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6 **Stratham Zoning Board of Adjustment**
7 **Meeting Minutes**
8 **November 3, 2015**
9 **Municipal Center, Selectmen's Meeting Room**
10 **10 Bunker Hill Avenue**
11 **Time: 7:00 PM**
12

13
14 **Members Present:** Arol Charbonneau, Chairman
15 Garrett Dolan, Full Time Member
16 Jim Elliott, Secretary
17 Phil Caparso, Alternate
18

19 **Members Absent:** Bruno Federico, Board of Selectman Representative
20 Chris Brett, Full Time Member
21 Chris Cavarretta, Full Time Member
22 Deidre Lawrence, Alternate
23

24 **Staff Present:** Audrey Cline, Code Enforcement Officer
25

26 **1. Call to Order/Roll Call**

27 The Chairman took roll call and explained the rules of procedure.

28 **2. Approval of Minutes**

29 **a. October 27, 2015**

30 Mr. Elliott motioned to accept the minutes of October 27, 2015 as written. Mr. Dolan
31 seconded the motion. Motion carried unanimously.

32 **3. Public Hearing(s)**

- 33 **a. Case #624: Birse Living Trust, for the property located at 313 Portsmouth Ave,**
34 **Stratham, NH, Tax Map 22, Lot 29.** An Appeal from Administrative Decision of Audrey
35 Cline, Code Enforcement Officer, dated June 15, 2015, Non-compliance with ZBA Variance
36 Case #45 reaffirmed via Appeal from Administrative Decision Case #512 (*Continued from*
37 *October 27, 2015*).

38
39 Mr. Deschaine stated Mr. Birse complied with the request to provide a thorough, all
40 inclusive, written description of exactly all the activities the Birses' would like to have,
41 and believe they have the right to have, on the site. Mr. Deschaine, Mr. Birse, Daniel

1 Gordon (the owner/operator of Stratham Stone) and Mr. Canada (Board of Selectmen
2 representative), met on Monday, November 2, 2015, to discuss the prospectives of both
3 groups. ******(recording secretary's note: Audrey Cline & Lincoln Daley attended the
4 Monday meeting)****** The meeting ended unresolved due to the Board Selectmen being
5 the ultimate enforcement authority overseeing Ms. Cline's duties, and it not being clear
6 what the Board of Selectmen would decide so it was deferred to the Board of Selectmen
7 meeting held Monday night. The following offer was made to Mr. Birse and Mr. Gordon
8 and sent to Mr. Birse, Audrey Cline, Lincoln Daley, Thomas Keane, Derek Durbin,
9 David Canada, Bruno Federico, and Tim Copeland:

10
11 "Andy,

12
13 The Selectmen met in a non-public session last night to discuss the results of our
14 discussions from earlier that day. They have authorized me to offer the following to help
15 resolve the current application before the ZBA:

16
17 The Town will withdraw without prejudice the current enforcement action being
18 appealed conditioned on the following actions being agreed to:

- 19
20 1. That a site plan review application be made within 60 days of today to the Planning
21 Board to review all the elements of the proposed uses at this site.
22 2. That the electronics recycling operation at this location cease no later than May 1,
23 2016.

24
25 That's it. The withdrawal of the current enforcement action makes the pending
26 administrative appeal before the ZBA to be moot. I hope this is met with the intended
27 spirit of cooperation in resolving these outstanding issues. Please note that the
28 withdrawal without prejudice of the current enforcement action reserves the rights of the
29 Town to institute future enforcement actions if these understandings contained herein are
30 not met and/or if additional information comes to light that requires such actions by the
31 Town in its sole judgement. This includes current and/or past uses/operations of the site
32 going forward.

33
34 Please let us know with an affirmative reply if this offer is accepted so we can act
35 accordingly to notify the ZBA before tonight's meeting.

36
37 Paul Deschaine"

38
39 Mr. Deschaine read the response from Attorney Thomas Keane, Mr. Birse and Mr.
40 Gordon's council:

41
42 "Paul & Derek (Attorney Durbin, Town Council),

43
44 This is to confirm our conversation this afternoon, in which it is understood that Paul will
45 notify the board of adjustment this evening that the code enforcement action brought by
46 the town against Andy Birse, et al, is being withdrawn by the town without prejudice in

1 accordance with settlement outlined below. Accordingly, upon dismissal of the action by
2 the Town, Andy Birse withdraws his appeal without prejudice. It is Andy Birse's
3 intention to file a site plan application within the time frame set forth below and to
4 terminate the electronics recycling operation at his location cease no later than May 1,
5 2016. This will also confirm that Daniel Gordon agrees with this course of action. As a
6 result of the above I do not plan on attending tonight's meeting.

7
8 Thank you,
9 Tom"

10
11 The agreement was presented to Mr. Elliott, ZBA secretary, to become part of the written
12 record. Mr. Birse thanked everyone involved for taking the time to understand the
13 procedure and clearing up the grey areas of the past history of this site.

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15 Mr. Dolan motioned to accept with withdrawal of Appeal from Administrative decision
16 regarding Case #624: Birse Living Trust, for the property located at 313 Portsmouth Ave,
17 Stratham, NH, Tax Map 22, Lot 29 due to the action being rescinded. Mr. Caparso
18 seconded the motion. Motion carried unanimously.

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20 Mr. Dolan made a motion to adjourn at 7:16 pm. Mr. Elliott seconded the motion. Motion
21 carried unanimously.