



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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**ZONING BOARD OF ADJUSTMENT (ZBA)
MEETING MINUTES
May 23, 2018
6:30 PM**

MEMBERS PRESENT: Douglas W. Lyon (Chair), W. Michael Todd, Katharine Fischer, Frank Anzalone, Bruce Hudson, Heidi Lauridsen (Alt.).

MEMBERS EXCUSED: Ann Bedard, Stan Bright

STAFF PRESENT: Nicole Gage, Zoning Administrator

1. Call to Order – Chair Lyon called the meeting to order at 6:31PM.
2. Roll Call – Chair Lyon called the roll.
3. Review Minutes of May 7, 2018

IT WAS MOVED (Michael Todd) AND SECONDED (Heidi Lauridsen) to approve the minutes of the May 7, 2018 meeting. THE MOTION WAS APPROVED UNANIMOUSLY

4. REQUEST FOR REHEARING for Case #ZBA18-02 – Spec Bowers, Applicant / SDB Investments Inc., Owner. Located at 1876 Newport Road. Tax map 041-001-000. Zoned Agricultural & Rural Residential (ARR) in the Shoreland Overlay District. *Pertaining to the rebuild of a cottage damaged from fire. Original hearing for a variance was held April 17, 2018.*

The purpose of this meeting is to discuss the request for a rehearing of the Spec Bowers case.

Nicole Gage stated that this is a meeting to decide whether the board wants to grant the request for a rehearing. Mr. Bowers did request a copy of the recording from the meeting in April. If the Zoning Board votes to hold a rehearing, it will possibly be held on June 11, 2018. Ms. Gage spoke with our attorney and if the Zoning Board chooses to rehear the case, all five criteria will be specifically addressed in the motion. In the motion from Hudkins Law, in paragraph number four, there is a reference to voting on each criteria, but we are not required to do that.

Procedurally, if a new hearing occurs, it will be de novo, meaning a brand new hearing. There could be new testimony and discussion. In the de novo hearing, the minutes need to address each criteria and every member should have an opportunity to weigh in on each so it has been discussed.

Chair Lyon also discussed section 20, pages 77 and 78 of the Zoning Ordinances. There was previous discussion about voluntary and involuntary replacement. In this material, it doesn't talk about voluntary and involuntary replacement but on page 78 it references legal non-conforming buildings destroyed by fire or other natural disaster. It doesn't talk about involuntary demolition but it clearly states natural disaster.

Mr. Todd and Ms. Gage worked on language to add checkboxes on the application so it clearly states voluntary or involuntary replacement as the rules are different on this. Ms. Gage considered adding the language, "is the building non-conforming, pre-existing." She can make that recommendation but most

applicants won't know this at first. The intent of involuntary/voluntary was to force the applicant to realize there are two sets of rules and requires different paths.

Chair Lyon stated most of the cases come through the Planning Board. Ms. Gage has begun to put together a summary of the cases and perhaps moving forward, she can expand the summary to include the specific nature of the property and how it relates to the zoning ordinances.

For the hearing, it needs to be clear what portion of the regulation is under consideration. Mr. Todd stated the choices under the ordinance are governed by fact. The facts are what happened to the building. That analysis controls which section of the ordinance applies. In this instance, the applicant would be limited to relief only under 25A.

Frank Anzalone would like the Selectmen to address the 20 day appeal. Ms. Gage thought this would be addressed in the zoning amendment and/or in the Zoning Board Rules and Procedures. Chair Lyon stated we need to change the rules and procedures to conform to state law. This is something the Zoning Board can do.

Chair Lyon stated that in the notice of decision in the Spec Bower case, the request for a variance was for article XX, B.1.a, B.1.c.iii and B.5.a and they don't all apply. Mr. Todd stated that when the application gets to them, they can decide the section that is applicable and state in the opinion "we decline to reach the petitioners arguments" and discuss the others at another time. Ms. Gage recommended that Mr. Bowers request these. In section B, the first paragraphs need revision and it needs to be renumbered. Chair Lyon summarized that as part of Ms. Gage's case study, she will tell them in her judgment, what regulations are involved in order to help guide them in reviewing the case. These case summaries are very helpful. Chair Lyon stated the applicants seem to be better prepared when they come before the board.

IT WAS MOVED (Doug Lyon) AND SECONDED (Michael Todd) to grant the rehearing request. THE MOTION WAS APPROVED UNANIMOUSLY 5-0.

5. Other Business - None

6. Motion to Adjourn

IT WAS MOVED (Bruce Hudson) AND SECONDED (Frank Anzalone) to adjourn. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting was adjourned at 7:35 pm.

Respectfully submitted,

Trina Dawson
Recording Secretary
Town of New London