

Zoning Board of Adjustment
Approved Minutes of January 16, 2018

Members Present:

Billie Maloney (Maloney) Chair
Kevin Scott (Scott), Vice Chair
Courtney Cashman (Cashman)
Selectman Jack Cannon, Liaison
Rick Snyder (Snyder) PB Rep/Alternate

Absent:

Adam Maciaszczyk (Maciaszczyk)
Jean Methot (Methot), Alternate

Members of the Public Present:

Amber Bell-Ragnarsson
Eric Mitchell
Christine Gelinis & Matt Gelinis
James Lavelle for Jeffrey Brown and Janet Brown
(and their contractor unknown to the minute taker)

Agenda:

1. Meeting Convenes/Roll Call
2. Correspondence: Town Report
3. Unfinished Business: Approve Minutes December 19, 2017
4. New Business:
 - a. Documents
 1. Adopt 2018 Zoning Board of Adjustment Rules of Procedure & BOS Policy dated October 23, 2000 concerning use of town counsel.
 2. Limited Occupancy form
 - b. Training
 - c. Name plates
 - d. Tim Pelloquin for Stone Machine – general questions
5. Hearings
 - a. Continuance of hearing of Eric Mitchell for Amber Bell-Ragnarsson, 236 Haverhill Road, M/L 002-070-000 for a variance from Article 5, 5.3.5 (Table 1) for a 3-lot subdivision of which 2 lots have short frontage and driveway side setbacks
 - b. James Lavelle for Jeffrey Brown and Janet Brown, 79 Candia Road, M/L 004-40-000 for a variance from Article 4, 4.2.1 to construct a 15'x22'6" three-season room with a

44 6'4"x12' deck to the rear of the dwelling of a non-conforming structure on a non-conforming lot
45 (built circa 1830).

46
47 1. Meeting Convenes/Roll Call

48
49 Chair Maloney called the meeting to order at 7:02 pm by roll call. Present were Chair
50 Maloney, Vice-Chair Scott, Courtney Cashman and Richard Snyder.

51
52 2. Correspondence: Town Report

53
54 Chair Maloney advised that she received correspondence that the Town Report was
55 due on March 8th and will work on that. The group photo was tabled so that all the members
56 could be included.

57
58 3. Unfinished Business: Approve Minutes December 19, 2017

59
60 Chair Maloney polled the members to see if they had read the minutes and urged them
61 to advise of any corrections or changes, all indicated affirmatively and having no corrections:

62
63 ***Vice Chair Scott motioned to approve the minutes of December 19, 2017 as***
64 ***written. Mr. Snyder seconded his motion, with all voting in favor, with Mr. Snyder***
65 ***abstaining due to absence from that meeting, so moved.***

66
67 4. New Business:

68
69 a. Documents

70
71 1. Adopt 2018 Zoning Board of Adjustment Rules of Procedure

72
73 Chair Maloney polled the members to see if they had read the proposed Rules of
74 Procedure and letter of the Board of Selectmen dated October 23, 2000 regarding use of
75 town counsel advising that this policy should be incorporated into our rules of procedure.
76 Chairman Maloney urged everyone to review the Rules of Procedure and BOS Letter
77 regarding use of town counsel, and advise of any corrections or changes, all indicated
78 affirmatively and having no corrections. Mr. Snyder stated this was nice to have.

79
80 ***Chair Maloney motioned to Adopt the Rules of Procedure and incorporate the***
81 ***policy for the use of town counsel from the selectman dated October 23, 2000. Mr.***
82 ***Snyder seconded her motion, with all in favor, so moved.***

83
84 The 2018 Rules of Procedure were then signed by the members who were present.
85 Ms. Hoijer will get signatures from Mr. Maciaszczyk and Mr. Methot when they are next
86 available and file a copy with the Town Clerk.

87

88 2. Limited Occupancy form.

89

90 Chair Maloney provided a copy of the Limited Occupancy form and copy of email
91 concerning that from Mr. Hadik of the Planning Board (dated March 15, 2017) and urged them
92 to add this form to their binders. Chair Maloney explained that it concerned Article 9 of the
93 Zoning Ordinance, Accessory Dwelling Units and would be a condition of approval. As stated
94 in Mr. Hadik's email this requirement was proposed after the noticing deadline for this year's
95 zoning amendments and would propose it as a zoning amendment next year. Mr. Snyder
96 indicated that Planning would be discussing proposed amendments at the next few meetings
97 and would follow-up with Mr. Hadik to make sure this was included.

98

99 b. Training

100

101 Ms. Hoijer gave Mrs. Cashman the new publication *Basic Procedures of Planning and*
102 *Zoning* and she will bring it home to read and return it.

103

104 c. Name plates

105

106 Ms. Hoijer indicated that she would like to order name plates for the new members.

107

108 d. Tim Pelloquin for Stone Machine – general questions

109

110 Mr. Pelloquin who had phoned the office asking to be put on the agenda for tonight's
111 meeting for general questions concerning filing an application for next month was not present.

112

113 5. Hearings

114

115 Vice Chair Scott read out loud the Public Notice and reported that it had been posted
116 and published in the usual manner and all provided abutters were noticed by certified mail at
117 least five (5) days prior to the meeting.

118

119 a. Continuance of hearing of Eric Mitchell for Amber Bell-Ragnarsson, 236 Haverhill
120 Road, M/L 002-070-000 for a variance from Article 5, 5.3.5 (Table 1) for a 3-lot subdivision of
121 which 2 lots have short frontage and driveway side setbacks

122

123 Chair Maloney acknowledged Eric Mitchell and Ms. Ragnarsson who were present.
124 Ms. Ragnarsson indicated that she would prefer the opportunity to have her application heard
125 before a full board. At 7:10 pm Chair Maloney offered to hear the next applicant first in the
126 hopes that Mr. Maciaszczyk, whom they had just phoned, would arrive and Ms. Ragnarsson
127 indicated they would wait. When no additional members arrived Ms. Ragnarsson requested
128 to be continued until the next meeting on February 20, 2018.

129

130 **Vice Chair Scott motioned to continue the hearing until February 20, 2018. Mrs.**
131 **Cashman seconded his motion, all in favor, so moved.**
132

133 b. James Lavelle for Jeffrey Brown and Janet Brown, 79 Candia Road, M/L 004-40-
134 000 for a variance from Article 4, 4.2.1 to construct a 15'x22'6" three-season room with a
135 6'4"x12' deck to the rear of the dwelling of a non-conforming structure on a non-conforming lot
136 (built circa 1830).
137

138 Vice Chair Scott acknowledged Mr. Lavelle who was present and asked if Mr. or Mrs.
139 Brown would be attending the meeting and Mr. Lavelle stated that they were not but indicated
140 that their contractor was here (get name). Vice Chair Scott advised Mr. Lavelle that he would
141 need three affirmative votes to go forward and Mr. Lavelle indicated that he would like to
142 proceed.
143

144 Vice Chair Scott asked Mr. Lavelle if this was the first house on the left after old
145 Chester Turnpike and Mr. Lavelle stated that it was. Mr. Lavelle stated that per your tax
146 records this home was built in 1830. Mr. Lavelle indicated that the home while listed as 15'
147 actually sits 14.4 feet from the front property line, the lot is one acre created in 1967, prior to
148 two-acre zoning. The owners had sold the rest and retained this portion.
149

150 Mr. Lavelle presented his application together with several copies of a plan entitled
151 Certification Plan prepared by James M. Lavelle, LLS, 2 Starwood Drive, Hampstead, NH
152 03841 dated 12/07/2017 which showed the lot, its boundaries, frontage and abutters with the
153 existing dwelling and barn as well as the proposed addition and deck. (The map did not show
154 the location of the septic).
155

156 Mr. Lavelle stated that the proposed area, for a three-season room is where a deck
157 now exists. They would like to put a three season through most of where that deck was with
158 a small deck to the rear. Vice Chair Scott asked Mr. Lavelle to define "three season room."
159 Mr. Lavelle indicated the contractor who stated that it would have electric heat, not open to
160 the rest of the house, insulated between barn and floor, the rooms not open, regular exterior
161 door going into that room, no heat in the winter, just electric heat. Vice Chair Scott asked if
162 he considered electric heat permanent and he said "no."
163

164 Chair Maloney asked Mr. Lavelle to go over the five points.
165

166 Mr. Lavelle continued that the setbacks are met for the addition 70' from the property
167 line. The lot size is non-conforming, and setback of the front is non-conforming.
168

169 Mr. Lavelle read his application verbatim adding that the addition is quite well kept it
170 would increase its value, therefore the surrounding property values. Mr. Lavelle added that
171 the biggest test, whether the benefit sought by the applicant is not outweighed by harm to the
172 public at large or any abutters, and this is not harming anyone.
173

174 Chair Maloney asked if there were any questions from the board.

Vice Chair Scott stated that it was a small lot, there was no plumbing involved, no wetlands? Mr. Lavelle indicated there were none on this lot.

Mr. Snyder stated the hardship is satisfied as to a so don't need b. The general hardship is that it predates zoning.

Chair Maloney asked if anyone from the public wanted to speak. There was no response.

Chair Maloney closed the hearing to the public at 7:20 pm for deliberations.

Deliberations:

Mr. Snyder stated that he agreed with all points. It was well articulated, straight forward, an improvement to the property. "The reason you're here is it is a non-conforming lot, created prior to zoning." "Notwithstanding that, I have no other issues with it." "The hardship is the fact it was created, as one acre, pre-zoning, the front setback, that it was built pre-zoning 100 years ago." "The addition is in back." "It is a 3-season porch." "It could be a 4 season and still have no bearing on this." "There are no wetlands." "No issues."

Mrs. Cashman stated that she agreed. "Sounds like it will only enhance the property." "No effect on surrounding properties." "It was already there, before zoning, established, nothing wrong at all".

Vice Chair Scott stated that "Even if it had been subdivided as two acres, they wouldn't have moved the house back." Vice Chair Scott stated that he was more than in favor on all five points.

Chair Maloney stated that she has read through, looked at all five points, looked at the RSAs on expanding non-conforming uses. "According to some RSAs on expanding non-conforming uses, some enjoy constitutional protections that allow them to expand to a certain degree, utilizing the same use." "This is the same use, just turning deck into 3-season with a deck on the side." "There is no substantial difference or impact on the neighborhood." "It is an enlargement, not a substantial expansion." "It is not proportionally less adequate." "It does not constitute an entirely new use." "The five points are met and the hardship." "No problem."

Mr. Snyder motioned to grant the variance as presented in the application, from Section 4, 4.2.1. to construct a fifteen foot by twenty-two-foot six inch (15' x 22'6") 3-season room with a six foot four inch by twelve foot (6'4" x 12') deck to the back of the dwelling. Vice Chair Scott seconded his motion, with all in favor, so moved.

Vice Chair Scott read out loud the 30-Day Notice advising that the BOS or any party to this action, or person directly affected, has a right to appeal this decision within thirty (30) days pursuant to NH RSA 677.

Mr. Lavelle departed the meeting room at 7:37 pm.

Ms. Ragnarsson and Mr. Mitchell departed the meeting room at 7:37 pm.

Vice Chair Scott and Chair Maloney acknowledged Christine Gelinas and Matt Gelinas who stated that they were interested in volunteering to serve on a board. Chair Maloney indicated that while the Board of Adjustment could not have two members from one family on it, she knew that many other boards were desperate for additional members. Mr. Snyder introduced himself and stated that he also served on the Planning Board which meets on Wednesday evenings 3 times per month, although he was not certain they were meeting again until the 24th. Chair Maloney explained that the Zoning Board of Adjustment met once a month on the 3rd Tuesday. Ms. Hoijer indicated that their next meeting would be on February 20th. Chair Maloney explained that the Zoning Board of Adjustment was a quasi-judicial board governed by NH RSAs and the Town's Zoning Ordinances. The ZBA hears appeals from decisions of the Planning Board of Building Inspector, appeals from cease and desist orders of the Board of Selectmen, variances and special exceptions.

Mr. Gelinas stated that they had lived in Chester for five years and wanted to become involved in the community. Mr. Gelinas stated that they were both realtors and in addition to wanting to preserve property values and be involved in the community, he was interested in knowing which board was best to serve on prior to seeking election to the Board of Selectmen someday in the future. Chair Maloney advised them that some learned many different areas and others just jump right into it. Chair Maloney introduced them to Selectman Cannon. Selectman Cannon indicated that service on the Budget Committee might be effective as this is usually an elected position but often no one steps up at town meeting and this allows the position to be appointed. The position having a vacancy would then be elected the next year.

Mr. Snyder indicated some of the roles of the Planning Board included proposing zoning amendments, putting together a list of proposed changes that might be suggested by the Building Inspector. Chair Maloney advised them that this board and the Planning Board are not elected positions.

255 Adjournment

256

257 Vice Chair Scott motioned to adjourn the meeting at 7:45 pm. Chair Maloney seconded his
258 motion, all in favor so moved.

259

260 Respectfully submitted,

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262

263

264 Nancy J. Hoijer,

265 Administrative Assistant