

OSSIPEE ZONING BOARD

Meeting Minutes

July 10, 2018

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

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

Members Present by Roll Call: Stanley Brothers, Ralph Wurster, Jim Rines, Roy Barron, Ed MacDonald, Daniel Fischbein, Sandra “Sam” Martin and Steve McConarty, ZEO.

Guest: Economic Development Council: Ash Fischbein requested to reschedule for the August 14, 2018 meeting. Chairman Brothers granted the request.

Meeting Minutes:

The Board reviewed the ZBA meeting minutes of June 12, 2018. Wurster addressed summarizing the minutes in accordance with Robert’s Rules. Board discussion ensued over Robert’s Rules and the ZBA’s outdated 1994 Rules of Procedures. The Board acknowledged the Rules of Procedure have not been updated but that’s all they have to go by at this time. Board consensus is to summarize the meeting minutes per Robert’s Rules and per current ZBA Rules of Procedure (1994 revision).

Wurster and Rines noted specific edits for revisions to the June 12, 2018 meeting minutes.

A **Motion** by Wurster to accept the meeting minutes of June 12, 2018 as amended. Barron seconded.

No further discussion. All others voted in favor to approve the minutes of June 12, 2018 ZBA minutes as amended. Rines abstained. **Motion passed.**

Financial:

- Budget Reports: 06/01/2018 – 06/30/2018 The Board reviewed the budget, no questions.

New Business:

PUBLIC HEARING

For the following Applications

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

Steve McConarty informed the ZBA Board that Mr. and Mrs. Floria are not adhering to the variance granted on January 10th, 2017 as stated above. McConarty noted there are several issues with the septic system, building construction, and whether the well is within 75 feet of the property line. After discussion, the ZBA agreed this case is an enforcement issue the Board of Selectmen will need to address with any potential penalties.

- **Case#18-8-V, Jake Dawson,** owner – of 80 Route 16B. Tax Map: 93 Lot: 015 is applying for a Variance from Article 34.2.n for a Warehouse/Storage facilities in the Village District. Mr. Dawson also wants to rent a portion of his building to a landscape company to store unused equipment and have an office. Representing agent is Ash Fischbein.

Chairman Brother’s read a letter from the Planning Board requesting a continuance and requesting a joint meeting under RSA 676:2 of this case until such time a joint meeting can be scheduled.

Stanley Brothers proceeded to recuse himself from Case #18-8-V because he is currently having business dealings with Mr. Dawson. **Ralph Wurster took over as vice-chair.** Daniel Fischbein could not be raised to voting status because he is the father of the representing agent, Ash Fischbein. Alternate Sandra “Sam” Martin was raised to voting status in place of Stanley Brothers.

Brothers, **as a member of the audience,** asked for clarification **on** which zoning article the applicant was seeking a variance and is it article section 27.2.1. Ash Fischbein replied yes. The Board reviewed of the application, which listed article 27.2.1 but the Zoning Enforcement Officer’s denial letter listed article 34.2.n. The secretary stated when processing an application she must follow what is noticed on the ZEO denial letter. McConarty agreed. After discussion, Wurster recommended that Ash Fischbein and Mr. Dawson meet with McConarty to clarify the reason for the denial and to prepare his presentation and application in accordance with the zoning article for the denial.

Ash Fischbein requested and it be noted in the minutes that, Jake Dawson **continue to** be allowed to rent space to the landscape company until the variance and site plan review are **granted.**

McConarty commented Dawson has been allowed to store the lawn care equipment in the building but there was to be no operation of work taking place at this location.

Chair Billings and Vice-chair Wurster agreed hold a joint meeting with the Planning Board on August 7, 2018 to mutually hear this case. At the end, the ZBA will render a decision concerning the variance and the site plan review **may be presented or applied for later.**

Point of Order by Rines, who stated, the Board has not accepted the application. Rines questioned if they are continuing the consideration of the application or continuing to consider if this application is complete. Ash Fischbein corrected the application to the correct zoning article 34.2.n. **Wurster agreed that the ZBA needed to take official action on the case.**

A Motion by Rines to accept **Case#18-8-V, John W. Dawson, Jr.** of 80 Route 16B. Tax Map: 093 Lot: 015 for a Variance from Article 34.2.n for a Warehouse/Storage in the Village District application as complete and grant **a** continuance to August 7, 2018 at 7:00 pm. MacDonald seconded. No further discussion. Barron, MacDonald, Rines, Martin, and Wurster voted in the favor. **Motion passed.**

Brothers returned to table as Chairman.

Chairman Brothers excused Sandra “Sam” Martin, who had to leave the meeting.

Jim Rines recused himself from Case #18-9-V because he is representing the applicant.

Brothers raised alternate Danny Fischbein to voting status in place of Jim Rines.

- **Case#18-9-V: Russell Mannette & Elsa McKie** of 44 Bay Point Rd. Tax Map: 022 Lot: 029 is applying for a Variance from Article 6.4.2.A Side Setbacks to remove an existing non-conforming residential structure and replace it with a similar structure.
 - Letter received from abutter - Jerilyn Laing

Jim Rines of White Mtn. Survey & Engineering, Inc. presented the case on behalf of Russell Mannette & Elsa McKie, request for a variance to from Article 6.4.2.A Side Setbacks to remove an existing non-conforming residential structure and replace it with a similar structure. During the process it was determined the existing foundation was 0.7 feet over the property line. The decision was made to remove the existing foundation, move the structure to the center of the property and apply for a variance. The current structure measures 61.0 X 44.4 feet. The proposed new structure will measure 61.0 X 42.0 with side yard setbacks on the north-westerly side being 15.4 ft. and south-easterly side will be 13.4 ft. and a 12.0 ft. deck and patio below. Relocation of a shed closer to the deck will also take place. Rines proceeded to read through the (5) criteria’s for approval.

Chairman Brothers read an abutters letter submitted by Jerilyn Laing expressing her concerns of the boundary lines.

John Demers (abutter) commented to all the structures which were built illegally by prior owners. But noted they do want something to go in there to help improve the looks of the neighborhood but request it be a little narrower and be within the boundaries.

A **Motion** by Barron to grant **Case#18-9-V: Russell Mannette & Elsa McKie of 44 Bay Point Rd. Tax Map: 022 Lot: 029** for a Variance from Article 6.4.2.A Side Setbacks to remove an existing non-conforming residential structure and replace it with a similar structure with the following conditions:

1. The corners of the house are pinned.
2. All Federal, State and Local Regulations shall be followed.

Fischbein seconded.

Brothers instructed the Board if you find in favor of the applicant signify with a Yes vote. If not in favor of the applicant, signify with a No vote.

Vote by Criteria:

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

Fischbein – Yes Barron – Yes MacDonald – Yes Wurster – Yes Brothers – Yes

Wurster believes it would be a considerable improvement of the area.

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

Fischbein – Yes Barron – Yes MacDonald – Yes Wurster – Yes Brothers – Yes

3. **Substantial justice is done because:**

Fischbein – Yes Barron – Yes MacDonald – Yes Wurster – Yes Brothers – Yes

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

Fischbein – Yes Barron – Yes MacDonald – Yes Wurster – Yes Brothers – 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:**

(ai) Fischbein – Yes Barron – Yes MacDonald – Yes Wurster – Yes Brothers – Yes

(aii) Fischbein – Yes Barron – Yes MacDonald – Yes Wurster – Yes Brothers – Yes

Chairman Brothers announced the **motion passed**. The Variance has been granted with conditions that the corners be pinned and all Federal, State and Local Regulations are followed. There is a 30 day appeal process of the ZBA decision, which starts tomorrow morning.

Notices: Chairman Brothers read notices to the Board.

- Town of Ossipee is accepting sealed bids for Surplus Vehicles information posted on the boards.

Any Other Business Which May Come Before This Meeting:

None at this time.

Adjournment:

A **Motion** by Rines to adjourn the meeting. Fischbein seconded. No discussion.

All voted in favor, motion passed. The meeting adjourned at 9:00 p.m.

Next Meeting: August 14, 2018 @ 7:00 pm

Minutes approved by majority vote of the Board on:

_____	_____
Stanley Brothers, Chairman	Date

Or

_____	_____
Ralph Wurster, Vice Chairman <i>(In the absence of the Chairman)</i>	Date