

OSSIPEE ZONING BOARD

Meeting Minutes

August 14, 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, Daniel Fischbein, and Steve McConarty, ZEO. **Absent:** Ed MacDonald and Sandra “Sam” Martin

Meeting Minutes:

The Board reviewed the ZBA meeting minutes of July 10, 2018.

A **Motion** by Barron to accept the meeting minutes of June 12, 2018 as amended. Wurster seconded. The Board addressed summarizing the minutes further to include the action and the decisions and the pros and cons of not having enough details verses too much detail.

Ash Fischbein asked to have a correction made to the minutes to reflect McConarty giving Jake Dawson permission to allow operation for the landscape company. But 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 until the variance and site plan review were approved.

A **Motion** by Rines to postpone action on the minutes until the recording of July 10th meeting can be reviewed.

The Board decided to vote on the minutes first.

Chairman Brothers raised Dan Fischbein to voting status in place of Ed MacDonald.

A **Motion** by Barron to accept the meeting minutes of June 12, 2018 as amended. Wurster seconded. No further discussion. A vote was taken by roll call. Barron, Fischbein, Rines and Brothers voted no. Wurster voted yes. **Motion failed 4 - 1** to approve the minutes of July 10, 2018.

Rines restated his motion - A **Motion** by Rines to postpone action on the minutes until the recording of July 10th meeting can be reviewed. Brothers seconded. No discussion. A vote was taken by roll call. Barron, Fischbein, Rines and Brothers voted Yes. Wurster voted No. **Motion passed 4 - 1** to review the recording of July 10, 2018 for clarification.

Financial:

- Budget Reports: 07/01/2018 – 07/31/2018 - The Board reviewed the budget, no questions.
- Sager & Smith invoice for \$576.93 received 07/17/2018 for Ossipee Transition House.

A **Motion** by Wurster to approve payment of \$576.93 to Sager & Smith, PLLC for services rendered during the Ossipee Granite Recovery case. Barron seconded. The Board reviewed the charges and addressed any concerns. No further discussion. Rines recused & abstained himself from discussion and vote as an abutter. All others voted to approve payment of \$576.93 to Sager & Smith, PLLC. **Motion passed 4-1.**

Guest:

Ash Fischbein and Matt Trahan presented on behalf of the Ossipee Economic Development Council the results of the Envision Night and survey questions asked during the Town Elections. Presentation consisted of various projects community members are looking to have completed including; Walking/Historic Trails,

Playground, Community Center and Hydro/Solar Power. The OEDC feels their job is to spark economic development for Ossipee but to also work as a liaison between community residents, potential business owners and Town Officials and Boards.

New Business:

PUBLIC HEARING

For the following Applications

- **Case #18-10-V:** Charles Ash Fischbein c/o White Mtn S & E - 146 Moultonville Rd. Tax Map: 090 Lot: 045 is requesting a **Variance** from Article 6.4.2A – Side Setbacks of the Ossipee Zoning Ordinances to build a 10 ft. X 16 ft. deck.

Dan Fischbein recused himself as the father of the applicant, Ash Fischbein.

Jim Rines recused himself as the representing agent for Ash Fischbein.

Rines requested a continuance until a five member Board could be seated.

A **Motion** by Barron to grant the request for continuance until September 11, 2018 ZBA Meeting. Brothers seconded. No discussion. Barron, Wurster and Brothers voted in favor. **Motion passed.**

Dan Fischbein rejoined the Board as a voting member.

Jim Rines recused himself as the representing agent for Case #18-11-V: Rand Realty, LLC.

- **Case # 18-11-V: Rand Realty. LLC** c/o White Mtn S & E – 50 Leavitt Rd. Tax Map: 033 Lot: 006 is requesting a **Variance** from Article 6.4.2A – Side Setbacks of the Ossipee Zoning Ordinances to build a 30 ft. X 35 ft. home with a 35ft. X 25 ft. garage attached by a 16 ft. deck.

Jim Rines presented the plans to raze the existing non-conforming home and construct a 30 ft. X 35 ft. home with a 35 ft. X 25 ft. garage with a 16 ft. wide attached deck. The home will be 18 ft. from the northerly boundary requiring a 7 ft. variance and the garage will be 9 ft. from the westerly boundary requiring a 16 ft. variance. Rines read through the five criteria's.

The Board discussed the flood elevation requirements.

Kevin Randall (member of the LLC) and Hank Zolla (abutter) both spoke in favor of the applicant and proposed project.

The owner stepped forward and requested to change the design plan White Mountain Survey is presenting. He demonstrated to the Board, how he would prefer to have the house and garage laid out on the property and does not object to getting flood insurance.

A **Motion** by Wurster to approve the application for **Case # 18-11-V: Rand Realty. LLC** c/o White Mtn S & E – 50 Leavitt Rd. Tax Map: 033 Lot: 006 is requesting a **Variance** from Article 6.4.2A – Side Setbacks with the following conditions:

1. No less than 9 ft. from easterly setback for the garage.
2. No less than 18 ft. from the westerly setback for the house.

Barron seconded. Discussion concerning pinning the foundation and submitting as built plans when complete. Wurster and Barron withdrew their motion.

New **Motion** by Wurster to approve the application for **Case # 18-11-V: Rand Realty. LLC** c/o White Mtn S & E – 50 Leavitt Rd. Tax Map: 033 Lot: 006 is requesting a **Variance** from Article 6.4.2A – with the following conditions:

1. No less than 9 ft. setback from easterly setback for the garage.
2. No less than 18 ft. setback from the westerly setback for the house.
3. New foundation to be pinned in granting the variance in accordance with Zoning Ordinance 6.4.2 (a).

4. ZBA to receive revised as built plans.
5. All Federal, State and Local Regulations shall be followed

The Board voted on the five criteria's.

Vote by Criteria:

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

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

Wurster believes it would be a improvement of the area. Brothers agreed.

2. The spirit of the ordinance is observed because:

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

3. Substantial justice is done because:

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

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

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

Wurster believes the surrounding property values will be increased by the new house.

Brothers agreed and with the improvement for the ground water and substantial improvements to the property.

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 Wurster – Yes Brothers – Yes

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

Chairman Brothers announced the **motion passed**. The Variance has been granted with conditions imposed by the ZBA. There is a 30 day appeal process of the ZBA decision, which starts tomorrow morning.

Jim Rines rejoined the Board as a voting member.

- **Case #18-1-EWDR:** Allen Cumings c/o McConkey & Associates – 5 Patriots Way. Tax map: 044 Lot: 024 is requesting an **Equitable Waiver of Dimensional Requirements** to retain a garage in place that does not meet the Towns sideline setback requirements.

Mark McConkey presented on behalf of Allen Cumings noting a change in the documentation. The application indicates the garage was reconstructed in 2013 but it was actually built in 1995. McConkey provided a history of the property and demonstrated how it came to light the garage non-conforming to the setbacks. The Board addressed concerns of meeting the EWDR listed under RSA 674:33 (a) I&II. After discussion, the Board agreed their concerns have been met.

A **Motion** by Brothers to grant the Equitable Waiver of Dimensional Requirements with the following conditions:

1. Per plan measurements of 19.02, 11.18, 19.76, and 21.42, dated and signed by Chairman Brothers on 08/14/2018
2. Shall comply with RSA 674:33 (a) I (deck) & II (garage)
3. All Federal, State and Local Regulations shall be followed.

Barron seconded. No further discussion. A unanimous vote was taken.

- **Ossipee Granite Recovery:** has filed a **Motion for Clarification** concerning the variance condition for the stockade fence to be placed on the property.

A **Motion** by Brothers to clarify the ZBA's decision that a stockade fence shall be erected the length of the OGR property. Barron seconded. No further discussion. A unanimous vote was taken.

- **Revision to Rules of Procedure** – The Board is review and present with edits at the next meeting on September 11, 2018.

Notices: N/A

Any Other Business Which May Come Before This Meeting:

No other business came before this Board.

Adjournment:

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

All voted in favor, motion passed. The meeting adjourned at 8:43 p.m.

Next Meeting: September 11 @ 7:00 pm

Minutes approved by majority vote of the Board on:

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