



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

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**MEETING MINUTES of Thursday, September 8, 2016**

**CALL TO ORDER**

The Zoning Board of Adjustment Meeting for September 8, 2016 was called to order by the Chair at 7:00p.m.

**MEMBERS PRESENT**

Jeffrey Swain, Chairman  
Pat Heffernan, Vice-Chairman  
James Hetu  
Scott Aubertin  
Carol Dodge  
Scot Palmer, Alternate  
Noreen Rollins, Alternate

**PUBLIC OFFICIALS**

**OTHERS PRESENT**

Jim Pritchard

**MINUTES**

Mrs. Rollins stated the top of page four should be “who” instead of “how” in the first sentence. The Chair stated page five third line down should say “the ZBA doesn’t have the say they want”.

Motion. Mr. Hetu made a motion to accept the minutes for August 25, 2016 as amended. Mr. Aubertin seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Swain– Yes; Mr. Heffernan – Yes; Mr. Hetu – Yes; Mr. Aubertin – Yes; and Ms. Dodge- Abstained. The Chair declared the Motion passed.

**ZONING ADMINISTRATOR**

The Chair asked if there was any other input since they discussed this last time. He stated they are making a recording secretary and a secretarial assistant to help the Zoning Administrative Officer. Mr. Hetu asked if they were going to record everything and just have a recording secretary to transcribe. The Chair stated they should decide tonight what they are going to do.

Mr. Palmer asked if the secretary is up to them to decide and not the BOS. The Chair stated that is correct. Mr. Aubertin asked about the Zoning Administrator being crossed out and if that is still under the Building Inspector. The Chair stated it being in the Rules & Procedures is null and void because it in the Zoning Ordinance says the BOS has the power to appoint an administrative officer. Mr. Hetu stated our own rules were giving us powers we don't have.

Mrs. Rollins asked if it is the same for the recording secretary that the BOS hires them as an employee. The Chair stated no we have the power. Ms. Dodge stated we have the right to ask the BOS and the BOS still have the power to approve it because they will become an employee of the town.

Ms. Dodge stated we still need time stamped as well as dated [referring to applications]. She stated they had some issues with it in the past. The Chair stated he likes adding to have it initialed by the person receiving the application because they have had issues with that as well.

Ms. Dodge asked if the secretarial assistant is going to check the abutter lists on the applications why did they take out prepare all notices of meetings, hearings of the Board, notice of decision, and correspondence on behalf of the Board. She stated if the secretarial assistant and the Zoning Administrator then they are going to be apprised and know exactly what is going on in the meeting. The Chair stated this is for a secretarial assistant for the Zoning Administrator. Mr. Hetu stated the buck stops with the Zoning Administrator. Ms. Dodge stated if that's the case then Part V Section D should be changed as well.

Mr. Hetu wondered why Part V Section D didn't get amended like the others. The Chair stated everything underlined was added and everything crossed out was crossed out and everything not underlined or crossed out was original.

Mr. Aubertin asked for someone to do Section D wouldn't they have to know where the place is. The Chair stated there is a list of abutters on the application. He stated someone needs to check to make sure someone wasn't missed or added. He stated they would look up the list and compare it to the tax map to make sure it is correct.

Mr. Hetu asked if they want to act on the Rules & Procedures first and then decide on the positions after. The Chair stated yes, they need a baseline.

The Chair stated they need to add alternate members under the Meetings and Hearings paragraph as Section 8. He stated they should add a paragraph that says alternate members shall sit with the Board and participate as a non-voting member.

Mr. Hetu asked if recusing themselves was addressed in the Rules and Procedures. The Chair stated it is addressed under Disqualifications. Mr. Aubertin asked if he disqualifies himself should he sit in the audience. Ms. Dodge stated they should. Mr. Heffernan stated

the fourth line of Disqualifications says that the member shall notify the Chair so that an alternate can sit in his/her place.

Ms. Dodge suggested wording for the alternate member as follows “Alternate ZBA members will be seated with the Board and participate in discussion as a zoning member until taking the seat of a zoning member.”

Mr. Palmer asked if that means if someone is speaking to the Board the alternate members can ask questions. Ms. Dodge stated they have always been able to do that.

Mr. Heffernan asked about Part IX Section 13 which states “the Board shall have the authority to compel witnesses to attend pursuant to RSA 673:15.” Mr. Hetu explained this is if they need someone to testify they could compel someone to come to the meeting regarding the application. Mr. Heffernan stated it sounds like they are issuing a summons to someone. The Chair stated they have the authority under RSA 673:15.

Ms. Dodge expressed concern with Part V Section 3 saying the recording secretary or the secretarial assistant may be a member of the ZBA. The Chair stated he doesn't see a problem with a secretarial assistant but agrees with a recording secretary. Mr. Hetu stated if they can't find someone to do it they would ban themselves from doing it. Ms. Dodge stated they could put it in as an emergency situation. She doesn't think a member of the ZBA should be a secretary or secretarial assistant. Mr. Hetu stated he doesn't like tying their hands if there is an issue in the future. There was further discussion of the wording for this section of the Rules and Procedures. The Board determined to strike out everything after “the recording secretary and the secretarial assistant may or may not be the same person.”

Mrs. Rollins asked if they need to have whether or not the recording secretary would be present or they would use a recorder for the meetings. Mr. Hetu stated he thinks it would be best not to put it in there so they don't tie their hands in the future.

Mr. Hetu stated the three amendments he has is to keep the time stamped, add in the alternate members, and then strike out the last part of Section 3 recording secretary sentence.

Motion. Ms. Dodge made a motion to add Meetings and Hearings the following: “alternate ZBA members will be seated with the Board and participate in discussion as a non-voting member until taking the seat of a disqualified member.” Mr. Heffernan seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Swain– Yes;Mr. Heffernan – Yes; Mr. Hetu – Yes; Mr. Aubertin –Yes; andMs. Dodge- Yes. The Chair declared the Motion passed.

Motion. Mr. Hetu made a motion to approve the Rules & Procedures as amended. Mr. Aubertin seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Swain– Yes;Mr. Heffernan – Yes; Mr. Hetu – Yes; Mr. Aubertin –Yes; andMs. Dodge- Yes. The Chair declared the Motion passed.

### **MEMBERS CONCERNS**

Mr. Palmer asked the Board if they read about the accessory apartments. He asked if they need to have votes on it to the public should the laws go into effect. He stated if they don't change the rules they fall under the bad stuff that is in the new law. He wondered if they should do something about this right now. The Chair stated it would fall under the Planning Board. Mr. Aubertin stated they can't do anything as a Board.

Mr. Hetu asked if the town attorney responded to their question that the Zoning Ordinance currently says accessory apartments cannot be rented. The Chair stated he hadn't heard anything. Mr. Hetu stated the law says they can't put anything additional requirements that wouldn't already be in effect for a single family residence in the area. Mr. Palmer stated it says in the law they can't do it. Mr. Hetu stated he read the actual wording of the law and it doesn't say that. Mr. Palmer asked where they got this paper. The Chair stated it was submitted by an applicant. He had an actual copy of the law and made copies for everyone.

Mr. Hetu's understanding was towns were requiring unlocked doors between an accessory apartment and the house and separate plumbing and septic systems but it didn't mention anything about renting or not renting. He believes it was designed to get rid of the unreasonableness. Mr. Palmer stated he thought the point of the law was to relieve from the tax burden so they could have an apartment in their house. Mr. Aubertin stated that is one statement. He stated other reasons for the law were to prevent having a cluster of apartments in one area.

Mr. Heffernan expressed concern with people needing to take in their parents as they get older. Mr. Aubertin stated the problem is once the parents are gone the first thing someone is going to do is think about renting it out.

### **PUBLIC INPUT**

Mr. Pritchard stated the Planning Board is all over the Accessory Dwelling Amendment. He stated there is a Zoning amendment they are considering which will do three things. He stated it will put in a door which the law requires, put a maximum size on the accessory unit to be three-quarter size of the principle unit or 750 square feet whichever is greater, and to require owner occupancy which is an option the law allows them to do. He stated as far as the rental goes, there isn't anything in the law that says a municipality cannot prohibit renting. He stated an aim of the law is to encourage low cost renting.

Mr. Pritchard stated there seems to be some confusion regarding the BOS hiring someone and who decides what. He stated the state statute RSA 676:13 gives the ZBA the right to approve the person. He stated the BOS decides rather to put the person on the payroll but the ZBA decides whether that person works for them.

Mr. Pritchard stated they restored the requirement for time stamping applications. He stated it was Mr. Pacheco's suggestion to modify that provision because they don't have a clock in the Building/Planning office. He is not aware they have ever time stamped an application or a means to do it. He suggested they make Mr. Pacheco aware of it and how to go about time stamping it.

Mr. Heffernan stated if they wrote the time on the application would it take care of it.

Mr. Heffernan asked if the 750 square feet is a maximum or minimum size. Mr. Pritchard stated the law says a municipality can't require an accessory apartment to be less than 750 square feet but they impose a maximum size on it. Mr. Heffernan asked if that was the three-quarters. Mr. Pritchard stated that was Mr. Nickerson's suggestion. There was discussion of the Eaton Road application and the size of the accessory apartment in relation to the new law.

Mr. Pritchard asked why they need to time stamp things when they don't have a time clock. He stated the statute says it has to be done within a number of days not hours. He stated if it is date stamped that is all they need. Ms. Dodge stated there have been court cases where someone has faxed in an application after business hours and got thrown out because it had not been stamped as received. Mr. Pritchard stated that case also says a municipality could, if it wanted to, provide for after-hours filing. He feels they are creating an impossible situation and things won't be time stamped properly.

The Chair stated at this point they have adopted it. He stated they can donate a clock for time stamping. Mrs. Rollins stated there has to be an official stamp to stamp it with. Ms. Dodge stated what they used to do is initial it and put the time on the application with the initials. There was further discussion of the time stamping of applications.

Motion. Mr. Swain made a motion that every application must be date stamped, time recorded, and initialed. Ms. Dodge seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Swain– Yes;Mr. Heffernan – Yes; Mr. Hetu – Yes; Mr. Aubertin –Yes; andMs. Dodge- Yes. The Chair declared the Motion passed.

## **ADJOURNMENT**

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

A Roll Call Vote was taken: Mr. Swain– Yes;Mr. Heffernan – Yes; Mr. Hetu – Yes; Mr. Aubertin –Yes; andMs. Dodge- Yes. The Chair declared the Motion passed.

The Chair adjourned the meeting at 8:02pm.

