

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

DATE: NOVEMBER 19, 2014

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, CHAIR
JACKIE BENARD, VOTING MEMBER
JIM TIRABASSI, VOTING MEMBER
ANNETTE STOLLER, VOTING ALTERNATE
BILL BERARDINO, VOTING ALTERNATE
NEIL DUNN, ACTING CLERK

REQUEST: RELIEF OF ADMINISTRATIVE DECISION IN ACCORDANCE WITH THE
PROVISIONS OF RSA 676:5.

PRESENTATION: Case No. 8/20/2014-2 was read into the record with one previous case listed. The Clerk read into the record Exhibits "B through G". Exhibit "A" had already been read into the record at the previous Zoning Board Meeting.

NEIL DUNN: I think I got them all, but if you give me a minute, there's a lot in here.

JIM SMITH: Okay.

NEIL DUNN: I believe that's it...

JIM SMITH: Bill did you want to say something?

BILL BERARDINO: Yeah, Mr. Chair, I'm going to recuse myself because I am an abutter to this property so...

JIM SMITH: Okay.

BILL BERARDINO: So, I'm stepping away.

JIM SMITH: At this point, I want to recuse myself to because I was employed by the Building Department during this timeframe and don't believe I'm in a position where I can make a judgment on this.

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NEIL DUNN: So we're down to four (4) members. I guess if David was here, we'd have five (5), so I guess is the representative here for the property? Do you want to continue, or do you want to wait for a full Board presuming Mr...David would be here next time?

BRUCE MARSHALL: We'd like the opportunity to be heard before a full Board.

NEIL DUNN: Any thoughts from the Board up here? I mean we don't, if David was here we would have been fine.

ANNETTE STOLLER: What's a quorum number? David...?

[Overlapping comment]

NEIL DUNN: A quorum is three (3), but he still has to get three (3) out of five (5) votes, so with four (4) people here it's a different scenario. I mean this keeps dragging on, but it's the nature unfortunately of volunteer Boards, I guess.

ANNETTE STOLLER: How does the owner feel about it? He just voiced on behalf of them that they'd rather wait?

BRUCE MARSHALL: I was just reflecting what my clients wishes are with respect to have the opportunity of a full Board given the [Indistinct].

NEIL DUNN: Richard, can I ask a question? I don't know, think there's something about penalties and fines and does this impact by us keep continuing it, or do you have any thoughts on this this continuous continuations?

[Laughter]

RICHARD CANUEL: Yeah, that's one of the issues and continuing a hearing like this is that the fines were established on the day of the first (1st) written notification which would have been June 4th, 2014, so the fines accrue daily from that point on, so just notification for the applicant.

BRUCE MARSHALL: We disagree with that interpretation with respect to the application.

NEIL DUNN: Okay, so based on what we heard, we hear you'd still like to continue for a full Board?

BRUCE MARSHALL: Yes.

NEIL DUNN: Anybody have issue with that, or want to talk to that for a minute before we decide? I don't know Richard if we have any reason any way we cannot continue it?

88 RICHARD CANUEL: You know the applicant has that option whether to continue with the hearing without a
89 full complement of the Board, or to wait until there is a full complement. That's the applicant's right.

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91 NEIL DUNN: Okay, so there's it's not a matter of us voting or not if he's requesting a full complement of the
92 Board, or to wait until there is a full complement.

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94 RICHARD CANUEL: That's the applicant's right.

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96 NEIL DUNN: That's not a matter of us voting or not, he's requesting it it's an automatic essentially.

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98 RICHARD CANUEL: It's not automatic, but it's up to the Board to decide whether that is acceptable.

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100 NEIL DUNN: I mean my thoughts I don't know what the rest of you are, my thought is we haven't had a full
101 Board because we haven't had a lot of alternates, so if David had been here and typically we've...Dave's pretty
102 good, most of us is pretty good, I think I'm willing to let it go another month and see what happens based on
103 the fact that we probably can get a full Board until next month.

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105 ANNETTE STOLLER: When is our next meeting? Do we have that December 17th? Is alright with me as long as
106 the understanding of the addition of the fines.

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108 JACKIE BENARD: Yeah, December 17th.

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110 NEIL DUNN: Any other thoughts from the Board?

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112 JIM TIRABASSI: He's entitled to the full Board, so...

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114 JACKIE BENARD: He is entitled to the full Board. My thoughts go to all the neighbors and everyone that's
115 come out so many times. That's what I'm torn with, but it is your right, so I have to go with what the law is,
116 and what the right is of the applicant.

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118 NEIL DUNN: So we don't need to make a motion do we Richard?

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120 RICHARD CANUEL: No, you don't.

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122 NEIL DUNN: Alright, case continued till December 17, 2014.

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124 RESULT: CASE NO. 8/20/2014-2 WAS CONTINUED TO THE DECEMBER 17, 2014 MEETING.

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126 RESPECTFULLY SUBMITTED,

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128 NEIL DUNN, ACTING CLERK

130 TYPED AND TRANSCRIBED BY NICOLE DOOLAN, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
131 SECRETARY
132
133 **APPROVED FEBRUARY 18, 2015** WITH A MOTION MADE BY NEIL DUNN, SECONDED BY JACKIE BENARD AND
134 APPROVED 5-0-0.