

Jackson Board of Adjustment

January 18, 2012

UNOFFICIAL UNTIL APPROVED

Draft January 20, 2012

Members in Attendance: Frank Benesh, Joan Aubrey and Brian Walker. Alternates attending the meeting were Martha Benesh, Gino Funicella. Martha D. Tobin is the Recording Secretary.

Chairman Frank Benesh called the meeting to order at 7:02 p.m. noting he has some items to discuss before getting to the two agenda items. The December minutes are available on the town website; he'd like the Board members to review them for the next meeting. The Selectmen expressed dismay at the Board's decision and suggested that the Chair and perhaps Joan should come to the next Selectmen's meeting to explain ourselves. Martha suggested the Selectmen come to the ZBA if they have an issue with the decision; this is a voluntary board; they weren't at the Public Hearing that they complained about and had nothing to add at the Public Hearing that was held the last time. The new state books have been ordered; Joan asked if there were any trainings coming up; Chairman Benesh noted there's usually one in the spring in Manchester and then he'd expect an opportunity for these again in the fall; these conferences are very informative. Chairman Benesh is also going to email a letter from Town Counsel Peter Malia describing a September 22, 2011 Supreme Court case which illustrates how to look at hardship and the other things the ZBA reviews in granting a variance; it's nothing new but there is recodification. There will be no meeting in February.

Elect Officers

- a. **Chair Joan Aubrey, seconded by Martha Benesh, made a motion to elect Frank Benesh Chair.**
- b. **Vice-Chair Chairman Benesh, seconded by Martha Benesh, made a motion to elect Joan Aubrey Vice-Chair.**
- c. **Clerk Chairman Benesh, seconded by Joan Aubrey, made a motion to elect Martha Benesh Clerk.**

Chairman Benesh asked if there were any further nominations; there were none. **The motion to elect Frank Benesh Chair passed unanimously. The motion to elect Joan Aubrey Vice-Chair passed unanimously. The motion to elect Martha Benesh Clerk passed unanimously.**

Chairman Benesh reviewed the current membership of the board: Brian Walker, Joan Aubrey, Frank Benesh, Dave Mason and Lisa McAllister. Lisa will be resigning. There

are two alternates: Gino Funicella and Martha Benesh and there is an opening for an alternate. The Board is down two people; this is a quasi-judicial board that looks at law and tries to interpret it; the Board needs someone who is willing to follow the ordinance to fill those seats; he asked that Board members encourage folks to come forward.

ZBA Bylaws Chairman Benesh believes it would be more fruitful for the Board members to take these home to review and clean them up for the next meeting; he'd like the Board to read and think about what should be changed. He has some suggestions including referring to the revision to public meeting law that allows people to participate by phone as long as there is a quorum at the meeting. Chairman Benesh will add a paragraph about that; Brian suggested adding Skype as well; expanding the telecommunication options; it's difficult to find good people to serve and this would allow some flexibility. Chairman Benesh asked Gino to give thought to taking the regular member seat; it will be up to the Selectmen to approve the new member but Chairman Benesh can make that suggestion. Gino will ask a few folks he knows who might be interested. Chairman Benesh would like to add a request that everything that is submitted in paper (the applications and materials) be submitted in electronic form to facilitate sending it around to members. Chairman Benesh is storing all the information on the town website; he asked if everyone is comfortable with that and the Board agreed. Instead of sending out huge emails members get a small one and then find the associated materials on the town website. Gino asked if the Board has a budget for transcription and legal fees; this was affirmed; it was noted the fees the Board collects don't come to the Board; the budget includes the cost of mailings. Gino wants to know if the Board could bring in an attorney and Chairman Benesh noted the Board could do that especially if it has a particularly complex case; the Board has the ability to charge that to the applicant especially if it's a wetlands issue; that's in the ZBA Bylaws and the RSAs; the Board has a \$1500 annual budget. The Board could also have a different attorney since there would be a conflict as Peter Malia represents the town; the LGC also has several attorneys that the Board can contact; Chairman Benesh is willing to speak with them and will include anyone who wants to be involved in the conference call. Gino noted the LGC folks are very good; Chairman Benesh agreed they are very responsive. The Board has access to legal advice. Chairman Benesh asked if there were any further comments regarding the Selectmen's concern with the Board's decision on the Dickies' property; there were none. The Selectmen could choose to take this to court but they most likely won't.

Chairman Benesh asked the Board for other comments regarding how the Board did this past year. There are concerns over the last case; it's imperative that as much information gets out to the public and that folks know it's a matter of speak now or forever hold your peace; if you don't say it leave it alone; it is the responsibility of citizens to be here to state their concerns. Chairman Benesh noted that he thinks the Board should start sending out its decision to the applicant with a notice on the bottom saying that for a period of thirty days someone can appeal this decision and the applicant can't consider the decision final until then. If someone gets a permit that's approved by the Selectmen; they can't come over to the ZBA; this whole mess started because the Dickies tore the place down; they got a permit to demolish and that's not *carte blanche*. People have to come to this Board; we don't look for issues. What the rest of the town has done may

limit their options. The fire at the garage is a good example; the Selectmen granted a permit to rebuild it and by the time it got to the ZBA it was a done deal. None of the Board members has the time or the interest in policing everybody else. Deal with the cards you're dealt; if the Selectmen don't give a permit then the ZBA gets it. Chairman Benesh noted that some folks don't understand that if a permit is granted and an abutter has a problem the abutter can appeal it; the Selectmen have a right to make a complaint.

Chairman Benesh thanked everyone for all of their contributions.

Gino Funicella, seconded by Joan Aubrey, made a motion to adjourn at 7:28 p.m. The motion passed unanimously.

Respectfully submitted by:

Martha D. Tobin

Recording Secretary