

TOWN OF OSSIPEE
ZONING BOARD OF ADJUSTMENTS
Meeting Minutes
July 14, 2020

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

Call to Order: Ed MacDonald called the meeting to order at 7:00 p.m.

Members Present by Roll Call: Ed MacDonald, Jim Rines, Roy Barron, Daniel Fischbein, William “Bill” Grover, and Alternate - Ralph Wurster.

Absent: Steve McConarty, ZEO

MacDonald acknowledged that Fischbein and Grover have taken their Oath of Office.

Meeting Minutes: Review to Approve Meeting Minutes of June 9, 2020

A **Motion** by Barron to approve the minutes of June 9, 2020 as amended. Rines seconded. Wurster noted on page 4 no period is needed after ***objects and***, Rines noted address should be ***addressed*** and on page 5 right away should be ***right of way***, closure should be ***closer***, District. Since should be ***District, since*** and determine should be ***make***. No further discussion. A unanimous vote was taken. **Motion passed.**

Financial:

- Budget Report: 06/01/2020 – 06/30/2020 is noted to be in good shape.

New Business:

- **Case #20-2-V & Case #20-1-SE:** Owner - Steven Reis of 939 Route 16. Tax Map: 119 Lot: 030 is requesting a Variance from Article VI, Section 6.4.1 Front setback, 6.4.2A Side setback and a Special Exception from Article XXIII, Section 23.3.2 expansion of a non-conforming structure to add an addition to the existing home for enlarging the living room and adding a bedroom to become a permanent residence.

Katherine and Steven Reis presented revised plans for the addition they want to add. The Board reviewed and were satisfied with the plans. MacDonald reminder the Board that Mr. Reis had gone through the 5 criteria's for the variance at the previous meeting.

Wurster noted he did not see in the minutes of a motion or where Mr. Reis had read through the criteria's. After review of the minutes further it was documented that Mr. Reis had read through the 5 criteria's and was asked to explain his answers further.

MacDonald read question one of the 5 – criteria's. Rines noted he did not believe this would change the character of the neighborhood. Barron and Fischbein agreed.

Point of Order by Wurster, who questioned if a motion was made and explained the standard procedure to the Board.

A **Motion** by Rines to approve **Case #20-2-V** for Steven Reis of 939 Route 16. Tax Map: 119 Lot: 030 request for a Variance from Article VI, Section 6.4.1 Front setback, 6.4.2A Side setback. Barron seconded.

Chairman MacDonald called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

Vote by Criteria:

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

3. **Substantial justice is done:**

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – 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:**

(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:

(i) No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property because:

ai) Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

Rines noted the hardship is the unique and configuration of the property in comparison to the other lots in the area.

Barron commented he understands what it’s like to not have enough room.

AND

(ii) The proposed use is a reasonable one because:

(aii) Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

Chairman MacDonald announced the **motion passed**. The Variance has been granted.

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.

- Chairman MacDonald moved onto **Case #20-1-SE** for a Special Exception from Article XXIII, Section 23.3.2 expansion of a non-conforming structure to add an addition to the existing home for enlarging the living room and adding a bedroom to become a permanent residence.

Steven Reis read through the 8 criteria’s and his response to each.

Board discussion: Rines questioned if Reis has operational proof of an existing septic approval to adequately meet the requirements of the expansion. Otherwise a new septic system will be required.

A **Motion** by Rines to approve **Case #20-1-SE** for Steven Reis of 939 Route 16. Tax Map: 119 Lot: 030 request for a Special Exception from Article XXIII, Section 23.3.2 expansion of a non-conforming structure to add an addition to the existing home for enlarging the living room and adding a bedroom to become a permanent residence. Fischbein seconded. With the conditions of having an operational approval for the septic system and compliance with All Federal, State and Local Regulations.

Chairman MacDonald called for public input. Rines checked the parking lot for any abutters and stated let the record show that no abutters were present for the Reis case. Chairman MacDonald closed public input.

Chairman MacDonald called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

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)

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – 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.

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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.

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

Grover questioned if any letters were received from abutters; no were received.

Chairman MacDonald announced the **motion passed**. The Special Exception and Variance have been granted.

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.

Rines retrieved the next applicant from the parking lot.

- **Case # 20-2-SE:** Christopher Green, Trustee and Amanda Green Trustee/Christopher & Amanda Green Rev Trust of 92 Leavitt Rd. Tax Map: 031 Lot: 056 is seeking a Special Exception from **Article 23.3.2 Expansion of a Non-Conforming Structure** to add an addition on to an existing Non-Conforming Structure.

Christopher Green presented his plans to add an addition on to an existing non-conforming structure. He has received NHDES Shoreland approval. The addition is behind the 50 ft. setback from the water, which

will include a kitchen, a mud room, a loft area above and a basement. The infringement to the 50 ft. water setback is from the existing house.

Board discussion addressed the existence of the non-conforming house and the possible enlargement of the deck. Green explained they added the deck to the design for the Shoreland permit application to get approval but they're not planning on constructing it at this time. Green noted that if they're to build it, per NHDES it cannot extend beyond the exiting patio. There will be no additional bedrooms.

Rines checked the parking lot for any abutters and stated let the record show that no abutters were present for the Green case.

Green was given a copy of his application in order to read through the 8 criteria's.

Chairman MacDonald read a letter from Arthur and Lindy Bouffard an abutter to the Green's.

Chairman MacDonald called for public input. None was heard, Chairman MacDonald closed public input.

A **Motion** by Rines to approve **Case # 20-2-SE: Christopher Green, Trustee and Amanda Green Trustee/Christopher & Amanda Green Rev Trust of 92 Leavitt Rd. Tax Map: 031 Lot: 056 for a Special Exception from Article 23.3.2 Expansion of a Non-Conforming Structure** to add an addition on to an existing Non-Conforming Structure. With the condition it meets all Federal, State and Local Regulations. Barron seconded.

Chairman MacDonald called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

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)

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – 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.

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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.

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Rines – Yes Barron – Yes MacDonald – Yes

Chairman MacDonald announced the **motion passed**. The Special Exception has been granted.

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.

Jim Rines requested to recuse himself from the next two cases as the representing agent for the applicants.

Rines checked the parking lot for any abutters.

Chairman MacDonald raised Alternate – Ralph Wurster up to voting status in place of Jim Rines.

- **Case #20-3-SE:** Huggins Hospital of 3 Water Village Rd. Tax Map: 132 Lot: 040 is seeking a Special Exception from **Article 23.3.2 Expansion of a Non-Conforming Structure** to add 1,538 sq. ft. of medical space to an existing non-conforming structure. The addition will be fully conforming, and the non-conforming shed made conforming. Also, the parking will become more conforming.

Rines stated let the record show that no abutters were present for the Huggins Hospital case.

Jim Rines of White Mountain Survey & Engineering, Inc., presents as the representing agent for Huggins Hospital seeking a Special Exception from **Article 23.3.2 Expansion of a Non-Conforming Structure** to add 1,538 sq. ft. of medical space to an existing non-conforming structure. The addition will be on the west side of the building. The existing non-conforming shed will be relocated to a conforming area. Additional parking will be added within the setbacks. Rines noted they have received NHDES Septic approval, NHDOT approval for widening the driveway and Planning Board conditional approval pending approval of a Special Exception from the ZBA for expansion of a non-conforming structure.

Barron commented he wanted the Board to know that the only reason the structure is non-conforming is because the state took land to put the rotary in at the intersection of Route 28 and 171 because before that they were conforming. Discussion ensued over what makes the building non-conforming.

Rines proceeds to read through the 8- criteria's.

Board discussion over the additional parking area and the need for additional medical provider in the area.

Chairman MacDonald called for public input. None was heard, Chairman MacDonald closed public input.

A **Motion** by Grover to approve a Special Exception for **Case #20-3-SE:** Huggins Hospital of 3 Water Village Rd. Tax Map: 132 Lot: 040. Wurster seconded.

Chairman MacDonald called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

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)**

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – Yes

Barron commented yes because it will make health care better.

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

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – 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.**

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – Yes

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.**

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – Yes

Chairman MacDonald announced the **motion passed**. The Special Exception has been granted.

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.

Rines checked the parking lot for the applicant and any abutters.

- **Case #20-5-V:** 760 White Mountain Highway, LLC of 760 Route 16. Tax Map: 250 Lot: 005 is seeking a Variance from **Article 34.1.F – Manufactured Home Subdivision** to erect a 3 bedroom manufactured home condominium units in place of approved modularly constructed duplex units, with 2 – bedrooms in each unit, in a condominium subdivision in the Corridor District where manufactured homes are not permitted.

Jim Rines of White Mountain Survey & Engineering, Inc., presents as the representing agent for 760 White Mountain Highway, LLC of 760 Route 16. Tax Map: 250 Lot: 005 is seeking a Variance from Article 34.1.F – Manufactured Home Subdivision. Rines noted last year the development was approved for 22 duplexes to be phased in as the market allowed. Phase I was completed with (4) 2-bedroom modular constructed duplexes for a total of 8 condominium units. Subsequently due to the market, COVID-19 and the banks decline in lending the units have not sold. The proposed change would be instead of (22) 2-bedroom duplexes, they would construct (24) 3-bedroom manufactured homes and again to be phased in depending on the market of sales. If the ZBA approves the variance application for the first phase, 760 White Mountain Highway, LLC will need to go back to the Planning Board for a Site Plan Review Amendment. Rines noted this will not be a standard manufactured home park but a subdivision with a double wide manufactured home.

Board discussion included type of foundation to be used which will be the required slab for manufactured homes. All the septic systems and layout were configured for 4-bedrooms and will now consist of 3-bedroom homes, thus reducing the overall density by half. If this is approved, they will return to the Planning Board for each phase as the project progresses, and each unit is sold depending on the market. Amendments will need to file with the Attorney General's office for any changes concerning condominium development. Each condominium unit will be individually owned, its own septic system, will have an interest in the land and will have use of the common land.

Discussion concerning the 10-acre minimum lot size for a manufactured home subdivision (under Article 13.1) pertained to the whole subdivision lot or each individual lot is required to be 10-acres. Clarification noted the whole subdivision lot is required to have 10-acres. Discussion ensued over the need to for housing verses the market for work force housing. Grover noted this was previously approved for 2-bedroom duplexes, now wanting to change to 3-bedroom single family manufactured homes because of the market. If the market changes again; will this project change back to constructing the duplexes on the next phase or remain with manufactured homes. Rines responded it could depending on the market. Discussion ensued.

Rines read through the 5 - criteria.

Wurster inquired to the type of screening referred to in questions #4 & 5. Rines explained wetland areas from Frenchmen's Brook and the vegetation screening to be utilized.

Chairman MacDonald open discussion to the public. None was heard. Public discussion was closed.

A **Motion** by Grover to Approve the Variance for **Case #20-5-V: 760 White Mountain Highway, LLC of 760 Route 16. Tax Map: 250 Lot: 005 from Article 34.1.F – Manufactured Home Subdivision** to erect 3 - bedroom manufactured home condominium units in place of the previously approved modularly constructed 2 – bedroom duplex units in a condominium subdivision with the condition that All Federal, State and Local Regulations shall be followed. Barron seconded.

Chairman MacDonald called for a roll call vote on each criteria. A vote of Yes is a vote in favor and a No vote is to deny.

Vote by Criteria:

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

Grover – Yes Fischbein – Yes Wurster – No Barron – Yes MacDonald – Yes

Wurster commented he prefers the use of condominium was more multi- useful or multi-purposed. He would prefer depending on the market being able to go back and forth between duplexes and manufactured homes.

Barron is voting yes because of the hardship and the amount of money invested in the project.

2. The spirit of the ordinance is observed:

Grover – Yes Fischbein – Yes Wurster – No Barron – Yes MacDonald – Yes

3. Substantial justice is done:

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – Yes

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

Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – 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) Grover – Yes Fischbein – Yes Wurster – Yes Barron – Yes MacDonald – Yes

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

Chairman MacDonald announced the **motion passed**. The Variance has been granted.

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.

MacDonald raised Rines back up to voting status with the Board and excused Wurster for the remainder of the meeting.

Any Other Business Which May Come Before This Meeting:

None presented.

Adjournment:

A Motion by Barron to adjourn the meeting. Grover seconded. No discussion. A unanimous vote was taken. **Motion passed.** The meeting adjourned at 8:43 p.m.

Next Meeting: [August 11, 2020 @ 7:00 pm](#)

Minutes were approved by majority vote of the Board:

_____	_____	Or	_____	_____
Ed MacDonald, Chairman	Date		Roy Barron, Vice Chair (In the absence of the Chairman)	Date