



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

MEETING MINUTES of Thursday, February 22, 2018

CALL TO ORDER

The Zoning Board of Adjustment Meeting for February 22, 2018 was called to order by Mr. Hetu 7:02p.m.

MEMBERS PRESENT

James Hetu
Pat Heffernan
Jason Rokeach
Deidre Benjamin

EXCUSED

Phillip Boncer
Scot Palmer

OTHERS PRESENT

Jim Pritchard
Carl Anderson
Jennifer Gibbs
Roberta Maxfield

PUBLIC HEARING ON AN APPEAL OF AN ADMINISTRATIVE DECISION OF DWELLING UNIT INSIDE THE AUTOMOBILE DEALER BUILDING AT 44 LOUDON ROAD, TAX MAP R-34, LOT 18-1, IN THE LIGHT INDUSTRIAL/COMMERICAL ZONING DISTRICT.

The Chair asked Ms. Gibbs if she wanted a continuance because they only had three members who could sit for the hearing. Ms. Gibbs said she would like to wait. The Chair continued the hearing until March 8, 2018.

Mr. Rokeach stated he was surprised they couldn't get Mr. Boncer for the meeting. Mrs. Hetu asked if they could appoint someone in the meantime so they could have a full board. The Chair agreed it would help but after elections they were still going to be short because Mr. Palmer would be a full member not an alternate.

REVIEW AND APPROVE MINUTES

Motion. Mr. Heffernan made a motion to approve the minutes for February 8, 2018. Mr. Rokeach seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; Mr. Rokeach - Yes; and Mrs. Benjamin - Yes. The Chair declared the Motion passed.

MEMBERS CONCERNS

The Chair informed the members he received an email from Ms. Marston on behalf of the Board of Selectmen in regards to some emails exchanged between Ms. Koolian and Mr. Pritchard. The Chair asked if there were any questions in regards to the email.

The Chair stated he would be entering all of the correspondence into the minutes including Mr. Anderson’s decision on behalf of the Select Board last Wednesday night.

Mr. Heffernan asked if they are pets why should the applicant have to go through all this stuff. The Chair stated in this case the Zoning Administrator is declaring they fall under agriculture and would need a special exception. Mr. Heffernan stated they are going at it again. The Chair explained it was for them to decide.

The Chair explained they didn’t want to go into this tonight rather address the letter from the Select Board regarding Mr. Pritchard’s emails with the applicant. He read the BOS request to “direct the secretarial assistant to confine his duties to those listed in the Rules of Procedure and to refrain from those tasks listed as NOT included; or, failing that, to relieve Mr. Pritchard of his temporary volunteer position as secretarial assistant and work with the Board of Selectmen to hire an acceptable employee to fill the position.”

The Chair read Rules and Procedures: “Board shall appoint a secretarial assistant to help the Zoning Administrative Officer and the Board (meaning the Zoning Administrator being the Select Board and the Board being the ZBA) with secretarial tasks which did not include construction, interpretation or application of the Zoning Ordinance. The secretarial assistant tasks shall include the following;

To give applicants forms for application to the Board, to receive applications for the Board and fees thereof, to check individual notices and lists in applications, to type, post, mail and distribute all meetings and hearings of the Board, to type, post, mail, and distribute any notices of decision and any actions by the Board, and to type such correspondences on behalf of the Board as the Board might direct.”

The Chair stated it is his opinion it is impossible for the secretary to perform those tasks in the best interest of a townsperson coming to him without being knowledgeable of all the options open to the candidate. He mentioned the Ms. Gibbs situation of the BOS telling her to apply for a variance and had she done so the right to appeal to the ZBA would have gone away when she applied for the variance. He stated Mr. Pritchard pointed it out to Ms. Gibbs and she decided to go with the appeal. He stated he doesn’t see how the secretarial assistant can perform his duty without doing that.

The Chair stated he pulled direct quotes from when they were rewriting the procedures. Mr. Heffernan had said “we have an obligation to help the applicants.” Mr. Aubertin had said “if someone wanted an application or question on procedure, Mrs. Ramsey (who was being considered at the time) could help them. The Chair had said the last thing he wanted was for it to turn into a DMV situation where they are handed an application and sent to the back of the line. He said they had discussed wanting the secretarial assistant to help the applications.

The Chair stated at the August 25, 2016 meeting, Mr. Pacheco brought up what the tasks were Mr. Pritchard had been doing and how he had helped people during their filings. He, the Chair, had stated later in the same meeting they wanted Mr. Pritchard to stay on and help the applicants. He stated they didn’t want the secretarial position to be making decisions.

Mrs. Benjamin said she wasn’t sure how you give someone guidance without having some understanding of the Zoning Ordinance. The Chair sees what Mr. Pritchard is providing to be an asset to the town. Mr. Pritchard had been clear in his emails he was not the decision maker and the Board of Selectmen is the decision maker. The Chair stated he thinks it is very important and necessary. He doesn’t think there is a detriment to Mr. Pritchard giving a contrarian view to what is being stated.

Mrs. Benjamin doesn’t think, other than hiring an attorney, Mr. Pritchard overstepped anything and he was very clear in trying to point her in some sort of direction while letting her know it was not up to him.

The Chair asked the Board for permission to respond to the Select Board and Mr. Pritchard is performing his function as they desire him to and they have no intention of putting any restraints on his actions. Mrs. Benjamin stated based on the copies of the transcripts from prior meetings, the intent was for him to do what he is doing.

Motion. Mr. Heffernan made a motion to authorize the Chair to construct a letter in response to the Select Board informing them the Board agrees they want Mr. Pritchard to continue giving his best advice, given his years of experience, to applicants while consistently reminding them he is not a decision maker and leaving the path forward up to them, just laying out their options. Mr. Rokeach seconded the Motion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; Mr. Rokeach - Yes; and Mrs. Benjamin - Yes. The Chair declared the Motion passed.

The Board determined the Chair would construct the letter and distribute it at the next meeting on March 8, 2018.

PUBLIC INPUT

Mr. Pritchard stated he hadn't seen the last page of the letter from the Select Board where it says "you have two options; apply for special exception or appeal the findings of the Zoning Administrators. Please see Bonnie or Cara in the Administration office for either form along with the instructions." He expressed concern for the secretarial assistant being absent in the list of people the applicant can ask for assistance from. He got the impression from Ms. Gibbs there was an option of challenging the BOS decision.

Mr. Pritchard stated when Ms. Gibbs was going through this he had no idea this was going on and Ms. Gibbs had a lot of dealings with Mrs. Marston. He explained it is his understanding Ms. Gibbs didn't know she had this option even after her dealings with Mrs. Marston.

The Chair asked Mr. Pritchard what has been the process for applicants who want to do something which requires them to come before the ZBA. Mr. Pritchard said they would come into the Land Use office. He stated until a week ago, the Selectman's office didn't have copies of the applications.

The Chair asked if the Select Board distributed the documents if Mr. Pritchard wasn't present. Mr. Pritchard said they could have had access at any time but they didn't ask for them.

The Chair read the Rules and Procedures which it states "the secretarial assistant's tasks include the following; to give applicants the forms for applications to the Board." He doesn't want people to be directed around Mr. Pritchard to the point where they don't know he is a resource. He asked Mr. Pritchard if he had any input on how to handle this.

Mr. Pritchard said he doesn't but the rules were designed for completely different kinds of goings on in the town hall. He said when Mr. Pacheco was the Zoning Administrator they would work together and Mr. Pacheco would ask his opinion and he (Mr. Pritchard) would defer to him as the boss.

The Chair asked Mr. Pritchard if they are hampering the Zoning Administrator's ability if they removed them from the application process. He is going to pose the same question to the Select Board. Mr. Pritchard thinks it should be for applicants to see the secretarial assistant and if he is not available go to the Selectman's Office.

Mr. Heffernan asked if they couldn't get the forms from Mr. Pritchard could they get them from Mr. Pacheco. Mr. Pritchard stated he is correct and the forms are now available online.

The Chair asked Mr. Pritchard when the applications and checks come back to they get routed to him. Mr. Pritchard stated the whole application would come to him; he would copy the check and give the check to the Selectmen's Office. He would then prepare the application for the Zoning Board. The Chair determined given this fact, he would like to add to the letter to the Select Board they want applicants to go to Mr. Pritchard first and then Ms. Marston or Mrs. Theriault if he is not available.

Motion. Mr. Rokeach made a motion to add to the letter to the Select Board to have applicants first go to Mr. Pritchard and then the Selectmen's Office should he not be there. Mr. Heffernan seconded the Motion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; Mr. Rokeach - Yes; and Mrs. Benjamin - Yes. The Chair declared the Motion passed.

Mr. Heffernan asked if they have the ability to change the rules anytime they see fit. The Chair said they do. Mr. Heffernan suggested they change the rules to make it less ambiguous. The Chair explained the problem is when Mr. Pritchard moves on and they have to hire someone who has Mr. Pritchard's abilities and knowledge. Mr. Pritchard suggested he and Mr. Heffernan work together on the changes. Mr. Heffernan said if they put something in then they would make sure to have someone who knows what is going on.

Mr. Pritchard the secretarial assistance is not the decision maker so whatever he does is going to be his best effort. Mr. Rokeach suggested the language apply the term "best effort". He said it is information not advice the secretarial assistant would be giving. Mr. Pritchard said the secretarial assistance should not participate in the decision. Mrs. Benjamin agreed information over advice would be a better language option. The Board agreed to work on the rule change and have it for the first meeting after the elections.

ADJOURNMENT

Motion. Mrs. Benjamin made a motion to adjourn. Mr. Heffernan seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; Mr. Rokeach - Yes; and Mrs. Benjamin - Yes. The Chair declared the Motion passed.

The Vice Chairman adjourned the meeting at 7:42pm.

APPROVED: March 8, 2018

JAMES HETU, CHAIRMAN

DATE