

OSSIPEE ZONING BOARD
Meeting Minutes
October 11, 2016

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

Call to Order: Stanley Brothers, Chairman called the meeting to order at 7:00 p.m.

Members Present by Roll Call: Stanley Brothers, Dave Babson, Jim Rines, and Ski Kwiatkowski.
Late: Bill Grover (alternate) **Absent:** Ralph Wurster, and Bob Freeman (Selectmen's Rep)

Meeting Minutes:

Meeting Minutes of August 9, 2016 were reviewed and discussion over the narrative of a motion made by Jim Rines was held.

Motion: by Ski K., and seconded by Stanley B., to approve August 9, 2016 minutes with wording as previously recorded by a motion by Jim Rines stating ***"If for whatever reason a structure is damaged down to the foundation, the home owner can rebuild as a Matter of Right as long as the same footprint and same equal volume of the structure is not expanded or altered."***

All others in favor, motion passed.

Meeting Minutes:

Meeting Minutes of September 13, 2016 were reviewed as written.

Motion: by Dave Babson and seconded by Ski K., to approve September 13, 2016 minutes as written. **All in favor, motion passed. Abstained:** Jim Rines - was not present for meeting.

Stanley Brothers, Chairmen: addressed the Applicants (under RSA 674:33) – If there is not a full 5 member board, even with alternates serving. 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.

Stanley: will ask each applicant prior to hearing their case.

Old Business

- **Case #16-9-V: Cathy Cardinal & Steve Creamer**– 36 Knox Mountain Rd.; Tax Map: 75 Lot: 49 – has applied for a Variance from Article 6.4.1. (a) Of the Ossipee Zoning Ordinance for Front setback to enlarge a garage. (Continued from 09/13/2016 ZBA meeting)

Barry Norcross: presented the case. New garage design has decreased side and rear setbacks by half to comply with regulations. Expansion of structure to keep in-line with front of house. The Board reviewed the designs and foot print plans.

Motion: by Jim Rines and seconded by David Babson to accept the application for Cathy Cardinal & Steve Creamer– 36 Knox Mountain Rd.; Tax Map: 75 Lot: 49 for a Variance from Article 6.4.1 (a) to allow a front setback that will vary from 11ft. to 8 ft.

Chairman moved for discussion. Jim Rines stated his reasoning's for accepting the application.

Vote by Criteria:

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

Jim – Yes Ski – Yes David – Yes Stanley - Yes

2. The spirit of the ordinance is observed because:

Jim – Yes Ski – Yes David – Yes Stanley – Yes

3. Substantial justice is done because:

Jim – Yes Ski – Yes David – Yes Stanley – Yes

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

Jim – Yes Ski – Yes David – Yes Stanley – 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:

Jim – Yes Ski – Yes David – Yes Stanley – Yes

Jim Rines called a Point of Order to open the discussion to the public.

Chairman Stanley Brothers acknowledged the Point of Order and open the discussion to the public.

James Hazard, 40 Knox Mountain Rd. had concerns of where snow removal would now be located. **Barry Norcross** and **Jim Rines** addressed Mr. Hazard’s concerns and advised to speak with the Association.

Public hearing was closed.

Voting by Criteria continued:

(Ai) 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:

Jim – Yes Ski – Yes David – Yes Stanley – Yes

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

Jim – Yes Ski – Yes David – Yes Stanley – Yes

• **Motion: Variance GRANTED** from Article 6.4.1 (a) of the Ossipee Zoning Ordinance to enlarge a garage. Comply with All Federal, State, and Local Laws and Ordinances. **All in favor, motion passed.**

Stanley B., noted there is a 30 days appeal process of the ZBA decision which starts tomorrow morning.

New Business

- **Case #16-10-V: Mark McConkey c/o Robert & Kimberly Rosa** – 4 Tomahawk Rd.; Tax Map 73 Lot: 76 – has applied for a Variance from Article 6.4.2.A & 6.4.1.A of the Ossipee Zoning Ordinance for Front & Side setback requirements to add a 14’ X 20’ shed to side of property.

Mark McConkey: presented the case with survey plans by Paul King.

Bill Grover arrived at 7:32 pm.

Chairman Stanley Brothers raised Bill Grover to voting status.

Mark McConkey continued presenting his case. Homeowner wants to add a 14’ X 20’ shed to side of property. Asking to relax side setback to 5.22 ft. at its narrowest and front setback to 28.73 ft. No water or septic will be installed only electricity to be connected.

Opened to Board discussion: Due to questions and concerns from the Board pertaining to: 1) an alternative location for the shed, 2) certified surveyor to record front boundary markers and 3) receive an approval letter from the association. **Mark McConkey** requested a continuance until the November 8, 2016 ZBA meeting.

Motion: by Jim Rines and seconded by Ski K., to grant the continuance of this case until November 8, 2016 ZBA meeting. **All in Favor, motion passed.**

- **Case #16-11-V: Mark McConkey c/o Dummer Boys** – 1605 Route 16; Tax Map: 53 Lot: 30 – has applied for a Variance from Article 35.2.p of the Ossipee Zoning Ordinance to permit alterations to existing building to make 1 bedroom apartment.

Jim Rines requested to recuse himself from this case because his office provided the original variance for this applicant. Jim R., wanted to remove any potential conflict of interest.

Chairmen Stanley Brothers granted Jim Rines request. Mark McConkey and his client were advised since there is not a full 5 member board, even with alternates serving. 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.

Mark McConkey stated they would like to continue with this hearing.

David Babson requested a Non-public session.

Motion: by Stanley Brothers and seconded by Ski K., to move to Non-public session at 7:48 pm. Stanley B., Ski K., and Bill Grover in favor, **motion passed.**

Non-Public Session: 7:48 pm until 7:51

Public Hearing opened at 7:52 pm.

David Babson requested to recuse himself from this case. **Chairmen Stanley Brothers** granted David Babson's request.

Mark McConkey and his client were advised since there is now a 3 member board, even with alternates serving. 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.

Mark McConkey requested to speak with his client for a moment at 7:53 until 7:55

Mark McConkey requested a continuance until the November 8, 2016 ZBA meeting.

Motion: by Ski K., seconded by Stanley B., to grant a continuance until the November 8, 2016 ZBA meeting. Stanley B., Ski K., and Bill Grover in favor, **motion passed.**

Jim Rines and David Babson rejoined the meeting.

- **2017 ZBA Budget:** Budget meeting is scheduled for October 24, 2016 w/Selectmen @ 4:30 pm and Budget Committee meeting scheduled for November 2, 2016 @ 6:30 pm.
- Budget & Revenue Report for September 2016 was reviewed.
- ZBA Budget worksheet was utilized for evaluating 2017 budget proposal:

Description	2016	2016 YTD	2017
ZBA - SALARY SECRETARY	\$1,800.00	\$3,262.50	\$3,900.00
ZBA - FICA	\$112.00	\$202.25	\$242.00
ZBA - MEDICARE	\$27.00	\$47.30	\$57.00
ZBA TELEPHONE	\$550.00	\$414.03	\$550.00
ZBA - ADVERTISING	\$1,600.00	\$756.00	\$1,600.00
ZBA - OFFICE SUPPLIES/ PROF FEES	\$400.00	\$187.42	\$400.00
ZBA - POSTAGE	\$600.00	\$966.79	\$900.00
ZBA - MILEAGE	\$50.00	\$32.83	\$200.00
ZBA - EDUCATION	\$300.00	\$0.00	\$300.00
ZBA - COMPUTER & SOFTWARE	\$300.00	\$0.00	\$0.00
Total:	\$5,739.00	\$5,869.12	\$8,149.00

Board discussion over each itemization was reviewed.

Education Fund: Board discussion to keep it at \$300.00 or increase it to \$500.00 ensued.

Motion: by Jim and seconded by Stanley to keep Education fund at \$300.00. Jim R., Stanley B., and Bill Grover voted in favor. David B., and Ski K., opposed. **Motion passed 3 – 2.**

Postage Fund: was initially being kept at \$600.00 but recommendation was to eliminate the computer & software funds and add the \$300.00 to the Postage funds.

Office Supplies / Pro Fees: Bill Grover requesting to make these two items separate line items.

Motion: by Stanley Brothers to accept the budget at \$8,149.00. Jim Rines seconded the motion. Stanley B., Jim R., David B., and Bill G. voted in favor. Ski K., voted to oppose. **Motion passed 4 – 1.**

Any Other Business Which May Come Before This Meeting

- David Babson stated on the corner of Route 171 & 28, Earl McClatchy old property there are several unregistered cars on the property. Questions if it's a used car lot. There is also an antique store located on property. Questions if property went from Residential to Commercial use without Site Plan Approval or Change of Use from the Planning Board. Property cannot have more two vehicles for sale at any given time. Steve McConarty to review.
- Donna Gridley brought attention to the Board and ZEO that on Blake Hill Rd. that is a sofa and fish tank thrown out on the property making it look like a dump. Requesting action be taken to have property cleaned up.
- David Babson brought attention to the ZEO that there is a structure about 12 – 14 ft. high and 4 to 6 ft. from the road on Tomahawk Rd. that is potentially not meeting setback regulations.
- Receipt of Approved Special Use Permit for Northgate Ossipee, LLC - Westward Shores Camping Resort – Noted by ZBA members
- NHDES Shoreland Impact Permit #2016-02154: Douglas & Donna Taylor Brown, 77 Broad Bay Rd. Approved with Conditions – Noted by ZBA members

Open to the Public:

Ashe Fischbein would to know how to go about changing a Zoning Ordinance.

Jim Rines called a Point of Order.

Chairman Stanley Brothers and Jim Rines informed Ashe Fischbein he would need to address zoning ordinance changes with the Planning Board. The ZBA interprets the ordinance, they don't create them. Selectmen enforce the zoning ordinances. Any changes would need to be submitted by petition with public hearings at least 120 days in advance of voting day.

- Approval of Variance & SE application updates – discussion moved to next meeting.

Next Meeting: November 8, 2016 @ 7:00 pm

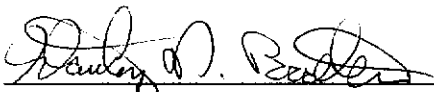
Adjournment

Motion: by Jim Rines, seconded by Bill Grover, to adjourn the meeting.

All in favor, motion passed.

The meeting adjourned at 8:40 p.m.

Minutes approved by majority vote of the Board on:



Stanley Brothers, Chairman

11-8-16

Date

Nonpublic Session Minutes
[Town of Ossipee – Zoning Board of Adjustment]

Date: October 11, 2016

Members Present: [Stanley Brothers] ✓
[David Babson] ✓
[Chester "Ski" Kwiatkowski] ✓
[Bill Grover] ✓
[board member name] _____

Motion to enter Nonpublic Session made by Stanley Brothers seconded by Ski Kwiatkowski

Specific Statutory Reason cited as foundation for the nonpublic session:

_____ RSA 91-A:3, II (a) *The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a public meeting, and (2) requests that the meeting be open, in which case the request shall be granted.*

_____ RSA 91-A: 3, II (b) *the hiring of any person as a public employee.*

X _____ RSA 91-A:3, II(c) *Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of this board, unless such person requests an open meeting. This exemption shall extend to include any application for assistance or tax abatement or waiver of a fee, fine or other levy, if based on inability to pay or poverty of the applicant.*

_____ RSA 91-A:3, II(d) *Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.*

_____ RSA 91-A:3, II(e) *Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed by or against this board or any subdivision thereof, or by or against any member thereof because of his or her membership therein, until the claim or litigation has been fully adjudicated or otherwise settled*

_____ RSA 91-A: 3, II (i) *Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.*

_____ RSA 91-A:3, II (l) *Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.*

Roll Call vote to enter nonpublic session:	[Stanley Brothers]	Y	N
	[David Babson]	Y	N
	[Ski Kwiatkowski]	Y	N
	[Bill Grover]	Y	N
	[name]	Y	N

Remove public meeting tape (if applicable).

Entered nonpublic session at 7:48 a.m./p.m.

Other persons present during nonpublic session: Laura Nash – ZBA Secretary

Description of matters discussed and final decisions made. **Note:** Any votes taken must be recorded "in such a manner that the vote of each member is ascertained and recorded":

David Babson Requested to Recuse himself from hearing this case. David felt could not provide an impartial judgement on this case due to prior interactions with the applicant.

Note: Under RSA 91-A:3,

III. Minutes of proceedings in nonpublic sessions shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of this board, or render the proposed action of the board ineffective, or pertain to terrorism. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

Motion to leave nonpublic session and return to public session by Stanley Brothers seconded by Bill Grover.

Motion: PASSED / DID NOT PASS (circle one)

Nonpublic meeting tape removed, public meeting tape replaced (if applicable).

Public session reconvened at 7:51 a.m./p.m.

Motion made to seal these minutes? If so, motion made by Stanley Brothers seconded by Bill Grover because it is determined that divulgence of this information likely would...

- ☐ Affect adversely the reputation of any person other than a member of this board
- ☐ Render a proposed action ineffective
- ☐ Pertains to preparation or carrying out of actions regarding terrorism

Roll Call Vote to seal minutes:	[Stanley Brothers]	Y	<input checked="" type="radio"/>
	[David Babson]	Y	<input checked="" type="radio"/>
	[Ski Kwiatkowski]	Y	<input checked="" type="radio"/>
	[Bill Grover]	Y	<input checked="" type="radio"/>
	[name]	Y	<input type="radio"/>

Motion: PASSED / DID NOT PASS (circle one)

These minutes recorded by: Laura Nash – ZBA Secretary