

ALSTEAD ZONING BOARD OF ADJUSTMENT
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MEETING MINUTES
May 3, 2021

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 6/7/21.**

ZBA Members present via In-person (IP), Google Meet (GM) or Teleconference (TC): Dennis Molesky/Chairman (IP), Joe Levesque (GM), Kevin Clark (IP), Mike Rau (IP), Joe Cartwright (GM) and David Konesko/Alternate Member (GM). Prescott Trafton/Road Agent (IP) was also present. Gordon Kemp/Planning Board Member was also present.

Molesky opened the meeting at 7:35PM. The 4/5/21 Minutes were reviewed. A Motion (Clark/Cartwright) was made to accept them as corrected. Motion passed.

At 7:45PM the John and Amanda Lyman continued Variance Public Hearing was re-opened, regarding property located on 57 Griffin Hill Road, Alstead, Tax Map 9, Lot 12, concerning Article III Section E3c and Article VII A1a. Amanda and John Lyman were present via (GM), and Prescott Trafton/Road Agent was present via (IP). Member Clark was recused from being a voting Member, as he is a neighbor. Member Konesko was appointed Full Member for the purposes of the Hearing.

The Deliberations were opened. The Lymans had dropped off the Deed; and an email from Member Levesque to the Select Board was briefly reviewed. Molesky reviewed the Deed the Lyman's had submitted, the 3rd paragraph down, as directed by the Lymans – but it did not pertain to the Town owning/taking over the Right-of-Way. Trafton/Road Agent spoke, stating the biggest problem he has with the structure location has to do with plowing. He said when he became the Road Agent the structure was there, but a fence has since been added. Trafton stated that the former Road Agent, David Crosby, used to plow down the hill and turned left onto that Right-of-Way, and off-loaded snow where the carport is located now. Trafton explained that managing the plowing of that area has been fairly easy because of the minimal snow storms, and accumulations, in recent years. Trafton stated they are now plowing up the hill on the Right-of-Way and pushing the snow across the road; then they turn right onto Griffin Hill Road to continue plowing. Trafton stated that they can manage this with the smaller plow truck, as the larger one no longer works in this situation – and it is proving to be hard. Trafton also stated that it takes more time to plow that road now, doing it this new way.

Levesque pointed out that the Right-of-Way is not even showing up on the Town's Tax Maps, and he would like to get that cleared up. Levesque stated if the best solution is to make that portion a Town Road, if it is in the best interest of the Town, then he is willing to pursue that. J. Lyman asked if part of their land became a Town Road if their taxes would lessen - Levesque stated he was not sure. Levesque stated that the Town has been maintaining it like a town road. Trafton pointed out that the steepest part of Griffin Hill Road is from the structure on down the hill.

Cartwright stated if the Right-of-Way is not owned by the Town, we don't even need to maintain it. Cartwright asked Trafton if he felt it was necessary to keep the Right-of-Way open. Trafton stated he felt it was good emergency access, and it could be in the Town's best interest to keep it plowed because of past flooding and ice issues. Levesque stated * he was bringing this issue to the Select Board to discuss; a Public Hearing will possibly be held to see how others feel about maintaining the Right-of-Way. If the Town wanted to take this

portion over, it would need to be a Warrant Article at next year's Town Meeting. At 8pm the Board closed the Deliberations.

Molesky reviewed the criteria and the Board voted:

As it pertained to criterion 1) Granting the Variance would not be contrary to the public interest – all Members were in agreement that this criterion was not met.

As it pertained to Criterion 2) The use is not contrary to the spirit of the Ordinance – all Members agreed this criterion was not met.

As it pertained to Criterion 3) Granting the Variance would do substantial justice – two Members agreed it met this criterion; three Members did not feel this criterion was met.

As it pertained to Criterion 4) Granting the Variance would not diminish surrounding property values – all Members felt this criterion was met.

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 – all Members felt this criterion was not met.

At 8:15pm, Chairman Molesky stated that the Variance request had not passed for the setback requirements because -

- 1) This request does not meet setback requirements from the traveled way on two sides;
- 2) The structure, in it's current location, makes snow plowing by the Town vehicles difficult.

Molesky explained that the Lymans had the right to appeal this decision, and briefly explained the process.

A. Lyman asked if it is decided that the traveled way portion is just a Right-of-Way, not a Town Road, would that make a difference for the setbacks on their structure. Levesque stated that he intended to figure out the status of the Right-of-Way, where the Town stands on maintaining it, as well as the possibility for the Applicant (the Lymans) to sign a waiver of liability. Levesque stated *that the Town Attorney needed to be contacted on this matter. A. Lyman asked for clarification on the status – she was told that they were in a 'state of limbo' while the Town got this got figured out; and that they may still need to move the structure.

Rau pointed out that there is still an issue with plowing; Levesque agreed, but pointed out that the town has been plowing it all along and we know how to do it. Trafton inquired on where the Town stood legally, as the Town's road crew has been maintaining the Right-of-Way for decades – Levesque stated that the Town will need to consult with Town counsel to resolve the issue. The Town will not be fining the Lymans immediately, and the Lymans will be notified before any fines are assessed.

A. Lyman pointed out that the only maintenance the Town has ever done on the Right-of-Way is to plow it in the winter. Trafton agreed with her. Trafton added that a lot of work is done on Griffin Hill Road to maintain it. At 8:20PM a Motion (Levesque/Clark) to close the Public Hearing was made. Motion passed.

Marsden to *get a copy of the Building Permit for Ken Vivo Amore; emails from him were reviewed. Marsden *to call him about his questions; and to ask where the Demolition Permit is.

At 8:50PM a Motion (Clark/Cartwright) was made to adjourn the meeting. Motion passed.

Respectfully Submitted,

Melanie Marsden/Admin. Assistant