

OSSIPEE ZONING BOARD

Meeting Minutes September 11, 2018

Minutes were recorded by and summarized by Laura Nash, Board Secretary. Revisions to 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, Ed MacDonald, Roy Barron, Daniel Fischbein, and Steve McConarty, ZEO. **Absent:** Sandra “Sam” Martin

Meeting Minutes:

The Board reviewed the ZBA meeting minutes of August 14, 2018.

A **Motion** by Barron to approve the minutes of August 14, 2018 as written. Rines seconded. No discussion. MacDonald abstained. All others voted to approve. **Motion passed.**

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

A **Motion** by Barron to approve the minutes of July 10, 2018 as written. MacDonald seconded. No discussion. Rines abstained. All others voted to approve. **Motion passed.**

Financial:

- Budget Reports: 07/01/2018 – 07/31/2018 - The Board reviewed the budget. Wurster raised concerns about the remaining funds on the postage line item and receiving a revenue report. The secretary is going to check with the Town Administrator for the next meeting.

- Sager & Smith invoice for \$52.50 received 07/31/2018 for Ossipee Transition House

A **Motion** by Barron to approve payment of \$52.50 to Sager & Smith, PLLC for services rendered during the Ossipee Granite Recovery case. Wurster seconded. Discussion: The Board reviewed the charges and addressed any concerns. No further discussion. Rines abstained himself from voting as an abutter. All others voted to approve payment of \$52.50 to Sager & Smith, PLLC. **Motion passed.**

New Business:

PUBLIC HEARING

For the following Applications

- **Case #18-4-V: Ossipee Mountain Grille, LLC.** Representing agent is White Mtn. Survey & Engineering, Inc. requested a Continuance until October 9, 2018, because the surveying is not complete. Owner – Tony Ouellette at 1625 Route 16. Tax Map: 053 Lot: 005 is applying for a Variance to come into compliance with setback ordinances 6.4.1 and 6.4.2, which was previously approved by the Planning Board in 2013 without a Site Plan Review. (Continued from May 8, 2018 ZBA Mtg.)

A **Motion** by Barron to approve the continuance until the October 9, 2018 ZBA meeting for Case #18-4-V: Ossipee Mountain Grille, LLC. MacDonald seconded. No discussion. Rines abstained. All others voted to approve. **Motion passed.**

Jim Rines recused himself for **Case #18-10-V:** Charles Ash Fischbein, because he is the representing agent.

Dan Fischbein recused himself because he is the father to the applicant.

The Chairman addressed the Applicant (under RSA 674:33) – noting since there is not a full 5 member board, with no 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.

Rines replied they wish to continue with the (4) member Board.

- **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. (Continued from 08/14/2018).

Jim Rines presented the case as the representing agent on behalf of Ash Fischbein. Rines stated Fischbein wants to construct a 10 ft. X 16 ft. wide open deck attached to the pond side of the home. The deck will be 21.5 ft. from the side boundary line but much further than the existing barn by 1.4 ft. The deck will be 12.2 ft. from the observed water level on April 2018 of the Mill Pond. The rear setback is 57.7 ft. from the thread of Dan Hole River which is the boundary line of this property. The existing house front setback is 9.5 ft. from the right-of-way. Rines proceeded to read through the five (5) criteria's.

Brothers called for questions from the Board. Discussion included flood requirements, and delineation of what constitutes the front, side and rear of the house and property. No public discussion was heard.

A **Motion** by Barron to approve the Variance for **Case #18-10-V:** Charles Ash Fischbein c/o White Mtn Survey & Engineering, Inc. of 146 Moultonville Rd. Tax Map: 090 Lot: 045 from Article 6.4.2A – Side Setbacks of the Ossipee Zoning Ordinances. Wurster seconded. No further discussion.

The Board proceeded to vote on each of the five criteria's. Brothers stated if you're for the applicant – vote Yes. If you're against the applicant – vote No.

Vote by Criteria:

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

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

Wurster believes given the lots and location it will fit in with the neighborhood. Brothers agreed.

2. The spirit of the ordinance is observed because:

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

Wurster commented for the same reason as number 1. Brothers agreed.

3. Substantial justice is done because:

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

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

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

Barron commented the surrounding property values may be increased.

Brothers agreed and does not believe it will diminish anyone's 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) Barron – Yes MacDonald – Yes Wurster – Yes Brothers – Yes

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

Wurster noted this is a unique piece of property. Brothers commented the zoning ordinances put a lot of hardship on the properties in this area.

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

Jim Rines rejoined the Board as a voting member. Danny Fischbein rejoined the Board as an alternate.

- **Case #18-12-V: Paul & Lynne Evans** of 80 Deer Cove Rd. Tax Map: 037 Lot: 003 Sub: 002 is applying for a Variance from Article 6.4.1(a) for front setbacks requirements to add a landing with stairs and Article 23.3.2 – Expansion of a Non-Conforming Structure to add dormers to both sides of home.

Chairman Brothers read a letter submitted by Stan Jarzembowski, President, of Deer Cove Condominium Association (DCCA), Board of Directors.

Board discussion ensued over:

1. Seeking Association permission
2. Rules of the association
3. Associations Covenant & Restrictions
4. Missing Condo Documentation
5. Missing Court Documents
6. Plot Plan showing dimensions, setbacks, boundaries, abutters, etc...

Brothers read court document Amended Stipulation document #86-E-113.

Stan Jarzembowski addressed the Board to explain the situation. The only request the association has, is the ability to hold a Board meeting but the next one is scheduled for May 2019, unless they hold a special meeting.

Discussion with the applicant about gathering the missing information and over continuing until the next meeting on 10/09/2018 or withdrawing their application until the Association meeting can be held.

A **Motion** by Barron to continue **Case #18-12-V: Paul & Lynne Evans** of 80 Deer Cove Rd. Tax Map: 037 Lot: 003 Sub: 002 until October 9, 2018 ZBA meeting. Rines seconded. No further discussion. A unanimous vote was taken. **Motion passed**.

- **Revision to Rules of Procedure** – Wurster and Rines suggested several changes and corrections to bring the document up to current day standards. Changes and corrections will be made for the next ZBA meeting for review.

Notices:

Letter by ZEO McConarty in response to Ash Fischbein's letter pertaining to 80 Route 16B – Dawson

Chairman Brothers asked McConarty if he wished to speak on the letter submitted. McConarty requested a couple of Board members should recuse themselves. Since this letter is related to the Dawson case, Brothers and Fischbein recused themselves. McConarty asked Rines to recuse himself since his company; White Mountain Survey & Engineering are working with Ash Fischbein on another project.

Wurster called for a motion to accept the letters and to take them under advisement until such time this case comes before the ZBA but the Board will not take any action on them tonight.

A **Motion** by Barron to accept Ash Fischbein's letter and McConarty's letter related to the Dawson property of 80 Route 16B, for informational purposes. MacDonald seconded.

Discussion surrounding if Jim Rines should recused himself ensued. Since no action is being rendered on either letter at this time, Rines was allowed to remain as a voting member of the Board.

No further discussion. Wurster called for a vote. A unanimous vote was taken. **Motion passed.**

Brothers asked McConarty if he was seeking guidance. McConarty just wants to bring the Board up to date on the overall situation with the case.

Brothers rejoined the Board as a voting member.

Any Other Business Which May Come Before This Meeting:

No other business came before this Board.

Adjournment:

A **Motion** by Barron to adjourn the meeting. Rines seconded. No discussion. All voted in favor, **Motion passed.** The meeting adjourned at 8:12 p.m.

Next Meeting: October 9, 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