

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: JANUARY 21, 2015

CASE NO.: 8/20/2014-2 (CONTINUED)

APPLICANT: ROBERT CASEY
26 PINE STREET
LONDONDERRY, NH 03053

LOCATION: 26 PINE STREET; 3-70, AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIRMAN

JACKIE BENARD, VOTING MEMBER
JIM TIRABASSI, VOTING MEMBER
ANNETTE STOLLER, NON-VOTING ALTERNATE
BILL BERNADINO, NON-VOTING ALTERNATE
NEIL DUNN, ACTING CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/HEALTH/ZONING
OFFICER
DAN DRAMER, ASSITANT BUILDING INSPECTOR/DEPUTY HEALTH OFFICER

REQUEST: RELIEF OF ADMINISTRATIVE DECISION IN ACCORDANCE WITH THE
PROVISIONS OF RSA 676.

PRESENTATION:

JIM SMITH: Okay, tonight is kind of an unusual meeting and rather than go through all the meeting procedures and so forth, we have actually one case, and because the makeup of the Board, I believe the person presenting the case is going to ask for a continuance, so I'll give it to that person.

BRUCE MARSHALL: Thank you, Good evening, Attorney Bruce Marshall on behalf of Robert Casey and understanding that I come to the Board tonight, we would ask to continue, except I have a nuance this time.. I'd like to continue to March because I have a conflict with February's proposed date, so I'd like to continue to your meeting in March. And also for disclosure to the Board, I put in the mail today to the Zoning Board a Right-to-Know request because as you know, we had several abutters send letters in to the Board in support of Mr. Casey. One of those abutters has forwarded to me today threatening text messages from someone claiming influence to the Board, so I'm going to...I sent in the right-to-know request, I'm obligated to and that will give me some time to fetter through that, and so that would also be the reason to be heard in March.

JIM SMITH: Okay.

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47 BRUCE MARSHALL: If it pleases the Board, thank you.

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49 NEIL DUNN: Do we have a date in March?

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51 JACKIE BENARD: March 18.

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53 JIM SMITH: Okay, let's accept a motion to...

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55 NIEL DUNN: Mr. Chairman, I'd like to make a motion to continue case 8/20/2014-2 until March 18, 2015.

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57 JIM SMITH: Do we have a second?

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59 JACKIE BENARD: Aye.

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61 JIM SMITH: Jackie seconds. All those in favor?

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63 ALL: Aye.

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65 RESULT: CASE NO. 8/20/2014-2: THE MOTION TO CONTINUE CASE NO. 8/20/2014-2 TO MARCH 18, 2015
66 WAS APPROVED, 5-0-0.

67
68 At the end of the January 21, 2015 meeting the Zoning Administrator made the following comments to the
69 Board:

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71 RICHARD CANUEL: Before we adjourn, I just want to make a comment to the Board, so when you're ready?

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73 JIM SMITH: Go ahead.

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75 RICHARD CANUEL: It's more of a point of order having to do with the Casey case the appeal for administrative
76 decision, and having to do with the recusal of a Board member. I know it's been customary that you know a
77 member automatically disqualifies him or herself and then steps from the Board claiming that they have a
78 possible conflict of interest in hearing the case. By statute that member if you feel you have a conflict of
79 interest is to bring that to the Board's attention, and the Board votes whether the details of that warrants the
80 member stepping down or not. By that statute basically it says the member has a direct personal or pecuniary
81 interest in the case and I'll just read a quote from that, it says "reasons for disqualification do not include
82 exemption from service as a juror, or knowledge of the facts involved gained in the performance of a
83 members official duties", so especially in Jim's particular case because Jim you served as the Building Official
84 at the time, some of this stuff was going on, that isn't necessarily grounds for recusing yourself from the
85 Board, so that we don't end up in a situation where we have a non-quorum of Board members, so
86 [Overlapping Comments]. That's, that's something to consider. Yeah, the Board should vote on that. If the
87 Board feels that like I said the details of the conflict warrant that member to set down then allow the member
88 to step down, but it's a Board decision.

90 ANNETTE STOLLER: And therefore being the/a neighbor on the block is not adequate.
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92 RICHARD CANUEL: Not necessarily, no. Well, if we want to talk particular Mr. Bernadino's case because he is
93 a complainant [Overlapping Comments]. He step down, yes.
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95 BILL BERNADINO: I was just told that I was sending harassing texts; I don't even know what that meant.
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97 RICHARD CANUEL: If you want to read that statute it's 673:14.
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99 NEIL DUNN: No, and I've read that before and I don't think too often as the Board we never vote we just let
100 the person step down, and we usually continue the case, but this one is getting crazy at this point
101 [Overlapping Comments], so I agree with you and I'm not sure if...but whatever.
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103 JIM SMITH: I hear what you're saying Richard.
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105 RICHARD CANUEL: Yeah, yeah.
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107 JIM SMITH: But...
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109 RICHARD CANUEL: Like I say, you as the member you may say I think I have a conflict of interest here, but it's
110 up to the Board to decide whether that's you know going to put you guys in hot water, or if someone's going
111 to appeal your decision.
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114 RESPECTFULLY SUBMITTED,



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117 NEIL DUNN, ACTING CLERK

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119 TYPED AND TRANSCRIBED BY NICOLE DOOLAN, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
120 SECRETARY.
121

122 **APPROVED (FEBRUARY 18, 2015)** WITH A MOTION MADE BY NEIL DUNN, SECONDED BY JACKIE BENARD AND
123 APPROVED 5-0-0.