

**TOWN OF OSSIPEE**  
**ZONING BOARD OF ADJUSTMENT**  
Meeting Minutes  
**August 10, 2021**

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

**Call to Order:** Bill Grover called the meeting to order at 7:00 p.m.

**Members Present by Roll Call:** Roy Barron – Vice Chairman, Daniel Fischbein, William “Bill” Grover, Dallas Emery, Doreen French – Alternate and Rick Cousins, ZEO

**Absent:** Jim Rines

**Appoint/Re-Appoint Alternate:** Doreen French as Alternate,

A **Motion** by Barron to re-appoint Doreen French as an Alternate to the Zoning Board of Adjustments. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion Passed.** The secretary will submit a letter to the Board of Selectmen recommending to re-appoint Doreen French.

**Meeting Minutes:** Review to Approve Meeting Minutes of July 13, 2021

A **Motion** by Barron to approve the minutes of 07/13/2021. Emery seconded. No discussion. All voted in favor. **Motion passed.**

Chairman Grover raised Alternate-Doreen French up to voting status in place of Jim Rines, who is absent tonight.

Barron preferred if the Board could address their questions with each criteria separately. Chairman Grover agreed.

**New Business:** Vice-Chairman Barron read the following case.

- **Case #21-03-V:** Paul Muise of 23 Pleasure Lands Glade. Tax Map: 044 Lot: 006 is seeking a Variance from Article VI, Section 6.4.2 (a) - Side and Rear Setbacks to construct a 30 ft. x 40 ft. garage for storage of vehicles, tools etc...

Paul Muise presented his plan of wanting to construct a 30 ft. x 40 ft. garage for storage of cars, boat, and tools etc... The 3-bay garage will be a single story with two windows and are requesting to be 10 ft. from the setback. Plans were reviewed with Chairman Grover.

Vice - Chairman Barron read each criteria and the Board posed their questions accordingly.

**Vote by Criteria:**

1. **The variance will not be contrary to the public interest** – No questions from the Board
2. **The spirit of the ordinance is observed:** Emery commented this is a garage and there will be hazardous material in the form of gas and oil for the vehicles.
3. **Substantial justice is done:**

Chairman Grover noted “Substantial Justice” is based on the ordinance not family and friends. In review of the application and the responses given the applicant implies because of the hardship of the land, placement

of septic and *leach* field, this is the only location the garage can be constructed.

Rick Cousins, ZEO stated he visited the site and there is an extreme drop-off from the back deck downward and there are overhead wires that cross the leech field.

4. **The values of surrounding properties will not be diminished:** – No questions from the Board
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:** – No questions from the Board

**(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:** – No questions from the Board

Chairman Grover opened public input. With no discussion, Chairman Grover closed public input.

Chairman Grover opened discussion to the Board members.

Emery inquired if the all the neighbors agree with the plans. Paul Muise confirmed they are. Chairman Grover called for any letters from any abutters. Secretary noted there are none.

*Chairman Grover and Vice-Chairman Barron informed the Applicant of “The voting procedure for a variance utilizes the five criteria set forth in RSA 674:33, I, and all criteria need to pass in order for the variance to be granted. Each criteria needs at least 3 votes to pass, and all 5 criteria must pass in order for a variance to be granted. As required by SB 339 – Voting by Zoning Board of Adjustments: The Bill amends RSA 674:33, III.”*

**Vote by Criteria:**

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

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

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

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

3. **Substantial justice is done:**

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

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

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – 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:**

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

**(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:**

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

Chairman Grover ***Noted: The Variance has been granted and there is a 30-day appeal period. This approval does not approve for any permits, rules, regulations required by other Federal, State, and Local agencies, 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 Grover read the following case.

- **Case #21-04-V:** Scott Aulson of 20 Nichols Rd. Tax Map: 024 Lot: 030 is seeking a Variance from Article VI, Section 6.4.2 (a) – Side and Rear Setbacks to relocate existing non-conforming 16 ft. x 16 ft. building with a 16 ft. x 16 ft. deck which will be less non-conforming, connected to new 28 ft. x 48 ft. three- bedroom home with mudroom.

Representing agent, Mark McConkey noted 2-3 years previously the applicant came before the Board and was granted variances to improve the back lot, the applicant had newly acquired. Th applicant wants to put a new 28 ft. x 48 ft. three-bedroom manufactured home and will be within the setbacks.

The existing building is 7 ft. off the side setback on O’Sullivan Way, the back of the building was 15 ft. from the rear setback. Mr. Aulson wants to slide the home over making the side setback 11.74 ft, instead of 7 ft. and moving it forward from 15 ft. to 27 ft. from the rear setback. Mr. Aulson wants to connect it by a mudroom and a convenience bathroom will be converted into a workshop. The property has been surveyed and marked by both Terry Fox and Paul King. Septic design was completed by David Clough and installed in the front right side of the property. Existing well is on the back lot, which Mr. Aulson also owns. The lot had been in disarray for many years and Mr. Aulson has cleaned the property up to be more esthetically pleasing for himself and neighborhood.

Emery inquired if this non-conforming structure is being made less non-conforming. But was clarified that the main house will still be non-conforming at 11.74 ft from the side setback, but the other structure will now be conforming at 27 ft from the setback.

Vice - Chairman Barron read each criteria and the Board posed their questions accordingly.

**Vote by Criteria:**

1. **The variance will not be contrary to the public interest** – No questions from the Board
2. **The spirit of the ordinance is observed.** The representing agent accidentally (through cut & paste) put the Town of Freedom on the application, instead of the Town of Ossipee. After a brief laugh, the Board allowed Mark McConkey to amend the application.
4. **Substantial justice is done because:** No questions from the Board
5. **The values of surrounding properties will not be diminished:** – No questions from the Board
6. **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:** – No questions from the Board

**(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:** – No questions from the Board

Chairman Grover opened public input. With no discussion, Chairman Grover closed public input.

Chairman Grover opened discussion to the Board members.

***Chairman Grover and Vice-Chairman Barron informed the Applicant of “The voting procedure for a variance utilizes the five criteria set forth in RSA 674:33, I, and all criteria need to pass in order for the variance to be granted. Each criteria needs at least 3 votes to pass, and all 5 criteria must pass in order for a variance to be granted. As required by SB 339 – Voting by Zoning Board of Adjustments: The Bill amends RSA 674:33, III.”***

**Vote by Criteria:**

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

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

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

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

**3. Substantial justice is done because:**

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

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

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

**6. 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:**

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

**(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:**

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

Chairman Grover ***Noted: The Variance has been granted and there is a 30-day appeal period. This approval does not approve for any permits, rules, regulations required by other Federal, State, and Local agencies, 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.***

- **Case #21-05-V:** Christine Baily & Roger Sellars c/o Freeloader Farm, LLC (Mountainview Station Restaurant) of 79 Main Street. Tax Map: 092 Lot: 008 is seeking a Variance from Article VI, Section 6.4.2 (a) – Side and Rear Setbacks to add a walk-in cooler to the south side of the building.

Christine Baily presented her plan for wanting to replace the current 5 ft. aging cooler with a new walk-in cooler. ***The cooler*** will be placed on a concrete pad on the south side of the building, and the ***cooler*** door will opened into the kitchen. Discussion ensued.

Chairman Grover called for questions from the Board.

French inquired if exterior of the building would remain the same. Ms. Bailey confirmed it would.

Emery inquired if there would an exterior door for loading. Ms. Bailey stated the only door will open into the kitchen.

Cousins inspected the area noting the new cooler will protrude slightly more outside than the current cooler.

Grover noted per the plan, it seems the cooler will be closer towards the railroad tracks. Ms. Bailey responded it will be closer to side lot, not towards the railroad tracks and the oil tank will move over onto the pad as well.

Vice - Chairman Barron read each criteria and the Board posed their questions accordingly.

**Vote by Criteria:**

1. **The variance will not be contrary to the public interest** – Based on Ms. Bailey's responses to the questions, the Board explained the intent of the question.

Emery questioned if any abutters have an issue with the proposed modification. Ms. Bailey noted the direct neighbor has no issue.

Discussion ensued over some of the incomplete answers.

Chairman Grover granted the applicant time to amend her application with more complete answers. At 7:40 a brief recess was called. General discussions ensued.

The public hearing resumed at 7:50 pm.

Chairman Grover noted that he is an abutter and as such he should recuse himself. Barron suggested he could pole the Board to determine if they would agree or not for Grover to recuse himself.

Chairman Grover asked the applicant, Christine Bailey if she feels Grover should recuse himself. Ms. Bailey had no issues if Grover was to remain on the Board as a voting member.

Chairman Grover proceeded to ask members of the Board that he is an abutter. He has no personal, financial, or any other interest in the property, or any involvement with the applicant's present. Chairman Grover poled the Board to see if they were in favor of him recusing himself.

Barron – No      Fischbein – No      Emery – No      French – No

Chairman Grover and Vice-Chairman Barron informed the Applicant (under RSA 674:33) – noting since there is not a full 5-member board, with no additional 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.

Chairman Grover asked the applicant if she wished to proceed. Ms. Bailey confirmed, she did wish to proceed.

Vice - Chairman Barron read each criteria and the Board posed their questions accordingly.

**Vote by Criteria:**

1. **The variance will not be contrary to the public interest** - No questions from the Board
2. **The spirit of the ordinance is observed:** – Emery had concerns for the outside esthetic appearance of the cooler. Discussion ensued until Chairman Grover reminded the Board the applicant is applying for a variance of a certain dimension. If the Planning Board has concern with the style esthetically,

they can address it later. Chairman Grover asked Rick Cousins, ZEO if there are any issues with this plan concerning zoning ordinances or with the Planning Board. Cousins commented by replacing an aging and deteriorating cooler with a new one will only enhance the outside esthetics. Cousins also noted the visibility from the road, or the back parking lot would be minimal. Chairman Grover visited the site and agreed with Cousins the visibility from the road, or the back parking lot would be minimal and will protrude past the existing overhang by approximately 10 inches. Fischbein questioned if the new cooler was the same *size* as the existing 5 ft. cooler, would the applicant still require a variance. Chairman Grover explained the building to the property line is already non-conforming, but you are allowed an eave or an overhang of 16 inches that can be within the setback area. So, whether the cooler protruded 2 or 10 inches, a variance would be required because the setback would be encroached.

3. **Substantial justice is done because:** No questions from the Board
4. **The values of surrounding properties will not be diminished:** – No questions from the Board
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:** – No questions from the Board

**(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:** – No questions from the Board

Chairman Grover opened public input. With no discussion, Chairman Grover closed public input.

Chairman Grover opened discussion to the Board members.

Chairman Grover called for any letters from any abutters. Secretary noted that Andy Catino called voicing no options.

***Chairman Grover and Vice-Chairman Barron informed the Applicant of “The voting procedure for a variance utilizes the five criteria set forth in RSA 674:33, I, and all criteria need to pass in order for the variance to be granted. Each criteria needs at least 3 votes to pass, and all 5 criteria must pass in order for a variance to be granted. As required by SB 339 – Voting by Zoning Board of Adjustments: The Bill amends RSA 674:33, III.”***

French had a question on the voting. The secretary noted that a Yes voted means you are in favor of the applicant and a No vote means you are not in favor of the applicant’s plan.

**Vote by Criteria:**

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

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

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

French – Yes      Emery – Yes      Fischbein – Yes      Grover – Yes      Barron – Yes

3. **Substantial justice is done:**

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Chairman Grover ***Noted: The Variance has been granted and there is a 30-day appeal period. This approval does not approve for any permits, rules, regulations required by other Federal, State, and Local agencies, 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.***

- **Master Plan**

Discussion ensued about the October 15, 2021, deadline for submissions, and what changes if any would the Board like to propose. Each member is to review the Master Plan and come to the September meeting with any changes or improvements they would like to see.

**Any Other Business Which May Come Before This Meeting:**

Emery inquired about if the town has any ordinances concerning tiny home, Airbnb, or short-term rentals if not, should the Board possibly consider proposing any. Discussion ensued.

**Adjournment:**

**A Motion** by Fischbein to adjourn the meeting. Barron seconded. No discussion. A unanimous vote was taken. **Motion passed.** The meeting adjourned at 8:18p.m.

**Next Meeting:**

Regularly scheduled meeting will be on **September 14, 2021 @ 7:00 pm**

**Minutes were approved by majority vote of the Board:**

_____	Or	_____	_____
<b>William Grover, Chairman</b>	<b>Date</b>	<b>Roy Barron, Vice Chair</b> <i>(In the absence of the Chairman)</i>	<b>Date</b>