

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
26 Intervale Drive, Fire Department Training Room
NEW HAMPTON, NH 03256**

August 5, 2020

MEMBERS PRESENT Regular members: Mr. Tierney, Mrs. Belanger, Mrs. Arsenault, Mr. Livernois & Mr. Newman.

OTHERS PRESENT Administrative Assistant Mrs. Vose

CALL TO ORDER Mr. Tierney called the meeting to order at 7:00 PM.

MINUTES Mrs. Belanger made a motion, seconded by Mr. Livernois, to approve the minutes of 6/3/20 with the following change:

1. Pg. 4, last line – remove “)”.
Vote was unanimous.

Mr. Newman made a motion, seconded by Mrs. Arsenault, to approve the minutes of 6/16/20 with the following change:

1. Pg. 3, 5th paragraph, 1st sentence – change parking “for 3 vehicles” to “for 2-3 vehicles”.

Vote was unanimous with the exception of Mr. Livernois, who abstained from the vote as he was not present for the site visit and meeting.

Mr. Livernois made a motion, seconded by Mrs. Arsenault to approve the minutes of 6/23/20 with the following changes:

1. Pg. 1 - remove Mrs. Belanger under Members Present
2. Pg. 2, 2nd to last paragraph – “relative to Cove Way ...” change “begin” to “being” a private road.
3. Pg. 3, 5th paragraph – change date of when Mrs. Arsenault looked at the Airbnb listing from “6/16/20” to “6/3/20” and change parking for “3” vehicles to “2-3” vehicles.

Vote was unanimous with the exception of Mrs. Belanger, who abstained from the vote as she was not present for this meeting.

Mr. Livernois made a motion, seconded by Mrs. Belanger to approve the minutes of 7/8/20 as written. Vote was unanimous.

CORRESPONDENCE Mrs. Vose advised that the only correspondence was from Ms. Traynor’s lawyer who has requested a rehearing.

MOTION FOR REHEARING Mr. Tierney advised that Ms. Traynor’s attorney has requested a rehearing. Board members were provided copies of RSA 677:2 and RSA 677:3. Mr. Tierney pointed out that RSA 677:2 it states that the board may grant a rehearing if in its opinion good reason is stated in the motion. Mr. Livernois said the board needs to determine what good
Wendy Traynor, 3 Cove Way, Tax Map U-13, Lot 14, for a Special Exceptions under Article IV, Section

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*A(3) of the New Hampton
Zoning Ordinance.*

reason is such as the board making a mistake, misapplied the law, misunderstood the facts, or failed to consider something during the hearing process.

Mr. Livernois said he read the motion and reviewed the minutes and did not feel the board made a mistake in law or fact and doesn't think the attorney has pointed out anything in their motion that shows a mistake requiring a rehearing.

As the motion for rehearing mentioned that Ms. Traynor would be getting a new survey done, Mr. Newman confirmed with Mr. Tierney that this motion for rehearing is based on what had transpired during the hearing process with no new, additional information or testimony taken, in which to consider a rehearing. Mr. Tierney said there was an older survey in the property file but said even with a new survey he didn't see how that would change the concerns the board had with the property and the use. Mr. Newman said the motion, under item 3, states the board didn't properly see the markers and therefore the parking would be larger than the board thought when the site visit was performed. Mr. Livernois pointed out that it says the board relied on erroneous assumptions of the property lines but never states what the board should have relied on that they didn't. The board agreed they relied on the facts available.

Mr. Tierney said that Item 2 (in the motion for rehearing) states the board relied on erroneous assumption the parking must accommodate parking for 6 guests, but did not recall the board ever specifically saying that. Mrs. Belanger read 6/23/20 minutes where there was concern to whether the parking was appropriate was 6 guests and the discussion was that there was space for only one vehicle with additional vehicles needing to park at the emergency turnaround. Mr. Livernois pointed out that the statement about 6 guests came from Ms. Traynor as she is the one who said she allows up to six guests so it wasn't the board who said she had to supply parking for 6 people. Mr. Newman said her Airbnb listing states she can accommodate up to 6 people and Mrs. Arsenault added that when she looked at the ad on 6/3/20 it also said parking for 2-3 vehicles. Mr. Livernois said the motion also implies that the board could have restricted the number of people Ms. Traynor rents to. Mr. Newman pointed out that the board had discussed placing possible conditions on any approval to satisfy all their concerns agreeing that it would have been difficult. Mr. Tierney said the board dealt with the criteria that it was an adequate and appropriate facility for such use and the board agreed the property was not adequate for 6 people. Mrs. Belanger said Ms. Traynor stated on 6/3/20 that there is one bedroom and that she rents to 5-6 people, though would prefer renting to only one couple as people push the limits.

Mr. Tierney said Item 4 (in the motion for rehearing) states that the ZBA was influenced by incorrect or immaterial statements made by a Board member and abutters concerning parking and that the applicant

has first-hand knowledge that there is parking for 2 vehicles and additional parking is available at the applicant's property down the road. Mr. Tierney pointed out that this statement was made when the board had already gone into deliberations and was no longer taking any testimony. Mr. Tierney advised that the regulations for a parking space is 10'x20' which would be difficult to meet. Mr. Newman said the statement about parking at Ms. Traynor's other property doesn't apply as that property could change ownership in the future. Mrs. Arsenault expressed concern with Ms. Traynor saying additional vehicles could park at the turnaround when the turnaround is there for emergency vehicles therefore Ms. Traynor couldn't authorize its use. There was discussion on access and that 3 Cove Way is accessed by a right of way. Mrs. Vose advised Anchorage Road and Cove Way are private roads.

Mr. Tierney advised that Item 6 (in the motion for rehearing) it states the board relied on abutter's testimony who expressed a dislike for short-term rentals that do not pertain to the application. He pointed out that there was testimony from the immediate abutter Mr. Allen through a letter submitted.

There was discussion on which properties had rights to the beach but it was not known who did and who didn't. Mr. Newman said under Item 5 it was noted the board was influenced by incorrect statements about the beach use by the renters. The board recalled the abutters brought up the use of the beach. Mr. Newman said Ms. Traynor made the statement that the renters do not use the beach but in her Airbnb listing it says "feel free to read on the beach" and that is her advertising. He does not recall any beach on her property as it is only rock and a dock, and the board agreed. Mrs. Belanger said that in the minutes of 6/16/20 Mr. Tierney asked if there were any common areas shared by the association in the vicinity of where the board was standing at 3 Cove Way during the site visit. Ms. Traynor had replied saying it wasn't very clear, neither were the easements. Ms. Traynor had then said that people who do not have waterfront lots feel that those who do – have no rights to the beach area, though she doesn't see that in her deed. Mrs. Belanger said Ms. Traynor is the one who brought up the beach. Mr. Livernois advised that reasons for denial had no mention of the beach area.

Mr. Tierney advised that on Pg. 4 of the motion it states the board improperly declined to allow the applicant or individuals to speak in favor to testify. The board strongly disagreed with this statement and only recalled a neighbor, Mr. Doyle, who wasn't present until the 3rd meeting on 6/23/20, who appeared upset and wanted to speak but was advised that the board was already in deliberations. The board did advise Mr. Doyle that they had read his letter into record at the hearing on 6/3/20. The board said there was support of the short-term rental use in that letter but took issue with extra vehicles blocking his parking on occasion and that the right-of-way is something they own, that the renters pass through and that Mr. Doyle said the beach rights do not

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belong to 3 Cove Way. Mrs. Arsenault said there was an unknown woman present on 6/23/20, who hadn't attended the previous meetings or site visit, but did not speak as the board was in deliberations.

Mr. Livernois made a motion, seconded by Mr. Newman to deny the motion for rehearing. Vote was unanimous.

ADJOURNMENT

Mrs. Belanger made a motion, seconded by Mr. Livernois, to adjourn at 7:46 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose, Administrative Assistant

DRAFT