

ALSTEAD ZONING BOARD OF ADJUSTMENT
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MEETING MINUTES
November 6, 2017

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 CORRECTED 12/4/17.**

ZBA Members present: Dennis Molesky/Chairman, Joe Cartwright, Sam Sutcliffe, Kevin Clark and David Konesko/Alternate&PB Member. Alan Dustin/Zoning Officer was also present, as was Hans Waldmann, former Zoning Officer, – as he plans to become an Alternate.

Molesky/Chairman opened the Meeting at 7:30PM. Steve Schoppmeyer/Real Estate Agent was before the Board to discuss a pre-existing non-conforming lot (Map 23/Lot 14) that has no road frontage, but is an existing lot of record. Sandra Smith owns the lot, and has a potential buyer for it – but the buyer wants to know if it is a potential building lot. Schoppmeyer explained that Lon Livengood had conducted perk tests on the site. Schoppmeyer had provided a packet of information to the Board. He felt this lot of 39.8 acres could be considered a building lot. as long as all other setback requirements were met. The Board is to look into this issue further, and to get back to Schoppmeyer via email/letter.

At 7:36PM Susie Rogers/Abutter, and her son, Jordan, were before the Board with a concern regarding the Variance granted to Robert DeLotto (#4/2015) at his Variance Public Hearing back in 2016. J. Rogers stated they felt the Board had been misled on this Variance, and were concerned with his requesting an additional Variance to his same property. Member Sutcliffe stated he felt the time had run-out as far as expressing concerns over the prior Variance request, and that their concerns would have no bearing on the new Variance before the Board. J. Rogers stated that the original Variance was for a 20X19 garage (pointing out that the original proposal said residential dwelling garage), and that they intended to contest the Variance being sought tonight. DeLotto asked for clarification as to what areas they felt he had misled the Board – J. Rogers stated 1) the size of the building; 2) the placement of the garage; and 3) how the building de-valued neighboring properties. DeLotto stated that his structure was 20-X20 in size, and that he had no intention of using it as living space.

Abutter Benjamin VanAlstyne spoke next, stating that he did not agree with the placement of the pins, and that he had had a conversation with DeLotto and his late wife. VanAlstyne stated he also had a conversation with Member Molesky regarding concerns of the snow coming off DeLotto's roof into the road. VanAlstyne pointed out that that very concern was noted in the 3/7/16 Meeting Minutes. VanAlstyne stated that the drip line from the roof was currently 1-foot over onto Vanalstyne's property. Mary Lou Huffling/Abutter was also present, and stated that the Right-of-Way (ROW) she accesses her property by is actually a property line and a deeded ROW.

VanAlstyne stated that DeLotto built a berm all around his property to control any rain run-off from his (VanAlstyne's) property from entering his own (DeLotto's), and that the landscaping actually included some of VanAlstyne's land. Overall, VanAlstyne expressed concern over the information that DeLotto had provided the Board. S. Rogers stated she feels DeLotto had encroached on her land as well, and had cut trees that they had discussed and had agreed to leave alone. VanAlstyne stated the 10-over-12 pitch of the roof, even with snow guards, still causes snow to fall 6' into Huffling's ROW traveled path.

Molesky stated he had visited the site earlier in the day, in the rain, and did witness the rain being pitched into the ROW. Molesky stated it appeared the drip edge was only about 3 ½ feet off the edge of the traveled way. Molesky did confirm that the prior Variance had no bearing on the Variance before the Board, but wanted to go on record as saying he felt the Board erred on granting the prior Variance – and that he had changed his vote; yet the appeal time for this Application had passed. Molesky stated that when the Board did not get the survey they requested in January of 2016, after they requested it, that technically they did not have enough evidence presented to make a decision – but what re-opened the Public Hearing was the right of the Applicant to add an additional 50% encroachment, as stated in the town's ordinance.

DeLotto stated he had his survey now, and that the pins were put in place 4 years ago; and there was a pin in place that his Surveyor had found. DeLotto explained that his Surveyor put his property on a 'best fit' plan, as there were no recorded surveys of the abutting lots to compare it to. DeLotto also stated that his Surveyor felt the ROW was 8' from the property line. VanAlstyne stated he felt the ROW location was moved. DeLotto stated his Surveyor found evidence of an old iron fence, and used it as an 'historical use of the old schoolhouse property'; and that his Surveyor also found information that the fence extended 5 ½ rods, which would place his property into Roger's current driveway.

S. Rogers stated that all the years that Steve Allen owned the property, Allen had told her that she owned the trees – and that she paid to maintain them, and even for damage caused to some of Allen's property after a large limb fell. S. Rogers felt that when DeLotto removed way more trees than they had discussed, that he had devalued her property; and she is quite upset with the mess he has in his front yard, and that it is affecting her ability to sell her own property.

At 8:15PM the Public Hearing for Application #4/2017 for a Variance for Robert DeLotto of 11 Prospect Street, Alstead, NH, for Lot #100, Tax Map #11 concerning Article III Section E 3 c, to allow for the construction of a woodshed within the 30-foot side setback from the property, was opened. In accordance to the Rules of Procedure, Alternate Member Konesko was appointed a Full Member for the purpose of the scheduled Public Hearing. VanAlstyne expressed concern that the certified letter was only addressed to him, and not his wife. Members stated that the notifications were followed, in accordance with the Rules of Procedure and the State RSA's – as long as the Applicant gathered the most current information on file with the town.

The Application was reviewed for completeness. It was noted that the necessary dimensions were not noted on the Plan, and DeLotto was allowed to add them. At 8:37PM DeLotto presented his proposal – stating that he had had a prior conversation with Abutter Rogers about her not wanting to see his property, that she felt how it looked was affecting her ability to sell her property, and that he had agreed to put up a fence. DeLotto stated he also decided to install wood bins (20' X 6') – and did not realize he needed a Building Permit for them as they were under the accessory size building limit that is allowed without a Building Permit – and that he did not realize that setbacks applied in this case either. DeLotto stated that historically there had been a woodshed on the property, that had been taken down in order to build the garage.

DeLotto also stated that he felt the Town's definition of structure, when 'essential service' is mentioned – should apply to wood, as it is essential to have a heating source where we live. DeLotto explained that he intended to have a wood-fired furnace in the cellar to heat his house – as all he has now for heat is a wood stove.

DeLotto provided an overlay showing that the only place that he could place a wood bin was directly in front of the house, and front steps, in order to meet all the setback requirements. DeLotto stated he owns an old lot, and that setbacks don't apply well to it. DeLotto stated he does not feel there is a reasonable place to put the wood

bin, and that it should not be considered a luxury to have a place to store firewood if it is used as the only means of heat to his home.

Cartwright asked DeLotto if he had considered placing the wood bin on the property line about 3 ½ feet from Roger's carport, where both roof lines run east to west, and that location could help block Roger's view to his property; or if he had considered placing the wood bin along the south side of the new garage. DeLotto expressed concern with placing the wood bin so close to his garage, and that it would interfere with the windows on that side of his garage. Molesky asked DeLotto if he had considered the essential need for wood before replacing the existing woodshed with a non-essential garage.

Konesko asked DeLotto about the fence he planned to install – DeLotto stated it was about 5' high at the ends, and scalloped down to 4' in the center of each section – and that it was about 15' long to cover the entire opening. Konesko asked DeLotto if he would entertain the idea of rotating his shed 90*, and extending the length of the fence – to avoid any snow run-off onto neighbors lawn. Cartwright spoke about an option of moving it 5' off the property line – which would also help with avoiding snow run off onto a neighbors property. DeLotto stated he did not feel that location would be attractive/aesthetically pleasing.

At 9:03PM the floor was opened to Abutters to speak. J. Rogers stated that he felt this proposal affects public interest, as all current Abutters were present and had concerns with DeLotto's intentions. J. Rogers further pointed out that DeLotto chose to remove an existing woodshed because he didn't need it – and built a garage; but now he was back before the Board because he wants a wood shed. J. Rogers stated that DeLotto kept speaking about aesthetics and concerns with termites if the wood was stored too close to his house or garage – but that he showed no concern for those same effects for his neighbors. J. Rogers expressed great concern about placing the wood bin near his mother's car port – as the snow and rain run-off of both structures will make an even bigger problem than what exists from run-off of the garage DeLotto built.

VanAlstyne pointed out that this building was not just a side setback concern; that it was a rear setback concern as well – and had not been advertised in that manner. Cartwright agreed that the notifications to Abutters were improper. A Motion (Sutcliffe/Clark) was made to recess the Hearing and to require new notifications and legal line ad posted in the Keene Sentinel, and to continue the Hearing on December 4, 2017. Motion passed.

S. Rogers asked if DeLotto's current fence project could continue. Molesky stated it could, as it was located all on DeLotto's property. It was noted that if a sketch plan had been submitted, that showed existing setback measurements, then Marsden would have known the rear setbacks were an issue too. DeLotto asked the Board if they felt he should have his Surveyor come to the December continuation Hearing – Member Konesko stated it would be helpful, as there seemed to be questions about the location of one or more pins.

Marsden to also follow-up with Peter Rhoades on the landlocked Sandra Smith property (Map 23/Lot 14) – and to see if this parcel existed prior to 1989 (per Article VI E) to determine if it is a buildable lot..

At 9:45PM a Motion (Sutcliffe/Cartwright) was made to adjourn the Meeting. Motion passed.

Respectfully submitted,

Melanie Marsden/Administrative Assistant

**The next regular meeting is on Monday, 12/4/17 at 7:30PM at the Alstead Municipal Offices.
The DeLotto #4/2017 Hearing has been recessed until 12/4/17 at 7:45PM.**