

TOWN OF OSSIPEE
ZONING BOARD OF ADJUSTMENTS
Meeting Minutes
September 22, 2020

Minutes have been recorded for the convenience of summarization by Laura Nash, Board's & Commission's Secretary and are deleted once minutes are approved; any amendments to the minutes are noted in ***bold & italic*** type.

Attendance Sign-In: Began at 7:00 PM until 7:24PM.

Call to Order: Ed MacDonald read the Rules of Procedures as follows:

1. Social Distancing will be required
2. The room capacity is 50 people – I think we're close may be a little over (55)
3. Abutter's and individuals with vested interest will take priority
4. Speakers will address the Chairman and will stand at the yellow line in order to be heard
5. Speakers are to state their name and address
6. There are to be NO interruptions while individuals are talking. Anyone who does so will be warned. A second interruption will lead to removal.
7. During the public input; individuals who want to speak will be selected by the Chairman.
8. All individuals will be allotted a maximum 3 minutes to speak in order to allow all to speak.

Chairman MacDonald asked for all cellphones to be turned off or muted.

Call to Order: Ed MacDonald called the meeting to order at 7:24 p.m.

Members Present by Roll Call: Ed MacDonald, Roy Barron, Daniel Fischbein, William "Bill" Grover and Alternate – Doreen French, Rick Cousins and Steve McConarty, ZEO.

Absent: Jim Rines

Attendees: Attorney - Rick Sager, Daymond Steer-Conway Daily Sun and (46) Resident's on Sign-In Sheet.

Chairman MacDonald raised Doreen French up to voting status in place of Jim Rines.

New Business: Chairman MacDonald read the following case description.

- **Case #20-5-SE:** White Horse Addiction Center c/o Mitchell Yeaton of 45 Old Granite Rd. (legal owner: Kalled Family Trust, James, Jeffrey, and John). Tax Map: 133 Lot: 007 is seeking a Special Exception from **Article 34.3.E – 34.3 INSTITUTIONAL USES (E) Group Homes** to remodel an existing building, vacant for more than 2-years, in the village district to have a business in the middle portion of the building with supervised residential care for people in recovery for addiction in the two flanking original wood homes. On July 7th, 2020, the Planning Board, under an informal discussion, advised the recovery sections of the building will fall under the realm of Article 34.3.E – Group Homes and a Special Exception will be required.

John J. Ratigan, Esq. of Donahue, Tucker & Ciandella, PLLC (DTC, PLLC) of Exeter presented on behalf of White Horse Addiction Center. Mr. Ratigan read through each of the (8) criteria.

1. Noting since the property had been vacant for more than two years, on July 7, 2020 the Ossipee Planning Board ruled the zoning reverts to original status of Village District and that a Group Home category was a good fit for the 3.1 Supervised Residential Recovery Care proposed for this location.
2. The 3.1 Supervised Residential Recovery Care in the former single-family homes is appropriate since the use is effectively a large family living together and assisting each other in flourishing to health.
3. This is appropriate and reasonable and per the intent of the Village District as in the Village District definition, "...is intended to blend living, business and public service uses." This is a business and public service proposal.
4. Mr. Ratigan introduced and read a letter from Avitar Associates of New England, Inc., Director of Assessing Operation – Loren Martin, CNHA, Sr. Assessor with her professional opinion "...we have assessed addiction recovery centers and their neighboring properties and have found no market evidence to indicate a loss in neighboring property values..."
5. The parking is for staff use. Those individuals going through the 30 to 90 day stay rarely have a car. A total of 52 spaces is plenty for the staff and office building staff.
6. There will be no undue nuisance or serious hazard to pedestrians or vehicle traffic since there is clear sight of vision in both directions of traffic flow.
7. The proposed complies with Article 4 and 5 of the Zoning Ordinance and items of sanitation, building height, parking, traffic, and noise will be addressed. The building has already been a business use and their not introducing anything new as in a first time use of the property.
8. If the Board believes based on any comments from abutters which require further explanation, they will gladly offer further clarification. Also, under the Federal Care Housing Act states, people with disabilities are protected from discrimination in their choice of housing. Since this type of facility is permitted in this district, he recommends the Board's approval of its use.

Mitch Yeaton, CEO of White Horse Addiction Center provided an overview of the intended use. This will be a licensed treatment center that goes 28 – 60 days. The individuals want to voluntarily be there. They are not court mandated. They are observed 24 -7, upon admission they must provide a destination to return to should they want to leave or break policy. They are never allowed to wander around outside. White Horse is an ASAM 3.5 and ASAM 3.1 which is a NH Licensed facility to support and promote recovery to participants. Therapeutic services in an ASAM Level 3.5 setting provides structured residential Substance Use Disorder treatments.

Mitch Yeaton read letter from Dana Cullen, Jr. Chief of Department and Emergency Management Director for Center Ossipee, Fire & Rescue, and read a letter from Police Chief Joseph Duchesne.

Mitch Yeaton noted they are Nationally Accredited of Peer Recovery Support Services. Mitch provided studies from John Hopkins University magazine on "Do Drug Treatment Centers Bring More Crime to a Neighborhood?" A second study by marketwatch.com on "Do drug treatment facilities really lower property values?" He submitted a final study of 52 pages by the National Bureau of Economic Research on "Substance Use Disorder Treatment Centers and Property Values." Mitch noted most research can find positive and negative responses but most of the negatives are from sober living, non-licensed and non-credentialed facilities. Mitch spoke of the troubles on bed shortages and some people are flown out to Kentucky or Florida because there are no beds available.

Anthony (Tony) Fallon is an Architect & Board Member of White Horse Addiction Center. Tony explain the minimal design changes to the outside of the building. Tony pointed out where additional parking will

be located, there is existing county water supply, there will be an upgrade to the existing septic, ADA ramps and walkway upgrades will be added.

Chairman MacDonald called for questions from the Board members. Board members had no questions at this time.

Chairman MacDonald opened public input first asking Chris Sawyer to come forward to read her letter she submitted to the Board.

Chris Sawyer read the letter she submitted on September 17, 2020, addressing the driveway line of sight requirements and roadside frontage as it pertains to commercial use, lighting and inquiring if a traffic study has been done.

David Babson is here representing the Board of Commissioner's. Babson had concerns of water recovery during droughts and water usage and requested a water study be done to determine if the water system is capable of sustaining the usage. Babson spoke as a resident of Ossipee Village is opposed to White Horse Addiction Center going into this location.

Richard Cogswell, Sr. Outpatient Therapist at White Horse; as a former Planning Board member, who helped the Planning Board pass the zoning ordinance approving this use. It was the intent of the Planning Board when they approved the ordinance change it would be for businesses such as White Horse. He spoke of when he gets calls from parents who can not handle their son or daughter with addiction and how White Horse comes in to handle the situation and get these people the help they need. He spoke of how Narcan has helped saved lives and the counseling they provide.

Eric Moran stated he does not believe that anyone present questions the intentions of White Horse. Eric is one of the first person seen upon admission to White Horse and is probably the one to inform a parent of no beds available. White Horse Addiction Center & Recovery Center is 100% honorable and there needs to be a place. He spoke briefly of "Not in my yard" mentality but he will continue to advocate for any local resident who needs help. He was proud that July 11th, 2020 was seven years sober for him and he is advocating for a community center be built so they don't keep recreating addicts.

Karen Banks presented and read a letter voicing the collective concerns of the abutters. She covered Zoning Ordinance (Z.O.) Section 26.2.1, until her 3 minutes allotted time were up. Attendees started yelling out that she can have their 3 minutes of speaking time. Chairman MacDonald allowed but had names recorded.

Gary Banks gave up his 3 minutes to Karen Banks to continue speaking and reading her letter. She went on to cover Z.O. Section: 26.2.3, Section: 26.2.4. She submitted a copy of the study entitled – "Not in My Backyard": The Effect of Substance Abuse Treatment Centers on Property Values." Karen Banks continued reading her letter to cover Z.O. Section: 26.2.5, Section: 26.2.6, Section: 26.2.7, 5.1, 5.2, 5.4, 5.5, her 3 minutes allotted time were up.

Chairman MacDonald asked if anyone else wanted to give up their allotted 3 minutes.

John Jodoin, JoAnn Churchill, and Mike Clee all gave up their 3 minutes for Karen Banks to continue reading her letter. She went on to cover Z.O. Section: 5.5, 26.2.8, and enclosing suggested alternative locations but in no way supports White Horse Addiction Center going in across the street from her.

Jeff Runnals is a realtor believes it would be very difficult to sell a home near an addiction/recovery facility. Runnals read in part from the study entitled – "Not in My Backyard": The Effect of Substance Abuse Treatment Centers on Property Values." Noting there would be an estimated 8% decrease in housing values if the center was allowed to go in at this location. He next addressed that multi-family buildings in the Village district must be connected to Town water and sewer. This district is on county water & sewer and he

has serious concerns of potentially overloading of the system. He next address the housing concerns of multi-families occupying a non- multi-family building. But would need to have the use changed to Institutional Use, which he investigated the water & sewer requirements for such a facility.

Mr. Runnals 3-minutes expired.

Chairman MacDonald asked if anyone else wanted to give up their allotted 3 minutes.

Kent Churchill gave Jeff Runnals his 3-minutes of speaking time.

Jeff Runnals continued stating they would need to dig a private well and septic if they are not connected to the county system and continued reading the specific spec requirements.

Fischbein inquired if they were already on county water and if so, why would they be taken off. Fischbein asked for Mr. Dewitt to respond to the question. DeWitt explained that would be up to the County Commissioners. But depending on the well recovery if there is to be higher volume of usage, which is why Mr. Babson suggested a water study be done. But he could not answer the specifics without having the data in front of him.

Tony Fallon stated he contacted the county water department to ensure they would have the pressure, stream for the sprinkler system and was assured they would because there is an 8-inch main pipe which supplies the water.

Runnals and others in a randomly stating a water study should be done.

Point of Order by Bill Grover stating a lot of these issues need to be addressed to the Planning Board. The issues of the aquifer, water usage, water studies are more of a Planning Board issues.

Mr. Runnals stated concerns of a multi-family in a non-classified multi-family structure. Barron interjected, stating that is the responsibility of the Planning Board also.

Attorney Rick Sager explained this Board is only here to decide whether or not this applicant meets the criteria for a Special Exception. If this Board says it does, then the applicant would file a Site Plan Review application with the Planning Board. The Planning Board will deal with a lot of the issues you are addressing tonight, like site distance, water supply, sewerage disposal, parking, traffic, etc... The Zoning Board of Adjustment's purpose is whether or not this applicant meets the criteria for a Special Exception. Regardless, of what the ZBA does tonight, it will not be over because it still needs to go to the Planning Board.

Cindy Spencer of Courthouse Square is a street walker and concerns with increase of traffic with deliveries, visitations because there is limited available roadway for safe walking. She had some other concerns but will address those to the Planning Board.

Mark Whitehead has concerns with noise from delivery trucks, since his house is about 20 ft. away from their driveway. He also has concerns about the traffic since the rotary was installed. Noting there has been a dramatic increase in traffic, the old courthouse sits on the corner and the horseshoe driveway was never approved by the state. Barron noted and Fischbein confirmed whether or not they are approved for a Special Exception, they are required to meet all Federal, State and local Regulation and the driveway is part of the Planning Board's requirements.

Mike Hashem, Gun Store owner, who states the plans do not show the whole picture because his shop is 20 ft. away. He been at this location for 22 years. The stairs in the back of the building are 15 ft. away from his property line. He expressed his concerns for outdoor lighting illuminating his bedroom 24-7, and emphatically stated he does not want the business going in next door to him and to find some other place.

He stated for 14 years he had a drug house next to him and after a lot of work they were able to get rid of them. The community has been really good and calm and told them not to screw it up.

Dale Smith state he is a former addict he is a productive member of society, owns his own business, is married and he owes that to White Horse. He stated everyone can fight over where to locate it but they cannot change the fact that White Horse is changing lives.

Kelli Kinnarney, from Effingham and is a former addict thanks to White Horse. She spoke of getting her son back and the loss of his father to drugs. She reiterated Dale Smith's sentiment for those opposed need to hash out the location, but White Horse has to stay for all the good they are doing.

Erin Fallon is a new resident of Carroll County. She spoke of her son and the facility White Horse was able to get him into. She spoke in highest regards of White Horse and all they provide to individuals and the community. She emphasized to the community not to turn their backs on that White Horse provides.

Mary Tuthill noted no one is disputing the good that White Horse does. What she is against is having it located in Ossipee Corner. She stated it's one of the most dangerous corners and having an additional 52 people and staff is not going to make it any less dangerous. The issue is not with White Horse, the issue is the use of the building for that purpose.

Paul Smith had a couple of questions. White Horse spoke of not having available beds and most times have to send someone out-of-state to another facility. Question 1. Is this facility just for Carroll County resident's or will others from out-of-state be coming here because of no available beds? Question 2. Families safety?

Mitch Yeaton spoke of the state guidelines White Horse must adhere to in order to maintain state certification treatment facility. He spoke of the safety concerns and lighting issues which will be addressed at the Planning Board. They have a zero-tolerance policy that if anyone breaks the rules their out. Upon admission each resident must list an out location. So, anyone that breaks the rules and is kicked out of the program is then driven to the out location. No one is ever allowed to leave on their own.

Karen Banks requested to speak again but was initially declined because she already had her 3-minutes. So Loren Jodoin gave up her 3-minutes for Karen Banks to speak.

Karen Banks noted the State Police are very concern with the proposed location and provided a printout covering the past 6 years for 600 calls of service between 56 Main Street Ossipee, LLC and Green Mountain Recovery Center. Barron questioned what that has to do with White Horse. Karen Banks stated she felt it was important for people to know. Barron stated that would be addressed at the Planning Board.

Amy Anderson questioned is the people get a say if this is approved or not. Chairman MacDonald told this is your time voice your concerns and the Board will render a decision once everyone has voiced their concerns.

Chuck Anderson a 36 years Retired Veteran. He spoke of the quiet community and by allowing White Horse at this proposed location would change that quiet community forever.

Barron acknowledged the concerns but most of the concerns presented go to the Planning Board and are addressed during a Site Plan Review. The ZBA is mostly concerned with addressing the 8-criteria's.

Mike Sawyer gave his 3-minutes to his wife, Chris Sawyer.

Chris Sawyer questioned the difference between the Planning Board and the Zoning Board of Adjustments. Bill Grover stated anything having to do with the physical site itself falls under the Planning Board to ensure they are complying with the Zoning Ordinances and Site Plan Review Regulations.

Bill Grover explained each town has their own zoning ordinances and regulations. The boards that are established under that are responsible for certain aspects of maintaining the ordinances and regulations. The Zoning Board of Adjustments is a judicial board to make the decisions to determine if something can go forward to the Planning Board. If the Planning Board denies an applications, it can be appealed to the Zoning Board. In this case, in order for the proposed application for a group home to be acceptable in this zoning district, it requires a Special Exception. If the applicant receives approval for the Special Exception to have a Group Home in this zoning district, they will move forward to the Planning Board for a Site Plan Review. If the application is denied by the ZBA, it must state which criteria is not met and the application would be done. The applicant would have 30 days to appeal the ZBA's decision. All questions pertaining to water, lights, sewer, parking, traffic, etc... are all the responsibilities of the Planning Board to ensure the applicant complies with. Barron noted the ZBA cannot base their decision on these concern either.

Someone from the audience inquired what is this meeting for... Attorney Sager explained in order for this project to move forward, under the Zoning Ordinances a Special Exception is required for the use of a Group Home to operate within the Village District. The applicant has submitted an application with their justification of meeting the 8-criteria's. Once the public input is closed the Board will vote on each criteria to determine if they receive approval for the Special Exception. The ZBA's jurisdiction is limited to addressing just the 8 – criteria's.

Karen Banks spoke with a person at the State Zoning Board, who claims if there is proof that the response to the 8 – criteria's are false or misleading, that is what the ZBA has to determine. She believes her letter addresses each of the 8-criteria's.

Chairman MacDonald called for one last question.

Bert Pendarvis of Ossipee Corner inquired if the ZBA passes the Special Exception and it moves forward to the Planning Board, will he be notified. General response from the members is yes. By law, all abutters within a 200 ft. radius of the applied property are notified by letter of the date, time and place of an impending public hearing. Any pending applications are at the Town Hall Selectmen's office for public viewing.

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)

French – Yes Grover – Yes Fischbein – 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.

French – Yes Grover – Yes Fischbein – Yes Barron – Yes MacDonald – Yes

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

French – Yes Grover – Yes Fischbein – 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.

French – Yes Grover – Yes Fischbein – 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.**

French – Yes Grover – Yes Fischbein – Yes Barron – Yes MacDonald – Yes

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

French – Yes Grover – Yes Fischbein – Yes Barron – Yes MacDonald – Yes

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

French – Yes Grover – Yes Fischbein – Yes Barron – Yes MacDonald – Yes

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

French – Yes Grover – Yes Fischbein – Yes Barron – Yes MacDonald – Yes

Attorney Sager announced the **motion passed**. The Special Exception have been granted. A Notice of Decision will go out at some point.

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.

Karen Banks inquired about how to appeal the decision. The process was explained. She proceeded to question how the Ossipee Zoning Board can go against what the State Zoning Board Director told her.

A **Motion** by Grover for **Case #20-5-SE**: White Horse Addiction Center c/o Mitchell Yeaton of 45 Old Granite Rd.(legal owner: Kalled Family Trust, James, Jeffrey, and John). Tax Map: 133 Lot: 007 to approve the request for a Special Exception from **Article 34.3.E – 34.3 INSTITUTIONAL USES (E) Group Homes** to remodel an existing building, vacant for more than 2-years, in the village district to have a business in the middle portion of the building with supervised residential care for people in recovery for addiction in the two flanking original wood homes with following All Federal, State and Local Regulations shall be followed. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion passed**.

Attorney Sager requested to leave at 9:05 PM. The Board thanked him for attending and his input.

A brief delay in the meeting ensued while the attending public left the building.

- **Case # 20-6-V**: Andrew Cantino of 4 Moultonville Rd. Tax Map: 092 Lot: 082 is seeking a Variance from Article 6.4.1. A, for front setback to add a roof overhang over the front door and the existing walkway. And **Case #20-6-SE**: is also seeking a Special Exception from **Article 23.3.2 Expansion of a Non-Conforming Structure** to replace the stairs that were built incorrectly, rotting and dangerous.

A **Motion** by Fischbein to approve **Case # 20-6-V**: Andrew Cantino of 4 Moultonville Rd. Tax Map: 092 Lot: 082 for a Variance from Article 6.4.1. A, for front setback to add a roof overhang over the front door and the existing walkway. Barron seconded. No discussion. A unanimous vote was taken. **Motion passed** .

A **Motion** by Fischbein to approve **Case #20-6-SE**: for a Special Exception from **Article 23.3.2 Expansion of a Non-Conforming Structure** to replace the stairs that were built incorrectly, rotting and dangerous. Barron seconded. No discussion. A unanimous vote was taken. **Motion passed**.

- **Case #20-9-V**: Paul Desimone Rev Trust of 70 Hodsdon Shore Rd. Tax Map: 072 Lot: 004 is seeking a Variance from Article 6 Section 6.4.2.A to demolish an existing home, out house, and shed and

construct a new home that is approximately 322 sq. ft. larger and construct a new septic system and install a new well.

Received a request for a continuance from representing agent, Mark McConkey for **Case #20-9-V**: Paul Desimone Rev Trust of 70 Hodsdon Shore Rd. Tax Map: 072 Lot: 004 until October 13th, 2020, ZBA Meeting/Public Hearing.

A **Motion** by Barron to approve a continuance for **Case #20-9-V**: Paul Desimone Rev Trust of 70 Hodsdon Shore Rd. Tax Map: 072 Lot: 004 until October 13th, 2020, ZBA Meeting/Public Hearing. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion passed.**

Any Other Business Which May Come Before This Meeting:

- Steve McConarty, Zoning Officer – The Board congratulated Steve on his retirement and thanked Steve for his years as an outstanding Ossipee Zoning Enforcement Officer and his contributions to the Zoning Board of Adjustment.
- NH Planning & Land Use Regulation Books - \$73.50 for 7 books was approved for payment by Chairman Ed MacDonald.

Next Regular Meeting: **October 13, 2020 @ 7:00 pm**

Adjournment:

A **Motion** by Fischbein to adjourn the meeting. Barron seconded. No discussion. A unanimous vote was taken. **Motion passed.** The meeting adjourned at 9:10 p.m.

Minutes were approved by majority vote of the Board:

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