

OSSIPEE ZONING BOARD

Meeting Minutes

October 9, 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 September 11, 2018.

- A **Motion** by Barron to approve the minutes of September 11, 2018 as written. Brothers seconded. Discussion: Wurster questioned why “Brothers asked Rines to bring revised plans for signatures after adding setback lines” was not included in the minutes. Wurster was informed because that conversation took place after the meeting had adjourned. No further discussion. All voted to approve. **Motion passed.**

Brothers asked to move the financials and rules of procedures until after the cases are heard. The Board agreed.

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 was Granted a **Variance** from Article 6.4.2A – Side Setbacks of the Zoning Ordinances to build a 10 ft. X 16 ft. deck on August 11th, pending revised plans for signatures after adding setback lines.

Brothers acknowledged receipt of the revised plans. Brothers and Wurster proceeded to sign the plans.

Rines requested to recuse himself from the following cases because he has provided services to and for each case in some capacity.

Fischbein informed the Board that he is under medical ***advice*** due to a procedure and subsequent medication; he is not to make any decision of a legal capacity.

Brothers asked 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.***”

Tony Ouellette wished to proceed.

- **Case #18-4-V: Ossipee Mountain Grille, LLC.** 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 05/08/2018 & 09/11/2018)

Tony Ouellette explained the history and circumstances he has faced with the property. Ouellette handed out newly surveyed plans and explained his proposed plans for the business.

Discussion and review of the plans ensued. Concerns with the front setback under Article 6.4.1., were

discussed along with the fence issue raised by the Planning Board. All concerns were satisfactorily resolved. Findings on the survey confirmed the side and rear setbacks under Article 6.4.2 are well within the boundaries. Wurster noted on the application the “basis for appeal from Article was blank” since there is no issue with the side and rear setbacks under Article 6.4.2, Wurster suggested and the board agreed, Tony Ouellette add Article 6.4.1 to his application and initial it. The front setback requirement in the Roadside Commercial is 40 ft. and State setback requirement vary. He is currently 28.8 ft. at one corner and 30.8 ft. to the other corner, but since his property is considered grandfathered, it should be noted he currently meets all state, federal, and local regulations.

A **Motion** by Barron to grant a Variance for **Case #18-4-V: Ossipee Mountain Grille, LLC**. Owner – Tony Ouellette of 1625 Route 16. Tax Map: 053 Lot: 005 for relief from front setback zoning ordinance Article 6.4.1 and must comply with all Federal, State and Local Regulations. Wurster seconded. Brothers called for public discussion. With no further discussion.

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:

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

2. The spirit of the ordinance is observed because:

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

Wurster agreed noting Tony Ouellette is trying to improve the property.
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

Wurster hopes with the continued improvements.
Brothers agreed.

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

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

Wurster commented the special conditions is that it’s an older building and bringing it up to today’s standards.

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.

- **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. (Continued from 09/11/2018) (Association Court Documents received 09/28/20108.) **Per the Evans as of 10/09/2018, they would like to withdraw their application without prejudice.**

A **Motion** by Barron to accept the withdrawal without prejudice of **Case #18-12-V: Paul & Lynne Evans** of 80 Deer Cove Rd. Tax Map: 037 Lot: 003 Sub: 002. MacDonald seconded. Discussion over how notification was received. It was received via telephone conversations. Wurster wished to amend the motion.

An **Amended Motion** by Wurster to allow the withdrawal per telephone conversation of 10/09/2018, Brothers seconded. No further discussion. All voted to approve. **Motion passed.**

A **Motion** by Barron to accept the withdrawal without prejudice of **Case #18-12-V: Paul & Lynne Evans** of 80 Deer Cove Rd. Tax Map: 037 Lot: 003 Sub: 002. ***As amended to include, per telephone conversation dated 10/09/2018.*** MacDonald seconded. No further discussion. All voted to approve. **Motion passed.**

- **Case #18-3-SE: Edmund & Rachel Harrigan** c/o owners of Snug Harbor, LLC of 80 Weetamoe Rd. Unit 017. Tax Map: 066 Lot: 031 Sub: 017 is applying for a Special Exception from Article 23.2.3 Expansion of a Non-conforming Structure under Article 26.2 requirements and Article 23.3.2 Making a Non-Conforming Structure More Non-Conforming to build the permitted deck structure “connected” to the building in lieu of free standing. Representing agent Jeremy Bonin of Bonin Architects.

Jeremy Bonin explained there was an existing non-conforming deck because it’s within the 40 ft. setback. The conforming house which was expanded in a conforming manner was subsequently connected to the non-conforming deck the whole structure became an expansion of a non-conforming structure. Bonin challenged that even though they have reduced the size of the deck it is still considered expansion of a non-conforming structure once attached to the house.

McConarty explained the original house was demoed leaving a portion of the deck. They built an expanded house but the remaining deck was still non-conforming, so once connected to the deck it made the whole structure an expansion of a non-conforming structure.

The board reviewed the drawings and all questions and concerns were addressed by the Board.

Brothers called for public comments, none was heard.

A **Motion by Barron** to Grant a Special Exception for **Case #18-3-SE: Edmund & Rachel Harrigan** c/o owners of Snug Harbor, LLC of 80 Weetamoe Rd. Unit 017. Tax Map: 066 Lot: 031 Sub: 017 from Article 23.2.3 Expansion of a Non-conforming Structure under Article 26.2 requirements and Article 23.3.2 - Making a Non-Conforming Structure More Non-Conforming. Wurster asked the ZEO, if there are any other restrictions that should be applied. McConarty indicated none. Wurster 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 use is permitted by Special Exception under Table 1 (Article 34 of the Ossipee Zoning Ordinance), or elsewhere in the Ordinance (for example, see Article 6.2)**

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

- 2. The use is so designed, located and proposed to be operated that the public health, safety, welfare, and convenience will be protected.**

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

- 3. The specific site is appropriate for the proposed use or structure.**

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

- 4. No factual evidence is found that the property values in the district will be reduced, due to incompatible land use, by such use.**

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

Wurster commented because they would comply with other houses in the area.

5. Adequate and appropriate facilities and parking will be provided for the proper operation of the proposed use or structure, as required by the Ordinance.

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

6. There will be no undue nuisance or serious hazard to pedestrian or vehicular traffic.

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

Brothers noted the property is on a dead end street, so there's no serious hazard involved.

7. The proposed use shall not violate the provisions of Article IV and V of the Ordinance.

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

8. There is no valid objection from the abutters based on demonstrable fact.

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

No further discussion. A unanimous vote was taken. Special Exception granted and must comply with all Federal, State and Local Regulations.

Chairman Brothers noted there is a 30 days appeal process of the ZBA decision which starts tomorrow morning. The Selectmen or any party to the action or any person directly affected has a right to appeal this decision.

Jim Rines rejoined the Board in as a voting member.

Financial:

- Budget Reports: 09/01/2018 – 09/30/2018 - The Board reviewed the budget.
- Revenue Report: Year to date was reviewed by the Board.
- Budget Worksheet: The Board reviewed and submitted the proposed budget for the 2019 Budget year.

2019 BUDGET WORKSHEET- ZBA		to 8/31/2018		
Account	Description	2018 Adopted Budget	2018 YTD Transactions	2019 Dept. Request
01.41913.120.00	ZBA - SALARY SECRETARY	\$5,500.00	\$4,609.80	\$7,500.00
01.41913.210.00	ZBA - HEALTH INS	\$2,733.00	\$1,822.00	\$3,500.00
01.41913.210.00	ZBA - STD INS			\$22.40
01.41913.215.00	ZBA - LIFE INS	\$9.00	\$6.00	\$0.00
01.41913.220.00	ZBA - FICA	\$341.00	\$271.92	\$0.00
01.41913.225.00	ZBA - MEDICARE	\$80.00	\$63.61	\$0.00
01.41913.230.00	ZBA - RETIREMENT	\$626.00	\$517.63	\$0.00
01.41913.341.00	ZBA TELEPHONE	\$550.00	\$0.00	\$550.00
01.41913.553.00	ZBA - ADVERTISING	\$1,700.00	\$1,598.00	\$2,500.00
01.41913.620.00	ZBA - OFFICE SUPPLIES/ PROF FEES	\$400.00	\$119.16	\$400.00
01.41913.625.00	ZBA - POSTAGE	\$1,050.00	\$955.66	\$1,500.00
01.41913.661.00	ZBA - MILEAGE	\$200.00	\$0.00	\$200.00
01.41913.810.00	ZBA - EDUCATION	\$300.00	\$0.00	\$300.00
01.41913.820.00	ZBA - COMPUTER & SOFTWARE			
		\$13,489.00	\$9,963.78	\$16,472.40

Notices:

Brothers read a letter from the Planning Board asking the ZBA if they have any zoning ordinance changes for this year, especially around the lake properties. McConarty explained, if the setback requirements were

lessened around some of the lake properties, it would reduce some of the cases coming before the ZBA.

The Board discussed possibly reducing side setback, increasing side setbacks in some areas, restricting to non-conforming lots, changing the building permit application to show all corners pinned and if not requiring all lots be surveyed by a licensed land surveyor, etc... The ZBA's suggestion to the Planning Board is to look into the setback index system that Wolfeboro utilizes for their lake side properties, as a possible solution for Ossipee.

Unfinished Business:

- Revision to Rules of Procedure: Discussed the following changes:
 1. Pg. 1 - Change under section: Officers - #3 - the “**Secretary**” to “**Recording Secretary**” since this Board has never had an actual elected Board Secretary.
 2. Pg. 3 – section Public Notice #2: C – “verified mail to the **applicant (property owner), representing agent, (if applicable) and all abutters, and all property owner/s** within a 200 ft. radius...”
 3. Pg. 4 - In 1994, the Board voted to have the official meeting minutes be the recorded tapes. By adopting and voting on the revisions to these Rules of Procedure – **the Official meeting minutes will be the signed summarized transcript of the meeting minutes and the recording will be deleted.**
 4. Pg. 5 – section Joint Meetings and Hearings #2 – “when called jointly by the **Chairperson** of **each** of the two boards.”
 5. Pg. 5 - Remove – “**Format for Joint Meeting Procedures and Instructions to Applicants (Appendix B) are adapted, with thanks, from the Town of Gilford’s Rules of Procedures, September 1984.**”

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. Barron seconded. No discussion. All voted in favor, **Motion passed.** The meeting adjourned at 8:35 p.m.

Next Meeting: November 13, 2018 @ 7:00 pm

Minutes approved by majority vote of the Board on:

Stanley Brothers, Chairman

Date

Or

Ralph Wurster, Vice Chairman
(In the absence of the Chairman)

Date