

Meeting Minutes
ZONING BOARD OF ADJUSTMENT MEETING
Barrington Annex Building
572 Calef Highway
Barrington, NH 03825
December 18, 2013

NOTE: THESE ARE SUMMARY ACTION MINUTES ONLY. A COMPLETE COPY OF THE MEETING AUDIO IS AVAILABLE THROUGH THE LAND USE DEPARTMENT

Roll Call

Karyn Forbes, Chair
George Bailey
David Vincent
Raymond Desmarais
Gerard Gajewski
Dawn Hatch Ex-officio-Alternate
Meri Schmalz-Alt

David Vincent recused himself from case# 238-4-TC-ZBA-Variance (The Three Socios, LLC) and from case# 225-20.2-NR-13-ZBA (Churchill Barn Workshop)

D. Hatch to sit on the first two applications

Minutes Review and Approval

1. Approval of September 18, 2013 Regular Meeting Minutes

A motion was made by D. Vincent and seconded by G. Gajewski to approve the September 18, 2013 meeting minutes. The motion carried unanimously

2. Approval of October 16, 2013 regular Meeting Minutes

A motion was made by G. Bailey and seconded by D. Vincent to approve the October 16, 2013 meeting minutes. The motion carried unanimously

3. Approval of November 20, 2013 Regular Meeting Minutes

G. Bailey requested that the approval of the November 20, 2013 meeting minutes be put off until January so that staff could review the tape to include comments from G. Gajewski and M. Schmalz could be included that mentioned a financial benefit to the Town by allowing the "well".

The board agreed.

Action& Items

4. 102-93,94-GR-13-ZBA (Wilma Smith) Request by applicant for a variance from Article 4, Sections 4.1, 4.1.1 & 4.2.1 nonconforming to setbacks, Article 5 Section 5.1.1 Development on Nonconforming Lots, to place a manufactured home located 15.7' from the side and 17.3' from the side where 30' is required on a .3 and .2 acre lots located in the General Residential (GR) Zoning District at Long Shores Drive (Map 102, Lot 93 & 94)

A motion was made by R. Desmarais and seconded by D. Vincent to continue the application to the January 15, 2013 meeting. The applicant must appear at the January hearing or withdraw their application. The board would not continue the application again. The motion carried 4-1

5. 225-20.2-NR-13-ZBA (Churchill Barn Workshop) Request by applicant for a variance Article 4, Section 4.1.1 Minimum Standards, 4.2.1 Standards for the GR and NR District to construct a 28' X 50' barn 10' from the right of way when 40' is required on a 2.22 acre lot located in the Neighborhood Residential (NR) Zoning District at 142 Waterhouse Road (Map 225, Lot 20.2). By Robert Churchill; Oyster River Woodworking; Barrington, NH 03825

A motion was made by R. Desmarais and seconded by G. Bailey to continue the application to January 15, 2014

6. Request by Stephen P. Jeffery of 128 France Road for a rehearing of the Three Socios, LLC case below.

238-4-TC-13-ZBA-Variance (The Three Socios, LLC) Request by applicant for a variance from Article 6, Section 6.2.2 to allow open space within a Conservation Subdivision to be used for a well serving off site location and a variance from Article 6, Section 6.2.6 to allow the well gravel access way and appurtenant underground utility lines to be located within the perimeter buffer of the conservation subdivision located in the Village (V) Zoning District (Map 238, Lot 14) BY: John L. Arnold; Hinckley, Allen & Snyder LLP, Attorneys at Law; 11 South Main Street, Suite 400; Concord, NH 03301-4846

M. Schmaltz sat for this application

K. Forbes explained that the first issue, which needed to be addressed, was the issue of standing.

Mr. Jeffery was asked to step forward.

K. Forbes read from RSA 677:2 , which stated In order to have standing would have to be a selectman, a party to the proceeding, or a person directly affected there by. Ms. Forbes explained that just being a resident does not give the individual standing.

Mr. Jeffery had the first conservation easement in Town. The conservation easement on the open space in the application in question would be held by the Town and as a citizen he would have access to it.

K. Forbes explained Mr. Jeffery was not a party to the proceeding or a selectmen or directly affected. She asked how far his property was away. Mr. Jeffery stated his property was located 6 miles away. He stated he is not an abutter. He believes it would be disastrous to allow a well in an open space.

John Arnold, Attorney for Three Socios expressed that points had been made in a letter he had submitted. Even if the conservation easement were in place, Mr. Jeffery would still not have standing.

K. Forbes expressed Mr. Jeffery did not have standing.

K. Forbes read from Case Law substantiating the lack of standing of Mr. Jeffery.

Mare made motion that Gerard seconded that Mr. Jeffery had no standing.

A motion was made by M. Schmaltz and seconded G. Gajewski to rule that Mr. Jeffery did not have standing to request a rehearing. The motion carried 3-2 (Three-Two)

<u>R. Desmarais</u>	<i>no</i>
<u>G. Bailey</u>	<i>no</i>
<u>M. Schmaltz</u>	<i>yes</i>
<u>G. Gajewski</u>	<i>yes</i>
<u>K. Forbes</u>	<i>yes</i>

R. Desmarais expressed that he thought the Board had made an error in granting the variance and wished to have the Board reconsider.

K. Forbes expressed that she had reviewed the information and did not feel there had been an error in how the Board had proceeded.

A motion was made by R. Desmarais and seconded by G. Bailey to reconsider the variance approval. The motion failed 2-3 (Two – Three)

K. Forbes stated she was comfortable with the ZBA decision.

G. Gajewski and M. Schmaltz expressed they supported the decision to allow the well.

A motion was made by G. Gajewski and seconded by M. Schmaltz to adjourn. The motion carried unanimously

Respectfully Submitted,

Marcia J. Gasses
Town Planner and Land Use Administrator