

Zoning Board

April 1, 2014

Memorial Building

7:00 P.M.

These are to be considered draft minutes only until approved by the board at their next meeting

Members Present: Bryan O' Day, Gene Hayes, Karen Cook, Justin Hastings, Susan Chiarella, and alternate Peter Abair

Others Present: Michael Chiarella, Don Hill, Cynthia Hayes, George Mccusker, Leigh Callaway, John Trachy, James Bednar, B Manning, Peter Crowell, Malcolm Milne, Ken Jacques, Jeff Milne, and Jeff Haley

Review of March Minutes: 2nd page third paragraph correct the spelling of the word event. Justin makes a motion to approve minutes as amended, second by Gene, all in favor and unanimously approved.

Election of Officers: Gene nominates Susan as Chair second by Bryan all in favor and unanimously approved. Susan nominates Bryan as vice-chair, second by Karen all in favor and unanimously approved.

Misc. Business: Susan announces that the annual planning/zoning conference is being held on May 3rd in Whitefield, NH if anyone is interested.

John Trachy appeal of building permit hearing: At 7:15 the Appeal of Administrative Decision (of the Selectmen issuing a building permit to Durgin and Crowell Lumber Company, Inc.) brought by John Trachy was read out loud. (The appeal is attached.) Susan announces that the notice of this appeal went to the abutters, appeared in the Valley News, was posted at the town office and post office, all within the appropriate time frame required by State statute. She asked the applicant to state his name and address. John stated his name and said he lives at 487 Deer Hill Road. Susan expresses to the board that their first order of business is to decide whether or not the applicant has "standing" in this matter. Susan reads the definition of standing. Bryan also passes out a definition of "standing". Susan asks John why he feels he has standing to appeal the decision of the select board. John explains that he does not want the board to focus on the word standing but he feels that he is "aggrieved" by the decision. John hands out packets as well as reads definitions of "aggrieved". He feels that he meets the criteria for an "aggrieved" person as there is no set definition of "aggrieved". Susan asked John how he feels he is directly aggrieved. John feels he is aggrieved because different people are being treated unfairly and that it's a matter of equality. She asks him to explain. He states if he were to apply for a building permit that he would have to get a special exception as well as anyone else. Susan said she wasn't quite sure about that. Justin stated that in fact all cases are different, so they really shouldn't be talking about hypothetical situations. John really feels that if he is being treated differently than someone else than he is aggrieved because it is not equal protection. He stated that he has seen many people that have had to go through different processes. Susan asks if the public has anything they would like to say on the issue of whether or not they think John Trachy has standing to appeal the decision of the select board. She asks if there was anyone in the audience who might live close to Durgin and Crowell. Nobody came forward.

B Manning states he would like to speak. B Manning states the following: In order to bring and appeal of and administrative decision a person must have standing. To establish standing and appealing party

must show some direct definite interest in the outcome of the action or proceeding. Standing will not be extended to all persons in the community who might feel that they are hurt by the decision- they must show a "direct-definite interest." B refers to a court case back in November 2013 Goldstein vs. Bedford. He read the four key factors that the court considers to determine if a non-abutter has sufficient interest of confer standing.

- The proximity of the appealing's party property
- The type of change being proposed
- The immediacy of the inquired claimed
- The appealing party's participation in the administrative decision

B states that the zoning statutes are primarily intended to protect the public at large and not the interest of individuals. An appealing party that provides no evidence that he has an interest in this action beyond that of a concerned resident and taxpayer lacks standing. He states that law suits by different boards and individuals without standing could cause considerable delays and thus unfairly victimize property owners, particularly when no party directly affected by the action such as abutters have seen fit to challenge the application.

B states that it is obvious that John Trachy does not have standing and that the hearing should be dismissed.

Mike Chiarella spoke and feels that this appeal is ridiculous. He does not feel John has standing and feels if that were the case than in a city like Manchester every single resident could possibly appeal every decision made and that's not what the law is about.

B also states again that the courts have made it very clear that someone needs to have standing to appeal a decision. Bryan asks John why exactly he appealed this case: John states that he feels the select board issued a permit without doing a proper investigation. He feels based on size one should have been done. John states that this is not about Durgin and Crowell but about someone getting a building permit without proper protocol. John expresses again that it's not a question of standing but he is aggrieved. Susan asks if anyone else would like to speak. Susan feels that she as well has done a lot of research and doesn't feel that the applicant has standing. Susan makes a motion that John Trachy does not have standing to appeal the decision by the selectmen to issue a building permit to Durgin and Crowell, Second by Justin, discussion non, vote: all in favor and unanimously approved. Susan dismisses the case.

Peter Crowell and Jim Bednar expressed interest in becoming alternates on the zoning board. Justin nominates Jim Bednar as an alternate, second by Bryan all in favor and unanimously approved.

Justin makes a motion to nominate Peter Crowell as an alternate, second by Bryan, all in favor and unanimously approved.

Gene makes a motion to adjourn-second by Karen all in favor

Meeting adjourned at 7:55

Submitted by: Susan Abair