

TOWN OF OSSIPEE
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
October 12, 2021

Minutes were recorded 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 7:06 p.m.

Members Present by Roll Call: William “Bill” Grover, Jim Rines, Daniel Fischbein, Dallas Emery, Doreen French – Alternate and Rick Cousins, ZEO

Absent: Roy Barron – Vice Chairman,

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

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

A letter was sent to the Board of Selectmen recommending to re-appoint Doreen French on August 10, 2021 but for some reason unknown reason the Selectmen did not address the request. The secretary will re-submit the letter, to re-appoint Doreen French.

Meeting Minutes: Review to Approve Meeting Minutes of August 10, 2021

A **Motion** by Emery to approve the minutes of 08/10/2021. Fischbein seconded.

Discussion: Rines noted a spelling error on page 2, leech should be leach. Grover noted on page 4, “***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.” Fischbein noted on page 6, “new cooler was the same ***size*** as...” instead of “new cooler was the same side as...”

Chairman Grover called for any other edits. None was heard. Chairman Grover called for a vote. All voted in favor. **Motion passed.**

Financial:

- Proposed 2022 Budget Report – reviewed the proposed budget. After discussion, A **Motion** by Rines to level fund the Proposed 2022 Budget. Fischbein seconded. No further discussion. All voted in favor. **Motion passed.**

- LRPC - New Hampshire Planning and Land Use Regulation, 2021-2022 edition books. The Board was informed that the NH Office of Strategic Initiative has become the Office of Planning and Development (OPD) and moves under the NH Department of Business and Economic Affairs (NHDBEA), the RPCs will order directly from the publisher. The order has been placed and the Chairman signed the order form for payment in the amount of \$77.00.

New Business:

- **Case #21-06-V:** Payde Stockman c/o James, Jeffrey, & John Kalled of Kalled Family Trust for 45 Old Granite Rd. Tax Map: 133 Lot: 007 is requesting a Variance from **Article 34.1 (b)** to allow a

second residence attached to a commercial lot by returning the east wing of the structure to a residence in order to rent to single families.

“Chairman Grover 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.”

Chairman Grover asked the applicant to read through each criteria.

Payde Stockman read through criteria one. Rines requested the applicant to give a brief summary of his plans for the property and/or any changes to the exterior. Payde Stockman noted when the main center building was built it has been unchanged. Over the years the two residence on each side of the main building were attached to the main building. The plan is to have professional suites, meeting rooms, and a break room in the main building and to have two residences for rentals. But in Ossipee under zoning ordinance 34.1 (b), your not allowed to have more than one residence on a commercially zoned lot. The buildings have not changed over the years and has been vacant for 12 years. Payde Stockman conveyed he would like to have a woodworking shop in the basement for making cabinetry. The plan is to have professional suites in the main building and to have two residences for rentals.

Grover confirmed with Stockman that he’s looking to have a Commercial/Residential Mixed according to zoning ordinance from Table I of 34.1 (p).

Fischbein noted the property is zoned in the Village District to which this use is permitted. Discussion ensued to review the zoning ordinances.

Grover noted the cabinetry woodshop and sale of cabinets believes is classified under Z.O. Table I Article 34.5 INDUSTRIAL USES (See also Article XXXV, Section 35.5) (b) Light Industry and is not allowed in the village district. Stockman commented there will be no paint shop at this location.

Discussion continued on whether two residences is allowed.

Emery questioned if this is a two-family residence is the property going to be subdivided under the zoning ordinance. The Board members clarified the ordinance for him. Discussion continued over the septic system, number of three bedrooms per residence, and the need to install fire walls and/or doors between the residences and the main building.

Rines informed the Board, his company had provided the original septic design and offered to recuse himself if the Board members and the applicant agree. Chairman Grover polled the Board to vote on whether Jim Rines should recuse himself for the case.

French – No Emery – No Fischbein – No Grover – No

Chairman Grover asked Payde Stockman, who stated he had no issues with Mr. Rines remaining.

Chairman Grover referred to the denial letter issued which states, “Request to: Allow a second residence attached to a commercial lot by returning the east wing of the structure to a residence has been denied by the Zoning Officer for the following reason(s): The proposal to convert one side of the building to residential use does not meet current Ossipee Zoning Ordinance according to **Article 34.1 (a)** in Table I, Chart of uses. Grover questioned Zoning Officer, Rick Cousins if he would agree that this application should refer to zoning ordinance from Table I of 34.1 (p) - Commercial/Residential Mixed use. Cousins agreed noting the building was deemed commercial and residential after it was built. But the ordinance needs to be worded more clearly. Discussion ensued over a change type of use and being vacant for more than two-years would require a Site Plan Review from the Planning Board.

Chairman Grover believes this application should not fall under zoning ordinance of Table I - **Article 34.1 (b)** Two-family dwelling but instead from **Article 34.1 (p)** - Commercial/Residential Mixed , which is permitted. But would still need to go before the Planning Board for anything they wish to do commercially.

Rines discussed the issue of Article 34.1 (c) – Multi-family and the requirement to be connected to town sewer. Discussion ensued over the definition of multi-family and limiting the occupancy to four and whether town sewer would ever be connected in this area.

Rines agreed with Chairman Grover that this case should fall under **Article 34.1 (p)** - Commercial/Residential Mixed , which is permitted. But from an administrative appeal perspective the denial letter was not issued written until October 7, 2021. But from a procedural and unappealable decision in the interest of the applicant the following options were discussed:

1. Either Rick Cousins, ZEO changes his decision based on the discussion that the case should fall under **Article 34.1 (p)** - Commercial/Residential Mixed, or
2. Payde Stockman files an Administrative Decision Appeal to the Zoning Board and the ZBA declares the application is not needed.

Rick Cousins, ZEO commented at the time he was reviewing the application, based on the tax card and the way the ordinance is written, he believed it should fall under zoning ordinance of Table I - **Article 34.1 (b)** Two-family dwelling and a commercial building. The Board reviewed the tax card and clarified the property is within the Village District and the property use is Commercial/ Industrial.

After discussion, Cousins was in agreement to change his opinion and agree with the Board. Rines recommends Payde Stockman withdraw his application without prejudice and apply to the Planning Board for a Site Plan Review. Payde Stockman agreed to withdraw his application without prejudice.

Chairman Grover called for any public input. Hearing none, Chairman Grover closed public input.

- **Case #21-07-V:** Larry Klingler of 3 Route 16B. Tax Map: 095 Lot: 013 is requesting a Variance from Article XXXIII – Definitions: ***STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include, but are not limited to, buildings, walls, mobile homes, fences exceeding seven (7) feet in height and bill boards... (Amended March 11, 1997, March 10, 2020)*** and Building Code: 7(B) to allow the fence built by the power company to remain at its current height of 8 feet.

Chairman Grover noted the application is missing one pertinent item, namely the fees associated with a variance which includes the application fee, newspaper ads and postage for the abutters notices. The secretary gave a brief discussion on the correspondence with Mr. Klingler, who states he mailed the check. But as of **3:00** pm today no payment has arrived. An email was sent to Mr. Klingler advising him of his options moving forward. But as of **6:00** pm no reply has been received.

Rines received confirmation that all abutters were notified at the Town's expense until payment is received.

Chairman Grover referred to Letter of Authorization from Mr. Klingler giving Brian Newbury consent to speak on Mr. Klingler's behalf. Brian Newbury was present.

Rines noted it sets a bad precedence to notify abutters when payment has not been received.

A **Motion** by Rines for **Case #21-07-V:** Larry Klingler of 3 Route 16B. Tax Map: 095 Lot: 013 to be Continued until November 9, 2021 at 7:00 pm, in his request for a Variance to allow the fence built by the power company to remain at its current height of 8 feet and if fees are not received the Board will take action to deny the application. French seconded.

Discussion ensued over non-payment of fees, not having a building permit, varying the definition of structure, noted several times of being "Grandfathered." There was never a structure there to grandfather, so that argument is a moot point.

Rines inquired of Cousins on issuing the denial on the definition of a structure. Rines commented in order to approve this variance it would need to be for allowing this structure within the setbacks verses the definition of a structure. Discussion ensued over the reason for the denial and which ordinance it's classified under. After discussion, Brian Newbury was asked if he wished to proceed with a denial or request a continuance, but the Board was reminded of the non-payment.

A **Motion** by Rines to withdraw his previous motion. French Seconded. No discussion. A unanimous vote was taken. **Motion passed.**

A **Motion** by Fischbein for **Case #21-07-V**: Larry Klingler of 3 Route 16B. Tax Map: 095 Lot: 013 is Denied a request for a Variance to allow the fence built by the power company to remain at its current height of 8 feet for non-payment of application fees. Rines seconded. No discussion. A unanimous vote was taken. **Motion passed.**

- **Master Plan**

Discussion ensued about possibly having an outside company which specializes in doing Master Plans for towns come in and consult or update the Master Plan for the town. Discussion ensued over which chapters have received updates and which chapters have not been looked at ex: Population is being worked on, housing, transportation, and recreation.

Suggestions were made of sending letters out to the Town residents for input, businesses, invite Realtors and Dave Jeffers at Lakes Region Planning Commission in on a second meeting of the month for a workshop session, Economic Development Council, transportation bus services. The thought of bringing in an outside consultant would usually help facilitate and help see where trends are heading into the future but is usually written based on what the residents want and conveyed to the Planning Board. Some zoning ordinances do need updating and the Master Plan is where to begin. The Board feels it wouldn't hurt to get pricing, and scope of work as a starting point or references for towns of similar size.

Any Other Business Which May Come Before This Meeting: None heard.

Adjournment:

A **Motion** by Rines to adjourn the meeting. Fischbein seconded. No discussion. A unanimous vote was taken. **Motion passed.** The meeting adjourned at **8:20 p.m.**

Next Meeting:

Regularly scheduled meeting will be on **November 9, 2021 @ 7:00 pm**

Minutes were approved by majority vote of the Board:

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