



**TOWN OF PITTSFIELD
ZONING BOARD OF ADJUSTMENT
TOWN HALL, 85 MAIN STREET
PITTSFIELD, NH 03263**

MEETING MINUTES of Thursday, December 22, 2016

CALL TO ORDER

The Zoning Board of Adjustment Meeting for December 22, 2016 was called to order by the Chair at 7:02p.m.

MEMBERS PRESENT

Jeffrey Swain, Chairman
James Hetu
Scott Aubertin
Scot Palmer
Noreen Rollins

EXCUSED

Pat Heffernan
Carol Dodge
Deidre Benjamin

OTHERS PRESENT

Donald Rose, James Pritchard, Mr. Hill, Robert Tremblay and Linda Tremblay

MINUTES

Motion. Mr. Hetu made a motion to accept the minutes for October 13, 2016. Mr. Aubertin seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Swain – Yes; Mr. Palmer – Yes; Mr. Hetu – Yes; and Mr. Aubertin – Yes. The Chair declared the Motion passed.

**CONTINUED PUBLIC HEARING FOR APPLICATION OF VARIANCE FROM
RSA 674:33,1 (b) and RSA 676:7, MINIMUM AREA AND MINIMUM
FRONTAGE T TAX MAP U-6, LOT 6-1 AND LOT 7.**

The Chair asked Mr. Rose if he was comfortable moving forward with the hearing as they only had four members present and he is entitled to a full five member board. Mr. Rose stated he was fine with the four member board.

The Chair read “the Zoning Board of Adjustment will hold a public hearing pursuant to RSA 67:33 Sect. I(b) and RSA 676:7 on an application for a variance from the requirements of the Pittsfield Zoning Ordinance for a lots minimum area and minimum

frontage Art III Sect IV paragraph b(1), article 3 section 4 b(2), c(1), and c(2). The time and place of the hearing is Thursday, December 22, 2016, 7:00PM, at the Pittsfield Town Hall, 85 Main Street, Pittsfield, NH. The applicant's name and address is Donald Rose, 8 Foss Avenue, Pittsfield, NH 03263. The proposal is for lot line adjustment and a reconstruction at 8 Foss Avenue, Tax Map U-6, lot 6-1 and 12 Foss Avenue, Tax Map, U-6, lot 7 as followed. Move the existing lot line between Map U-6, 6-1 and 7 so that the new dividing lot line makes the frontage equal in length and makes the rear equal in length. Second, to build a new house on the current vacant lot, Tax Map U-6, lot 7 at or beyond the minimum street setback, 25 feet that the Zoning Ordinance requires. The new house will replace a recently demolished house at the street setback yard and was in fact very close to Foss Avenue. The owner currently has the right under Zoning Ordinance Article four, section 3(a) Discontinued Use, to rebuild on the footprint of the demolished house. The application for variance is on file for public inspection at the town hall, 85 Main Street, Pittsfield NH."

Mr. Pritchard stated Mr. Rose came into the planning office to discuss what he was doing. He showed the Board the two lots Mr. Rose has and what the applicant wants to do. He stated he wants to straighten the lots so they are not two oblong lots on Foss Avenue. He stated the house just demolished was right at the street line. He stated what Mr. Rose wants to do will make the properties more conforming. He explained Mr. Rose needs a variance approved because the lots are nonconforming and whatever he does they will be nonconforming. He stated since the town has an interest in the lots being conforming he felt he should help Mr. Rose with the application for variance. He thinks it is a special opportunity which makes it a special condition for the variance.

Mr. Pritchard stated the variance is to allow the lots to be made. He stated the zoning regulations in which the variance are sought are Article III section four b(1), article 3 section 4 b(2), c(1), and c(2). He stated Mr. Rose needs a variance for both the area and the frontage. He stated the variance needs to be grants on conditions. He explained the first condition the dividing line between the two lots has the frontage and rear equal in length. He stated the second condition would be the right to rebuild the house on Lot 7 and the new house will conform to setback regulations. He stated Mr. Rose will not abandon the right if the Planning Board does not approve the lot line adjustment.

Mr. Hetu asked if they grant the variance it is under the condition the Planning Board approves the lot line adjustment. Mr. Pritchard stated he was correct.

The Chair read Criteria 1: granting the variance will not be contrary to the public interest. Mr. Pritchard stated it is not contrary to public interest because it is going to reduce the overall nonconformance and because the Zoning Ordinance is the town meeting statement of the public interest.

The Chair read Criteria 2: if the variance were granted, the spirit of the ordinance would be observed. Mr. Pritchard stated it is observed because they are reducing the nonconformance.

The Chair read Criteria 3: granting the variance would do substantial justice. Mr. Pritchard stated it will be done because the town will benefit in getting fewer nonconformances and the applicant will benefit from a nicer property. He stated the only guiding rule is any loss to the individual that is not outweighed by gain to the general public, it is an injustice and since both will benefit substantial justice will be done.

The Chair read Criteria 4: if the variance were granted, the values of the surrounding properties would not be diminished. Mr. Pritchard stated the values of the surrounding properties would not be diminished because Lot 7 will have a nicer yard than it has now.

The Chair read Criteria 5Ai: Owing to special conditions of the property that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship. Mr. Pritchard stated the special conditions of the property are the lots currently being vacant but having the right to build in the street setback yard. He stated Mr. Rose is requesting a variance which will reduce nonconformance what he is doing is reasonable. He stated there is no fair and substantial relationship between the purposes of the ordinance.

The Chair read Criteria 5Aii: no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property. Mr. Pritchard stated the Zoning Ordinance would like to have things be more conforming not less conforming.

The Chair read Criteria 5Aiii: the proposed use is a reasonable one. Mr. Pritchard stated for the reason he just explained.

The Chair read Criteria 5B: Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a Variance is therefore necessary to enable a reasonable use for it. Mr. Pritchard stated Mr. Rose established the criteria in subparagraph A therefore they don't need to address this one.

Mr. Palmer stated the two dimensions are 6-1 is for 70 feet and section 7 is 131 feet. He asked if they are going to equal it out and go from the street back. Mr. Rose stated they will split those two in half. Mr. Aubertin asked if he is just looking for a variance for the setback off the road. Mr. Pritchard stated Mr. Rose needs a variance to create two nonconforming lots. He stated both lots will be under area and under frontage.

The Chair stated he is looking to be more conforming. Mr. Pritchard stated he can't be totally conforming but will be better.

The Chair opened the hearing to the public.

Mr. Pritchard stated he will recuse himself when this goes to the Planning Board because he cannot help Mr. Rose and be impartial at the same time.

Mr. Aubertin made a motion to accept the application for variance at 8 Foss Avenue. Mr. Palmer seconded the Motion.

A Roll Call Vote was taken: Mr. Swain– Yes;Mr. Palmer – Yes; Mr. Hetu – Yes; and Mr. Aubertin –Yes.

The Chair declared the Motion passed.

Mrs. Rollins joined the meeting.

CONTINUED PUBLIC HEARING FOR APPLICATION OF SPECIAL EXCEPTION FROM RSA 674:33,1 (b) and RSA 676:7, MEDICAL OFFICE TAX MAP R-46, LOT 3.

The Chair read “The Pittsfield Zoning Board of Adjustment will hold a public hearing pursuant to RSA 674:33,1(b), and RSA 676:7 on an application for a special exception for a medical office according to Pittsfield Zoning Ordinance, article 3, section 3, (b) 2, 6, Article 6 sect 2, 3 and Articles 2, section 3 Medical Office. The time and place of the hearing is Thursday, December 22, 2016, 7:00PM, at the Pittsfield Town Hall, 85 Main Street, Pittsfield, NH. The applicant’s name and address is Robert Tremblay and Linda Tremblay 110 Hills Road, Pittsfield, NH 03263. The proposal is for a medical office in a 27 foot by 57 foot, one story building at 121 Hills Road, Tax Map R-46, lot 3. The application for a variance is on file for public inspection at the town hall, 85 Main Street, Pittsfield, NH.”

Ms. Tremblay explained they would like to make a residential house they own into an office for psychotherapy counseling. She stated the house is unoccupied currently.

The Chair read Criteria A: the use shall not be detrimental or offensive to the neighborhood. Ms. Tremblay stated the house closest to this one is their own. She stated she thinks it is a beneficial service to the community.

The Chair read Criteria B: the use shall not diminish the value of any surrounding properties. Ms. Tremblay stated the home and the building is not going to change at all and will still look like a residential home.

The Chair read Criteria C: the use, parking needs or access ways shall not be a nuisance or serious hardship or vehicular traffic. Parking shall be deemed a nuisance if parking needs force vehicles to park on a street or a nearby property. Ms. Tremblay stated there will not be any parking on the street. She explained there is ample parking at the building. She stated the road has four other residential homes on it.

The Chair read Criteria D: the use shall have adequate and appropriate facilities and utilities to ensure the proper operation of the use. Ms. Tremblay stated it has electricity,

heat, bathrooms and plumbing. Mr. Trenten stated the house will be used less than if it was a residential house.

The Chair read Criteria E: the use shall be in harmony with the general purpose and intent of the Zoning Ordinance. Ms. Tremblay stated she thinks it will promote health and wellness as well as keeps the value of the building. Mr. Tremblay stated they choose the medical office ordinance because there is nowhere else in the ordinance that spells out psychotherapy. He stated the house will not change its appearance from a residential building.

The Chair read Criteria 6: All conditions specified to the proposed use. The Zoning Ordinance requires various uses to satisfying permitting conditions specified to the use in addition to conditions A thru E above. Check to see whether the proposed use defined in the Zoning Ordinance Article 2 Interpretation Rules and Definitions Section 3. Definition if the Zoning Ordinance requires the proposed use to satisfied conditions specific to the proposed use than Article 2 Sect 3 will define the use and the definition entry will either list the permitting conditions or point to the permitting conditions. Ms. Tremblay stated they are using the medical office. She stated they are asking for a special exception because the ordinance doesn't permit overnights and they would like to do occasional overnights. She stated it is a part-time practice.

Mr. Hetu asked for a brief description of what source of patient and activity would be going on in the premises. Ms. Tremblay stated in her field they don't call them patients. She stated it would be for anyone who would want to do a wellness weekend retreat to cope with stress. She stated there wouldn't be any severe mental health issues clients there on the weekend. She stated it is more for the everyday person with anxiety and potential trauma.

Mr. Tremblay stated they spent a lot of time with Mr. Pritchard and Mr. Pacheco as to what kind of office fit in the ordinance. He stated it is not specifically spelled out in the ordinance. Mr. Pritchard stated himself and Mr. Pacheco thought the medical office was the closest they could get.

Mr. Hetu asked if Mr. Pacheco was conformable with the overnight stays. Mr. Pritchard stated they are entirely comfortable with it; however, since it was not going to be part of normal operations than it could be considered to be fitting under those circumstances.

Mr. Hetu asked the applicants how many overnights or weekends would they be comfortable with. Ms. Tremblay stated if there was a cap per year she would like to do six a year.

The Chair opened the hearing to the public.

Mr. Hill, 57 Hills Road, stated he lives a quarter mile up the road. He stated he is fully in support of it. He explained there won't be any added traffic to the road. He stated he thinks it is a win win for the town and be a positive thing for the local neighborhood.

Mr. Tremblay stated he has three options with the house; use it has they are discussing tonight, rent it out or sell it. He stated if they rent or sell it they could have a family living there which would bring more costs to the town.

The Chair closed the hearing to the public.

Motion. Mr. Hetu made a motion to grant the special exception given the condition that the overnight stays be restricted to six weekends a year. Mrs. Rollins seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Swain– Yes;Mr. Palmer – Yes; Mr. Hetu – Yes; Mr. Aubertin –Yes; andMrs. Rollins- Yes. The Chair declared the Motion passed.

The Chair explained to the applicants there is a 30 day appeal process.

MEMBERS CONCERNS

N/A

PUBLIC INPUT

Mr. Pritchard stated in their folders revised applications for minutes pages, appeal of administrative decision, special exception and variance. He stated these are the new version that agrees with the Zoning Ordinance. The Chair asked if these will be the only one used. Mr. Pritchard stated they have had problems with different varieties and none of them agreed with the Zoning Ordinance. He stated the special exception was the worst offender.

Mr. Pritchard stated the first few pages of the Special Exception had minor changes. He stated on page three the conditions of what he applicant is supposed to explain are not what are in the Zoning Ordinances. He stated conditions A thru F have been revised. He stated condition F points out certain uses have supplemental conditions which have to be satisfied as well. He gave examples of home office, repair shops, and storage containers.

Mr. Pritchard stated page five includes the Fee Checklist so it doesn't get forgotten. He stated there is a note at the bottom of the application that they hire the Concord Monitor on a case by case basis and applicants can advertise in the Concord Monitor if they want.

Mr. Pritchard stated page six is so they can put a photograph copy of the check on the application.

Mr. Pritchard stated page seven explains the Zoning bylaws require 20 days in advance the application be submitted. He stated the practice has been they get the application to the Board as soon as they can. He stated page seven reflects the practice of getting things to the Board but there are certain things which require a certain amount of days to get done.

Mr. Pritchard stated page eight is for the Individual Notice List (formerly the “Abutters List”). He explained there are certain people who have to be notified who aren’t abutters so they felt the need to change the name. He gave an example of Conversation, Preservation, or agriculture and to all abutters.

Mr. Pritchard stated the Notice of Appeal for Administrative Decision has the information about the application fee, the copy of the check, the hearing schedule, Individual Notice List and then what the application itself has to include. He stated he and Mr. Pacheco thought it would be a good idea to clarify the meaningful date of when the decision of appeal was made. He stated the date when the decision is being made is the date when the vote is being made. He stated they also pointed out because it is a matter of State law; the ZBA doesn’t have the jurisdiction to consider appeals which are made late.

Mr. Pritchard stated the Application for Variance doesn’t have many changes except for the hardship condition. He stated they noticed people usually address the hardship condition in subparagraph one and two on page five even though they don’t have to. He stated subparagraph one is used more than subparagraph two. He stated they thought formatting it for more space between the two and make a note that they don’t have to explain the hardship condition on page five.

Mr. Hetu asked if they have a next meeting on the books. The Chair asked if they have any more applications. Mr. Pritchard stated there are no pending applications.

Mr. Pritchard suggested they authorize the use of the revisions in the interim.

Motion. Mr. Hetu made a motion to approve the use of the revised forms until the next meeting when they can approve them officially. Mr. Palmer seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Swain– Yes; Mr. Palmer – Yes; Mr. Hetu – Yes; Mr. Aubertin – Yes; and Mrs. Rollins- Yes. The Chair declared the Motion passed.

Mr. Hetu stated the meetings are not appearing on the website.

Mr. Pritchard stated if he had everyone’s email address than he could send out applications to everyone. He stated they don’t have a procedure for getting things to the Board members. The Chair stated he has everyone’s email he can get to Mr. Pritchard. He stated Mr. Pritchard can notify Mr. Wood when there is a meeting so it can get on the website.

ADJOURNMENT

Motion. Mr. Palmer made a motion to adjourn. Mr. Aubertin seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Swain– Yes;Mr.Palmer – Yes; Mr. Hetu – Yes; Mr. Aubertin –Yes; andMrs. Rollins- Yes. The Chair declared the Motion passed.

The Chair adjourned the meeting at 7:58pm.

APPROVED: April 13, 2017

JAMES HETU, CHAIRMAN,

DATE



**TOWN OF PITTSFIELD
ZONING BOARD OF ADJUSTMENT
TOWN HALL, 85 MAIN STREET
PITTSFIELD, NH 03263**

NOTICE OF DECISION

YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING DECISIONS

WERE MADE BY THE PITTSFIELD ZONING BOARD OF

ADJUSTMENT AT THEIR REGULAR MEETING OF DECEMBER 22, 2016:

By a vote of five (4) in favor, none (0) opposed, and no (0) abstentions, the Board granted the request for a Variance from Pittsfield Zoning Ordinance from Article 3, Section 4, b(1), Article 3 Section 4 b(2), c(1), and c(2)(d) Minimum Area and Minimum Frontage for Donald Rose, for a parcel located on 8 Foss Avenue (Tax Map U-6, Lot 6-1 and Tax Map U-6, Lot 7) To move the existing lot line between Map U-6, 6-1 and 7 so that the new dividing lot line makes the frontage equal in length and makes the rear equal in length. Second, to build a new house on the current vacant lot, Tax Map U-6, lot 7 at or beyond the minimum street setback, 25 feet that the Zoning Ordinance requires. The new house will replace a recently demolished house at the street setback yard and was in fact very close to Foss Avenue.

PAT HEFFERNAN

VICE CHAIRMAN

For a full length copy of the Notice of Decisions, please view in the Town Hall.



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YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING DECISIONS

WERE MADE BY THE PITTSFIELD ZONING BOARD OF

ADJUSTMENT AT THEIR REGULAR MEETING OF DECEMBER 22, 2016:

By a vote of five (5) in favor, none (0) opposed, and no (0) abstentions, the Board granted the request for a Special Exception from Pittsfield Zoning Ordinance from Article 3, Section 3, (b) 2, 6, Article 6 Section 2, 3 and Articles 2, Section 3 Medical Office for Robert and Linda Tremblay, for a parcel located on 121 Hills Road (Tax Map R-46, Lot 3) The proposal is for a medical office in a 27 foot by 57 foot, one story building at 121 Hills Road, Tax Map R-46, lot 3.

PAT HEFFERNAN

VICE CHAIRMAN

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