

**Town of Temple, New Hampshire  
Zoning Board of Adjustment  
Minutes for January 29, 2015**

**Business Meeting**

Members in attendance: Honey Hastings (Vice Chair), Jenny Houston, Mary Beth Ayvazian, Dave Martz, and John Pierce (Chair).

Members not in attendance: Randy Burnham (alternate) and Tim Winship (alternate).

John called the meeting to order at 7:02 PM.

The board did a final review of the minutes of the November 20, 2014 meeting and hearing.

MOTION: Honey/Mary Beth – to approve the 11/20/14 minutes as amended. The vote was unanimous.

The board then reviewed the minutes of the December 4, 2014 meeting.

MOTION: Jenny/Mary Beth – to approve the 12/04/14 minutes as amended. The vote was unanimous.

The board then discussed the notice requirements and alternative procedures for site visits. John reported that he had received the advice of the town council, Mr. Drescher, that a site visit should be noticed like a public hearing. So if a site visit preceded a hearing the site visit and the hearing would require notice in the newspaper five or more days prior to the event.

Mr. Drescher advised that site visits occur after the initial public hearing. Then the board would have a fuller context in which to view the site that was the subject of the hearing. In that case the time and date of the site visit could be announced during the hearing and a notice in the newspaper would not be required.

Jenny pointed out that having a site visit before the hearing would allow the board to view the site without being under the influence of any presentations made at the hearing. She suggested that this would allow the board to view the site with an open mind. In addition, having the site visit before the hearing would allow the board to potentially resolve the case quicker, for instance, in one site visit followed by one session of the hearing. If the site visit were held after the initial session of the hearing then another hearing session will be required to consider what was seen at the site visit. This would result in a hearing of at least two sessions plus the site visit.

Honey suggested that the occurrence and sequencing of a site visit be left up to the discretion of the Chair.

### **Public Hearing**

John opened the public hearing at 7:30 PM. He introduced the board, read the two applications for a variance and announced that notice in the Ledge-Transcript had appeared on January 20<sup>th</sup> and that all 13 abutters had been notified by certified mail.

John asked if any members saw a need to disqualify themselves. None did. Attorney Silas Little, representing the applicant, requested that under RSA 673:14 Honey Hastings be disqualified to hear this case because of her refusal to mediate domestic legal cases handled by Attorney Little.

The board discussed the disqualification matter. Attorney Little pointed out that 673:14 refers to the jury standard for serving on the ZBA during a public hearing. MaryBeth read aloud the state law covering the jury standard.

Attorney Little mentioned that New Hampshire Supreme Court decision Webster v. Candia was relevant to the issue of ZBA disqualifications.

Attorney Little presented a letter to the board (attached) asking for a continuance of the hearing for at least 30 days.

MOTION: MaryBeth/Jenny – to reconvene the Public Hearing on March 5<sup>th</sup>, 2015 at 7:00 PM in the Town Hall Annex. The vote was unanimous.

The board continued to discuss the issue of member disqualification. Camilla Lockwood (in the audience) expressed the opinion that a bias justifying disqualification would have to be blatant.

The board recommended that John contact the Town Attorney for advice on the disqualification issue.

The board also discussed the proper procedures for using email to communicate about when to hold a ZBA meeting. MaryBeth suggested that all email communication among the board be attached to the minutes. Debra Harling, Temple's Administrative Assistant (in the audience) suggested that she be copied on all ZBA communications so that she can keep them on file with the other ZBA records.

John took the suggestion from the board that the Town Attorney should be contacted about the best practices for email use given the requirements of New Hampshire's Right to Know Law.

Dave pointed out that the applicants had been charged for 36 abutter notices. John said there were only 13 abutters. Ms. Harling said there must have been an error in the abutter count – counting the mailing labels (which are in triplicate) instead of the total number of abutters. So Ms. Mazza is due a refund of two-thirds of her fee payment.

Dave asked that the ZBA hold a business meeting in April. John agreed that the ZBA would meet on the first Thursday in April – the 2<sup>nd</sup>.

MOTION: Dave/MaryBeth – to adjourn. The vote was unanimous. The meeting ended at 8:05 PM.

Submitted by John Pierce.