

**OSSIPEE ZONING BOARD**  
**Meeting Minutes**  
**January 10, 2017**

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

**Call to Order:** David Babson, Vice-Chairman called the meeting to order at 7:00 p.m.

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

David Babson made a Motion to raise Bill Grover up to voting status in the absence of Stanley Brothers. Seconded by Jim Rines. No Discussion. A Unanimous vote was taken.

**PUBLIC MEETING**

• **Town of Freedom: Board of Selectmen** – per RSA 677:2 Motion for Rehearing from the Ossipee ZBA's decision of 10/08/2016, for Administrative Appeal for Planning Board's decision of Case #16-3-SPR – WWSCR, Site Plan Review approval on September 20, 2016. David called for a representative for the case. No one present and a continuance was not requested.

**Point of Order:** Chris Boldt, Attorney, whose firm is represent the Town of Freedom and Board of Selectmen. Explained this is a Motion for Rehearing. No public discussion is accepted. The discussion and decision process is strictly with the members of the ZBA Board of either to approve or deny the request for rehearing.

**Motion** by Jim Rines move for the purpose of discussion that the Board deny the motion for rehearing. Seconded by Ski K. Any discussion. Jim Rines as stated at the original hearing, we were presented with legal opinions from the Town of Freedom's Attorney as well as Attorney for the Town of Ossipee. I fail to see where the Planning Board ***miss*** interpret ***the Regulations***. The PB did not interpret the regulations incorrectly. They may not have applied some of ***the Regulations but I do not think they miss*** interpret ***them***. I feel the appropriate venue to hear this case is Superior Court where they have already filed an action.

David reiterated the Motion is to deny the Request for Rehearing. A YES vote means you approve the request to deny a rehearing and a NO vote means you would grant the request for rehearing.

A Roll Call Vote was taken.

Jim – Yes      Ralph – Yes      Bill – Yes      David – Yes      Ski – Abstained

**Motion passed unanimously**, to deny a Request for Rehearing.

**PUBLIC HEARING**

• **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. ([Continued from 10/11/2016 ZBA meeting](#))

Jim Rines and David Babson requested recuse themselves from this case. Mark McConkey was informed of the following right to a full Board:

***David Babson, Vice-Chairman: 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.*

Mark McConkey requested a continuance due to lack of a full 5 member Board. Is requesting to be first case on February 14<sup>th</sup> and would like to be notified ahead of time, if possible, there will not be a full Board, again.

Jim commented that Stanley Brothers is actively trying to recruit alternates to be on the Board.

**Motion** by Ski K. to grant the continuance until February 14<sup>th</sup> meeting. Seconded by Ralph W. No Discussion. A Unanimous vote was taken.

### **New Business**

Nash read letter from White Mtn. Survey & Engineering, Inc. requesting to be continued until February 14<sup>th</sup> ZBA Meeting.

**Case # 16-12-V:** Angus McFarland Limited Partnership c/o White Mtn. Survey & engineering, Inc. – 25 Gile Rd.; Tax Map: 123 Lot: 52 – has applied for a Variance from Article 6.4 & 23.3.2 of the Ossipee Zoning Ordinance to “Retain existing structure started under building permit B-14-62 dated 09/30/2014. Present structure replaced an existing non-conforming structure, plus A 11.5 sq. ft. non-conforming expansion. Construction began spring of 2015 but has voluntarily ceased due to expiration of building permit & request of town.” (Continued from 12/13/2016 ZBA Meeting)

**Motion** by Ralph W. to grant the continuance until February 14<sup>th</sup> meeting. Seconded by Ski K. No Discussion. A YES vote means you approve the request for continuance and a NO vote means you deny the request for continuance. A Roll Call Vote was taken.

Jim – Abstained      Ralph – Yes      Bill – Yes      David – Yes      Ski – Yes

**Motion passed.** Unanimously to continue until February 14<sup>th</sup>. .

**Case # 16-13-V:** Thomas Green of American Campgrounds, LLC c/o White Mtn. Survey & engineering, Inc. – 115 Newman Drew Rd. Tax Map: 17 Lot: 1 – has applied for a Variance from Article 15.1.3 of the Ossipee Zoning Ordinance to “Relocate two existing non-conforming campsites to another non-conforming site to allow the installation of a new sewage disposal system.” Jim Rines stepped down from the Board on this case as the agent for the applicant to present to the Board.

*David Babson, Vice-Chairman: 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.*

Jim Rines, White Mtn. Survey & Engineering, Inc. presented the case to relocate two existing non-conforming campsites to another non-conforming site to allow the installation of a new sewage disposal system to serve the campsites and a dump station. Jim Rines read the five criteria’s and rational for each.

Board review of the application and plans ensued. Board discussion over size of square footage of the campsites before and after construction were asked. Campsites and dump station will be brought up to code. Electrical has already been brought up to code.

Ski would prefer the sewage disposal system located elsewhere. Jim illustrated to Ski and explained the purpose of the location.

Open to public discussion. No discussion.

**Motion** by Bill G. to approve the application of Case#16-13-V for Thomas Green of American Campgrounds, LLC. Tax Map 127 Lot 1 and comply with all Federal, State, and Local Regulations. Seconded by Ralph W.

Criteria Vote:

- |                |             |  |            |
|----------------|-------------|--|------------|
| 1. Ski – Yes   | Ralph – Yes | David – Yes                                      | Bill – Yes |
| 2. Ski – No    | Ralph – Yes | David – Yes, because of improving the condition. | Bill – Yes |
| 3. Ski – Yes   | Ralph – Yes | David – Yes                                      | Bill – Yes |
| 4. Ski – Yes   | Ralph – Yes | David – Yes                                      | Bill – Yes |
| 5. Ski – Yes   | Ralph – Yes | David – Yes                                      | Bill – Yes |
| Ai. Ski – Yes  | Ralph – Yes | David – Yes                                      | Bill – Yes |
| Aii. Ski – Yes | Ralph – Yes | David – Yes                                      | Bill – Yes |

**Motion GRANTED. David Babson** noted there is a 30 days appeal process of the ZBA decision which starts tomorrow morning.

**Case # 16-14-V:** Marcin Jarmoc c/o White Mtn. Survey & Engineering, Inc. - 5 Fubur Rd. Tax Map: 44 Lot: 74 – has applied for a Variance from Article 23.3.2, 6.4.1 (c), and 6.4.2, (a) of the Ossipee Zoning Ordinance to “Remove an existing non-conforming detached garage & replace it with an attached garage with living space above.”

Jim Rines stepped down from the Board on this case as the agent for the applicant to present to the Board.

***David Babson, Vice-Chairman: 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.***

Jim Rines, White Mtn. Survey & Engineering, Inc. presented the case to remove an existing non-conforming detached garage & replace it with an attached garage with living space above. Jim Rines read the five criteria's and rational for each.

Board review of the application and plans ensued. Board discussion over size of the garage, septic location within 40 – 50 feet of the Lake, drainage and infiltration, fire pit location, garage being attached would change essential structure of neighborhood, deck a need or necessity, septic system without State approval and setbacks regulation 23.3.2.

Open to public discussion.

Steven Young questioned about the fire pit, smoke, noise effect on neighbors, snowplowing invading on other properties and killing trees.

Carol Sargent concerned about being imposed upon with only being 8.6 feet away from the two-story garage planned.

Chris Boldt, Attorney for the Sargent's. Requesting to deny because of oversize. Does not meet the Variance application five criteria's. Increases non-conformity of setbacks. Too big and encroachment to older camps. Will change the structure of the neighborhood. New septic system received permission in 2004. Previous Variance had condition of no additional bedrooms would be added. Christopher Williams, Realtor evaluation implies too large and will decrease the value of surrounding a structure. New septic system would be located on the side of a large swale of which the boundary line is share between the Sargent's and the Jarmoc's.

Jim Rines addressed each of Mr. Boldt's criteria's.

Chris Boldt noted the operational permit # CA2000-03-0894 on March 5, 2001 and illustrated to Jim and the Board the boundary lines. Jim did the deed research and challenged the boundary line adjustment with Chris Boldt.

Discussion closed to the public.

Board discussion opened.

Ski addressed an issue with the fire pit. Bill stated there are no regulations making the ZBA responsible for fire pits. Ski also addressed issues with being non-conforming on two sections.

Ralph W. did a site visit and noted the garage does need to be replaced. But has an issue with the garage being attached. The size of the garage will essentially change the structure of the neighborhood.

Bill G. addressed not having neighborhood plans to go by and realizes most structure on South Shore Rd. are cottages. Bill does not disagree with some residents trying to turn their cottage into a home. Bill does disagree with the realtor's letter because as a former realtor in NH believes by changing a home it adds value but believes with zoning setbacks, if something can be done it should be in order to meet setback requirements. Bill offered some suggestions to the agent but also believes even if setbacks were met there would still be an issue with the abutter. Believes the deck is not a necessity and the septic must meet State approvals, the Town has no control on septic systems.

David B. concerned for, 1. Where the plans are for the garage and the 2<sup>nd</sup> floor. Does not believe there is a way of controlling "No additional bedrooms," 3. Deck should adhere to the setbacks.

No further discussion.

**Motion** by Ski K. to deny the request per 23.3.2. Seconded by Ralph W. A Roll Call Vote was taken. A Yes vote means in favor of denying the Variance. A No vote means in favor of granting the Variance.

Ski – Yes      Ralph – Yes      Bill – Yes      David – Yes

**Motion DENIED.**

**Point Of Order** by Jim Rines: Would like a reason stated for the denial.

**Motion** by Ski K. to deny the request per 23.3.2 of non-conforming structure. David halted the motion because a vote was already taken.

**Motion** by Ski K. to reconsider his previous motion and vote. Seconded by Ralph W.

Ski – Yes      Ralph – Yes      Bill – Yes      David – Yes

Motion passed to rescind the original motion and vote.

**Motion** by Ski K. to deny the request for Variance per 23.3.2 page 62.

**Point of Order** by Chris Boldt to vote based on the 5 criteria's. Jim Rines agreed.

**Motion** by Ski K. to deny the request for Variance per 23.3.2 **Case # 16-14-V:** Marcin Jarmoc c/o White Mtn. Survey & Engineering, Inc. - 5 Fubur Rd. Tax Map: 44 Lot: 74 –from Article 23.3.2, 6.4.1 (c), and 6.4.2, (a) of the Ossipee Zoning Ordinance Seconded by Ralph W. A Yes vote be against the applicant and...

**Point of Order** by Bill G. the answer Yes or No to the question being asked in the 5 criteria's.

Criteria Vote:

1. Ski – No      Ralph – No      Bill – No      David – No  
Ski K. because it would be in violation.  
Ralph W. because it would alter the area.  
David B. stated it will make structure more non-conforming
2. Ski – No      Ralph – No      Bill – No      David – No  
Ski K. the spirit of the ordinance is being violated.
3. Ski – No      Ralph – No      Bill – Yes      David – No  
Ralph W. believes the applicant has other ways to achieve his goals without imposing others.
4. Ski – No      Ralph – No      Bill – Yes      David – No  
Ski K. because it would diminish.  
David B. because the size and imposing structure would diminish the value.
5. Ski – No      Ralph – No      Bill – Yes      David – No  
Ralph W. there are no special conditions here because everyone in this area has the same problems.  
Bill G. understands the difficulties of the properties in this area but believes with some different designs the owner could do something different and have it less non-conforming and possibly make conforming.

**Motion DENIED** for Variance. **David Babson** noted there is a 30 days appeal process of the ZBA decision which starts tomorrow morning.

Jim Rines rejoined the Board.

- **Case #17-1-V:** Estate of Young & Sloan c/o Mark McConkey – 12 South Shore Rd. Tax Map: 45 Lot: 4 has applied for a Variance from Article 6.4.1 of the Ossipee Zoning Ordinance to build a new home with attached garage. Variance to reduce front setback to 27 ft.

***David Babson, Vice-Chairman: 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.***

Jim Rines worked with finding boundaries for this plans drawings in 2006. Left decision to the Board whether he should recuse himself from this case. The Board unanimously agreed to have him remain on the Board for this case.

Mark McConkey presented the case and illustrated the boundary lines and the Town owns the road that goes through the property. The property size could accommodate a home 12 ft. X 60 ft. but the owners want to build a new home 28 ft. X 34 ft. with an attached garage 26 ft. X 26 ft. The front boundary would need to be relax by 27 ft. Septic system approval has expired and will reapply for same site and design. Mark would entertain any questions and would like to move forward with the five criteria's.

Ski K. ask to be excused at 9:21 PM because of not feeling well. Was offered a ride by David Babson but Ski declined. Connie Billings warned him it's snowing.

David asked Mark if he wanted to continue since there was only four Board members. Mark agreed to continue forward.

Mark read the five criteria's to justify his case.

Board discussion encompassed size of garage, meeting 50 foot shore land set back; over hang meet the less than 2 foot requirements, different size garage doors to accommodate a trailer on one side and an SUV on the other side.

Public discussion opened:

Carmine Pierro addressed his concerns for size of garage, noise from construction process and debris spilling into the country road. Mark addressed Mr. Pierro concerns and is sure to accommodate the request.

Public discussion closed

Board discussion: Jim still had concerns with the size of the garage.

**Motion** by Ralph W. to accept the application and grant the Variance **on Case #17-1-V**: Estate of Young & Sloan c/o Mark McConkey – 12 South Shore Rd. Tax Map: 45 Lot: 4 has applied for a Variance from Article 6.4.1 of the Ossipee Zoning Ordinance. Construction will comply with all Federal, State and Local Regulations. Seconded by Jim Rines.

A vote of Yes to approve the Variance and a vote of No to deny the Variance.

Criteria Vote:

1. Jim – Yes      Ralph – Yes      Bill – Yes      David – Yes
2. Jim – Yes      Ralph – Yes      Bill – Yes      David – Yes  
Jim agrees and is consistent with other homes in the area.  
David agrees it's not changing the neighborhood and located within setbacks.
3. Jim – Yes      Ralph – Yes      Bill – Yes      David – Yes  
Jim any loss to applicant would be greater than to others.  
David because lot is pre-zoning.
4. Jim – Yes      Ralph – Yes      Bill – Yes      David – Yes  
Jim comply with setbacks and consistent with neighborhood.
5. Jim – Yes      Ralph – Yes      Bill – Yes      David – Yes  
Jim hardship of the land.  
David agrees because of the size of the envelope and workable Zoning Ordinance.
- Ai. Jim – Yes      Ralph – Yes      Bill – Yes      David – Yes
- Aii. Jim – Yes      Ralph – Yes      Bill – Yes      David – Yes  
Jim reasonable for a residential zone  
David a reasonable design for that lot.

**Motion GRANTED** for a Variance. **David Babson** noted there is a 30 days appeal process of the ZBA decision which starts tomorrow morning.

#### **Meeting Minutes:**

- Meeting Minutes of December 13, 2016 were reviewed. **Motion:** by Ralph W., and seconded by David B. to approve December 13, 2016 minutes as submitted. No Discussion. A Unanimous vote was taken.

#### **Budget & Revenue Report**

- Budget & Revenue Report – 12/01/2016 – 12/21/2016, noted.

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

- Notice of Town Reports due by January 27, 2017
- Approval of Variance instructions & application – need for more specific plans, showing building elevations on footprints.
- Approval of SE instructions & application - need for more specific plans, showing building elevations on footprints.
- Approval of Motion & Decision of Rehearing

Connie Billings from the Planning Board notified the ZBA of particular Zoning Ordinances (25.3.4, 25.3.5,

27.3, and Article XXIX) in which to notify the Planning Board of ZBA decisions. The Zoning Ordinances will be addressed at the next meeting due to the late hour.

**Next Meeting: February 14, 2017 @ 7:00 pm**

**Adjournment**

**Motion** by Jim R., seconded by Bill G., to adjourn the meeting.

**All in favor, motion passed.** The meeting adjourned at 10:20 p.m.

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

---

**David Babson, Vice-Chairman**

---

**Date**