

STATEMENT

There are some in Town who believe that the Selectmen should have no involvement with the ZBA. That belief ignores the role imposed upon the Selectmen by New Hampshire law. The Selectmen are required to appoint ZBA members. In appointing the appropriate candidates, this Board would not fulfill its obligations to the Town if it did not find out whether potential candidates understand the laws governing the ZBA including the law on the disqualification of ZBA members which can be found in RSA 673:14. The harm to the Town, applicants, and abutters is significant if a ZBA member who is disqualified participates in a ZBA decision. The law is clear if a disqualified person takes part in a decision of the ZBA, the entire decision will be invalidated even if that person's vote did not affect the outcome. Winslow v. Holderness Planning Board, 125 N.H. 262 (1984). Public confidence in the integrity of the process is also undermined.

Besides appointing ZBA members, the Board of Selectmen are the only Town Board authorized to file a motion for rehearing of a ZBA decision and are also the only Town Board that can appeal a ZBA decision to the Superior Court. See RSA 677:2 and 677:4. The standard for filing a motion for rehearing is that the ZBA's decision is unlawful or unreasonable. The Board's statutory authority serves as a check and balance on the ZBA, particularly in instances where abutters do not have the resources to challenge a ZBA decision.

In all the years I have been on the Board, I can think of only two occasions when the Board has exercised its right to file a motion for rehearing and did so based on the best interests of the Town.

If Mr. Brown submits his resignation to this Board, we will vote on whether to accept it and, if necessary, begin the process to appoint his successor.