



TOWN OF WAKEFIELD, NEW HAMPSHIRE  
LAND USE DEPARTMENT

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MINUTES OF THE ZONING BOARD OF ADJUSTMENT MEETING  
15 October 2018

Approved: 11/19/2018  
~~Draft: 10/17/2018~~

MEMBERS		ALTERNATES		OTHERS	
Don Stewart, Chairman	X	Doug Stewart		Victor Vinagro, Land Use Clerk & Code Enforcement Officer	X
George Frothingham	X	Robert Baxter		Rick Sager, Town Counsel	
John Crowell	X			Russ Bookholz, Code Enforcement Officer	
Judi DesRoches	X			Site Walks	S
Annie Robbins	X			Public Hearing	H

Also present were: Mr. and Mrs. Stump, Donna Martin, Doug Stewart, Janet Gray and Robert Baxter

A. CALL TO ORDER

A site visit occurred at 6:30 pm on this date. Present at the site visit were Annie Robbins, George Frothingham, Judi DesRoches, Russ Bookholz, Victor Vinagro, Don Stewart, and Janet Gray.

Don Stewart called the meeting to order following the Pledge of Allegiance at 7:00PM.

B. SEAT ALTERNATES

None

C. BOARD BUSINESS

None

D. PUBLIC HEARINGS

1. Application for appeal of administrative officer: Submitted by William and Janet Gray on property located at 190 Lord Road, Tax Map 52, Lot# 22.

All fees have been paid and advertisements have been posted, abutters notified. A Robbins brought up the fact that the applicant was past the 30-day appeal window and suggested waiving the time period.

**Motion: To waive the 30-day time period and allow the application to proceed**

**Made by: Annie Robbins**

**Seconded by: George Frothingham**

**Discussion: none**

**Vote: 5-0-0**

Janet approached the board and stated that a previous building inspector told her that the application for the structure she was looking to build would be acceptable if she met setback requirements. She was also told that due to the size of the structure only being 12x12, she would not need a building permit, only a setback permit. The Building department issued a building permit in June 2018. 7 weeks later she was informed she had to cease building, after the lot was cleared, slab was set, etc. The reason given was due to setbacks, and she is looking for answers as to why she cannot build, and she is appealing the decision made by the code/building officer.

Don Stewart asked if the building was constructed in a different spot than on the application, Janet stated, no. Don Stewart provided a copy of the application, and reviewed the proposed building. It was clarified that the proposed building on the application is where the building had begun to be constructed. The proposed fenced area is 150' deep and comes down to the 30' mark on one side of the property and the 20' mark on the other side.

Janet spoke about the reason for the structure, her horse. 22-year-old horse with medical problems, the structure is for the owners to care medically for the horse on the property versus having to travel to provide care.

A Robbins asked if any building activity occurred after Janet received the letter from the Code Enforcement officer, Janet stated yes, everything had been completed on the building with the exception of the cedar shakes. After Janet received the letter, the cedar shakes were put on the structure to protect the building, but nothing else. A Robbins asked if the owner was facing any fine or enforcements currently from the town, Janet stated no.

J DesRoches asked how far back the structure is from the lake, Janet stated approximately 450 feet, and it is approximately 150 feet from the road. G Frothingham asked the owner why they did not apply for a variance, Janet stated she was advised by her attorney to appeal the decision. G Frothingham stated that her arguments for the appeal fit for arguments for a variance, he stated that if she was to apply for a variance, which he suggests, he would vote in approval on said variance. G Frothingham added that based on all the information given, it

appears that the code enforcement officers ruling was correct. So, given that knowledge, when the time comes he will vote to deny the appeal, but reiterated that if she was to apply for a variance, he would vote to approve the variance. G Frothingham asked V Vinagro if the owners applied for a variance, how quickly could the advertisement and notices be completed. V Vinagro stated two weeks.

Janet added that she has nothing against the code enforcement department, she applied to appeal due to the amount of money lost from this entire ordeal.

Don Stewart opened the public comment portion of the hearing

No public comment in favor of the appeal.

Don Stewart asked for the code enforcement officer to speak.

Russ approached the board with copies of a letter, a map and an affidavit from the owners. In the affidavit the owners state the barn on their property is on agriculturally zoned land, and state where the structure would be placed. Russ informed the board that the structure is 75 feet closer to the lake than in the affidavit. Russ also indicated that the zoning for personal agriculture does not allow any hooved animals in the R-2 zone. Russ had concerns about having a sickly animal so close to the waterfront, as well as the possibility of the owners acquiring more animals on the property than the single horse. Manure storage and rain water run off was another concern. Russ also added that the location is clearly in the shoreland district, and hooved animals are not allowed.

J DesRoches asked Russ if it would be possible for the owners to make adjustments to the area of the structure, to mitigate against run off into the lake. Russ stated that was not in his job description to say if the owners could do that, as he is not an engineer.

Russ was not aware that this structure was being built for a horse barn until he went to the site to perform a setback check. The letter that was sent to the owners to cease construction was sent on July 19, 2018, it was within a week of that letter being sent that Russ was made aware that the structure was going to be a horse barn.

John Stump of 40 Lord Road, abutter, spoke in opposition of the application. He spoke specifically with concerns about runoff into the lake.

Don Stewart closed public comment portion of the hearing.

Janet asked to comment on a few items, Don Stewart allowed her comments. Janet stated that Russ never saw the barn, but that he came to her door indicating that he had received a written complaint about the barn. Janet also added that she plans on bagging the manure, not having a pile of it.

The Board discussed the information given regarding the appeal. It was agreed by members that the Code Enforcement officer was correct in the denial of the application. J DesRoches added that if the board allows this application to go through, they set a precedent for allowing hooved animals around the shoreline, and that's a slippery slope for water quality.

**Motion: To deny the application for an appeal**

**Made by: George Frothingham**

**Seconded by: Judi DesRoches**

**Discussion: none**

**Vote: 5-0-0**

The board informed Janet that a written issuing decision of denial will be sent to her within 5 business days. Janet asked if it was worth applying for a variance, the board suggested talking to her attorney for advice on the matter. It was suggested that due to some of the above comments from the board members regarding the appeal, it may not be an easy process following the appeal tonight. But if she chooses to apply for a variance, she can request a meeting for the variance application sooner than the next normally scheduled meeting, to expedite the process. Janet thanked the board

#### E. BOARD BUSINESS

None

#### F. APPROVAL OF MINUTES

August 9<sup>th</sup> and August 16<sup>th</sup> meeting minutes

**Motion: To accept the July 9<sup>th</sup> minutes as written**

**Made by: Annie Robbins**

**Seconded by: Judi DesRoches**

**Discussion: none**

**Vote: 4-0-1**

**Motion: To accept the July 16<sup>th</sup> minutes as written**

**Made by: George Frothingham**

**Seconded by: Judi DesRoches**

**Discussion: none**

**Vote: 3-0-2 (?)**

#### G. CORRESPONDENCE

None

H. SET NEXT MEETING DATE

November 19, 2018

I. ADJOURNMENT

**Motion: To adjourn**  
**Made by: George Frothingham**  
**Seconded by: Annie Robbins**  
**Discussion: none**  
**Vote: 5-0-0**

Respectfully submitted, *Jeanne Paul*