Mr. Klingler. Klingler advised that Asplundh will not correct the mistake. Klingler also discussed the number of accidents at the intersection and believe a fence will further protect his property. Fischbein also mentioned that Asplundh should have checked with Zoning for requirements and asked if the Board could send Klingler the list on concerns from Grover so he can answer in writing. All agreed. Barron advised that the Board would be satisfied if the fence was lowered to 7 feet or if he filled in the ground below the fence to make it compliant. Klingler asked if they could vote on it tonight and Barron advised yes but he didn't think it would pass. Klingler asked for a continuance to June 14th, 2022. Barron also mentioned that the Board needs to know about the State Right of

Way and the where the boundary pins are marked. He suggested that Klingler calls District 3 and they can advise accordingly. Klingler asked that if he just cut his fence to 7 feet would he still need to do that. Barron said yes as that is out of the Planning Boards jurisdiction. Discussion ensued. Roy Barron made a motion to continue case # 22-02-V for Larry Klingler to June 14th, 2022. Fischbein seconded. A unanimous vote was taken.

- **Case #22-05-V:** Coleman P. McDonough Construction Corp. c/o Representing Agent – Wayne Morrill of Jones & Beach Engineers, Inc. for 1650 Route 16. Tax Map: 053 Lot: 012 is seeking a Variance based on conditions placed by the ZBA for Case #22-03-V from Article VIII, Section 8.3 to have a storage unit development where the access driveways for the proposed structures and existing foundations are within the setbacks

Wayne Morrill of Jones & Beach Engineers, Inc. advised that he received correspondence from the fire department and the cistern will be moved to Deer Cove Road. The variance is to allow pavement where it doesn't have the 25 feet of non-pervious. Dallas Emery advised that they did speak about the non-pervious before. They moved building 4 to meet the setbacks. The variance would be on the existing foundations on the site. Fischbein asked how far the pavement will be behind building 1. Morrill advised 8 feet. Barron asked how much that will increase the 55%. Morrill advised there will be no increase. Fischbein asked if they will be doing any landscaping. Morrill advised yes. Discussion ensued.

Public Input:

Joseph Culligan of Jewell Hill Road asked if the pavement discussion is around all the buildings. Morrill advised that the only pavement will be for building 1. He included it in the variance because one of the buildings is grandfathered.

John Gammon of Pleasure Lands Glade Road asked where the cistern is going. Morrill advised that it has been moved to Deer Cove Road area. Gammon asked if Deer Cove Road will be the only access point for that. Morrill advised yes. Gammon asked if the trees would remain there. Morrill advised that they are not doing any cutting. Gammon also asked about the 200 foot well radius and if that will still be in effect. Morrill advised that the property is still on file as a public water supply, so yes, it is still in effect. Emery thought that once a well was inactive then it had to be taken out. Morrill advised that it was inactive, not discontinued. Gammon asked how this will affect his lot. Morrill advised that he bought the lot with that restriction and advised that he can put a well but not a leach field on that property because of the radius issue. Barron advised that this issue needs to be worked out between the owners and the State of NH. It was also advised that the pond was apart of the original design in 1988. Brief discussion ensued. RB closed public comment.

Wayne Morrill read the criteria. Barron advised Morrill again about having a short Board and asked he would like them to vote. Morrill advised he was feeling lucky so yes. Fischbein asked if there was a fire department letter on file. Nash advised yes and provided a copy to the Board members.

Vote by Criteria: Barron read each criteria.

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

Emery – Yes Fischbein – Yes Barron – Yes

2. The spirit of the ordinance is observed:

Emery – Yes Fischbein – Yes Barron – Yes

3. Substantial justice is done:

Emery – Yes Fischbein – Yes Barron – Yes

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

Emery – Yes Fischbein – 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:**

Emery – Yes Fischbein – Yes Barron – Yes

(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:

Emery – Yes Fischbein – Yes Barron – Yes

Case #22-05-V: Coleman P. McDonough Construction Corp. c/o Representing Agent – Wayne Morrill of Jones & Beach Engineers, Inc. for 1650 Route 16. Tax Map: 053 Lot: 012 is **Granted** a Variance based on conditions placed by the ZBA for Case #22-03-V from Article VIII, Section 8.3 to have a storage unit development where the access driveways for the proposed structures and existing foundations are within the setbacks.

Chairman Barron announced the **motion passed.**

*Barron **Noted:** 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.*

Laura Nash printed the latest version on the Riggins Rules for the Boards information.

Any Other Business Which May Come Before This Meeting:

Next Regular Meeting: June 14, 2022 @ 7:00 pm

Adjournment:

A Motion by Dallas Emery to adjourn the meeting. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion passed.** The meeting adjourned at 7:59 p.m.

Minutes were approved by majority vote of the Board:

_____	_____	Or	_____	_____
Roy Barron, Chairman	Date		Daniel Fischbein, Vice Chair	Date
			(In the absence of the Chairman)	