

**ALSTEAD ZONING BOARD OF ADJUSTMENT**  
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**MEETING MINUTES**  
**March 7, 2016**

Note: These minutes are furnished for public inspection in accordance with RSA 91-A:2 and are unapproved until offered for disposition by the Board at a regular meeting. **ACCEPTED AS REVIEWED 5/2/16.**

ZBA Members present: Dennis Molesky/Chairman, Sam Sutcliffe, Joe Cartwright, Kevin Clark, and David Konesko/Alternate&PB Member.

Molesky/Chairman opened the Meeting at 7:30PM. Member Konesko was appointed a Full Member for the purposes of this meeting. The 2/1/16 Meeting Minutes were reviewed. A Motion (Clark/Cartwright) was made to accept them as corrected. Motion passed. A review of the 1/4/16 Minutes were begun, as time permitted before the scheduled DeLotto continuation hearing.

At 7:50PM the continuation Public Hearing for an Application #4/2015 for a Variance for Robert DeLotto of 11 Prospect Street, for Lot #1, Tax Map #11 in Alstead, NH concerning Article III Section E 3 a, b, and c to allow for a garage to be built within two of the required setbacks was opened.

DeLotto corrected some measurements and information as reported in the 1/4/16 Minutes -including that the access road that Huffling uses is 8-feet from his property line; that it is a chestnut, not cedar, frame to be used for his garage structure; that he could not find a recorded survey; and that he spoke to both VanAlstyne and Rogers again, who, according to DeLotto, had no problems with his proposal, but were reluctant to write letters indicating such. DeLotto also explained that he did some calculations regarding how a 2-foot snowfall would come off his proposed garage roof towards the access road that Huffling uses – stating that it would fall about 5-feet off the edge of the roof (based on the current pitch of his house, which is equal to the proposed pitch for his garage). DeLotto added that he was prepared to put snow guards up as well. DeLotto clarified that the existing woodshed is actually 21'6” X 12'3” - which was the actual measurement, vs. what was reported on the tax map. DeLotto commented that without even obtaining a Variance, if he was allowed the full 50% increase in size, he should be able to have a 395-square foot shed, vs the 263-square foot shed.

Konesko asked DeLotto where he planned to place the snow after it comes off the roof. DeLotto stated it would not interfere with access road(s). Molesky stated he spoke to VanAlstyne as well, who verified he had no problems with the proposal - his only concern was to make sure snow was not an issue for Huffling accessing her home.

Brief discussion took place regarding changing the direction of the pitch of the roof. DeLotto stated he was not sure if he could use the Right-of-Way to access his garage; and other than the snow concerns, there didn't seem to be a reason to change the direction – and he would prefer to keep the pitch equal to that of the house.

The Board reviewed what was asked as follow-up from the last Hearing – see a lot survey, snow falling off the garage roof, if neighbors agree with the pin locations and easement for maintenance. DeLotto stated that VanAlstyne had a survey done, but never had it recorded. Sutcliffe stated he did an on site-visit, and did not see any concerns with the pins (that they looked legitimate). Molesky stated he did a site visit drive through as well.

DeLotto clarified that there is less than a foot (8" exactly) between the existing woodshed and the Rogers property line now, and he had plans to keep the same distance to the rear of the property, which will keep 3' between the house and the proposed garage. Konesko asked DeLotto about the possible scenario that the neighbors built a fence along the rear or side property line – how would he perform maintenance on his proposed garage building?; and the fact that the roof overhangs right to the property line, placing any rainfall run off onto the traveled way; and how does this affect the use of land for all potential future property owners. DeLotto pointed out that any hardship created is on him, not the abutters/neighbors – that it limits his ability to easily maintain his building, not them to build a fence.

A Motion (Sutcliffe/Clark) was made to close the hearing at 8:28pm. Motion passed.

Deliberations began. Sutcliffe stated that a landowner had the right to use their land as they see fit as long as it is reasonable. Cartwright stated that it appeared that DeLotto had the right to build up to a 19'9" structure to be in compliance with the current town ordinance (a 20X19'9" building), leaving only a 5-square foot difference on what he proposed to build. Molesky and Cartwright stated that in order to grant the Variance then the Board would need to consider all the concerns brought up at the initial Hearing. Molesky stated that allowing this by right of the ordinance, Zoning Officer Waldmann could confirm the measurements and issue a Building Permit. Molesky stated he still had a concern with Article III Section E 1 aa. Cartwright stated he had some concerns with water run off with a rain storm, that could potentially create ruts, and the concern that the issues, as made in the minutes, are not being adequately addressed. Molesky reminded the Board Members present that they had originally wanted to see a lot survey, and a maintenance easement, but feels several of the issues would be addressed if the snow guards are placed on the roof..

A Motion (Clark/Cartwright) was made to close the Deliberations. Motion passed.

Molesky reviewed the criteria by randomly polling the Members present:

As it pertained to criterion 1) Granting the Variance would not be contrary to the public interest – Members Sutcliffe and Cartwright were in agreement that this criterion was met; Members Clark, Konesko and Molesky were not.

As it pertained to Criterion 2) The use is not contrary to the spirit of the Ordinance – all Members agreed it met this criterion, and there were no further comments.

As it pertained to Criterion 3) Granting the Variance would do substantial justice - Members Molesky, Sutcliffe, Cartwright and Clark agreed it met this criterion; Member Konesko did not feel this criterion was met.

As it pertained to Criterion 4) Granting the Variance would not diminish surrounding property values – Members Cartwright and Sutcliffe felt this criterion was met; Members Konesko, Clark and Molesky did not.

As it pertained to Criterion 5) Denial of the Variance would result in unnecessary hardship to the owner seeking it; special conditions of the property distinguish it from other properties in the area so 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 – Member Sutcliffe felt this criterion was met; Members Molesky, Konesko, Clark and Cartwright did not feel this criterion was met.

Based on this vote it was determined that the Variance did not pass based on criterion 1, 4 and 5. DeLotto was thanked for his efforts for presenting a very thorough application. Member Konesko pointed out that the 20'X19'9" that DeLotto felt he could build by right covers square footage, but not clearly indicate the location of the building, and where the encroachment is located. Konesko felt that DeLotto would only be allowed to

increase 6'1.5" toward the rear of the property line, which would be in compliance with the intent of the ordinance.

A Motion (Cartwright/Sutcliffe) was made to re-open the deliberations and the Hearing based on this information. Motion passed. Sutcliffe pointed out that the building of the proposed garage does not impede with Hufflings use of the Right-of-Way to her property, and that gutters can be installed on the roof. DeLotto pointed out that his property sits downhill of the VanAlstyne property, so all water would run toward his property and buildings, not the VanAlstynes or Huffling property or buildings.

The criteria were revisited:

On Criterion 1 – Member Cartwright, Sutcliffe and Molesky felt it was met; Members Konesko and Clark did not.

On Criterion 2- all 5 Members felt it was met.

On Criterion 3 - Members Sutcliffe, Cartwright, Molesky, and Clark felt it was met; Member Konesko did not.

On Criterion 4 - Members Sutcliffe, Cartwright, and Molesky felt it was met; Members Konesko and Clark did not.

On Criterion 5 - Member Sutcliffe, Molesky and Cartwright felt it was met; Members Konesko and Clark did not.

Members Konesko and Clark did not change their vote from the original polling.

At 8:58pm, Chairman Molesky stated that based on the new evidence and the right to have a non-conforming building the Variance request had passed. There were no conditions.

The Members continues reviewing the 1/4/16 Minutes. A Motion (Cartwright/Clark) was made to accept them as corrected. Motion passed.

Member Konesko pointed out that additional Members were needed, as there would be instances that he would need to recuse himself from future Hearings due to a new job he has.

At 9:14PM a Motion (Clark/Sutcliffe) was made to adjourn the Meeting. Motion passed.

Respectfully submitted,

Melanie Marsden/Administrative Assistant

**The next regular meeting is on Monday, 4/4/16 at 7:30PM at the Alstead Municipal Offices.**