

**ALSTEAD ZONING BOARD OF ADJUSTMENT**  
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**MEETING MINUTES**  
**January 4, 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 CORRECTED 3/7/16.**

ZBA Members present: Dennis Molesky/Chairman, Joe Cartwright, David Konesko/Alternate&PB Member, and Hans Waldmann/Zoning Officer.

Molesky/Chairman opened the Meeting at 7:30PM. Members Sutcliffe and Clark were missing. The 12/7/15 Meeting Minutes were reviewed. A Motion (Cartwright/Molesky) was made to accept them as corrected. Motion passed.

In accordance to the Rules of Procedure, Alternate Members Konesko and Waldmann were appointed Full Members for the purposes of the meeting and for the two scheduled Public Hearings.

At 7:45PM the 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 required minimum setbacks from the side and rear lot lines, was opened. A butter representative Bob Lindemann was present, representing his step-mother Rita Pecora. Molesky/Chairman made the Applicant aware that he had the right to be heard before a full Board; DeLotto waived that right. The Checklist and the Application were reviewed for completeness. A Motion (Konesko/Cartwright) to accept the Application as complete was made. Motion passed.

DeLotto provided an overview of the proposal, explaining that his intention was to build a 20X20-foot garage in place of the existing woodshed – but in a slightly different foot print (the garage would be located 4’ from the house; whereas now there is not room to move between the woodshed and the house, even though they are not attached). DeLotto explained that this is a very small lot, and he has been working on restoring the old schoolhouse as his home. Molesky asked if there were pins set on his Lot – DeLotto stated they were, and were shown in the pictures he brought.

Molesky asked if Lindemann had anything he wanted to ask – Lindemann stated he was only there to listen, and had no comments. Molesky read into record a letter by Rita Eredics Pecora (which had been sent certified mail to the Select Board and regular mail to DeLotto).

A Motion (Molesky/Cartwright) was made to continue the Hearing until after the previously scheduled Hearing for Gene Wilson.

At 8:17Pm the Public Hearing for an Application #3/2015 for a Special Exception for Gene E. Wilson of 356 Forest Road for Lot #2, Tax Map #14 in Alstead, NH concerning Article III Section C Retail Business, to allow for firearms sales, gunsmithing activities and to manufacture ammunition for firearms, was re-opened. Molesky/Chairman made the Applicant aware that he had the right to be heard before a full Board; Wilson waived that right.

Abutters and interested persons in attendance: Karl & Kate McGrath-Townsend.

Molesky reviewed the process of the Public Hearing. Wilson questioned why Lot 14/1 had to be notified. Marsden explained that in accordance with the tax maps on file in town, that Lot 14/1 is considered a direct abutter. A Motion (Cartwright/Konesko) was made to accept the Application as complete. Motion passed.

Wilson provided an overview of his proposal, stating that he intended to sell and trade firearms – and that he had a license in the 90's that he had to give up because of his job. Wilson intends to have 5pm-9pm hours of operation Monday through Friday, and 9AM -5PM Saturdays (and Sundays as needed). Wilson stated that he had a Federal Firearms license, as well as approval from Alcohol, Tobacco and Firearms (ATF); and that he had a site visit from the ATF in September 2015. Wilson explained he still needed ZBA Special Exception approval, as well as, having learned he needed to contact the State to get an approved commercial Driveway Permit.

Cartwright asked how big his retail work space was – Wilson stated it was 30' wide and 40' long, with a 12' by 12' space designated for reloading ammunition. The Board pointed out he needed 200 square feet of gross area for parking, to allow for 6 spaces – Wilson stated he could accommodate that.

Molesky asked if test firing was part of the business – Wilson stated it was. Wilson stated that he had a designated shooting range for that across Warren Brook, and the potential buyers could shoot 3-5 rounds at targets framed into the bank across the brook.

Kate McGrath-Townsend inquired what type of signage Wilson planned to have. Wilson stated he planned to have one sign hanging on the garage showing hours of operation, and a small sign placed near the road. Kate also asked about security. Wilson explained that he had a double steel doors that are locked by a deadbolt. Kate also stated she was aware of new legislation under the Obama Administration, and asked if that would affect Wilson in any way. Wilson stated that it could to the extent that he (as the dealer) would be required to conduct a background check (which is now completed by the ATF).

Karl McGrath-Townsend asked how Wilson planned to secure the reloading room. Wilson stated that that space was off-limits to everyone but himself. Wilson stated that the Fire Department has seen how he stores his powders. Karl asked how much inventory of powder that Wilson intended to have on hand. Wilson stated up to 20-pounds, depending on the type (as different types of caliber require different powder types). Wilson stated he planned to store no black powder on the premises.

Kate stated that she was not crazy about a retail store being located ¼ mile from her house, and also had concerns with the noise from shooting. Molesky asked Wilson what he felt was inappropriate times for shooting to be allowed. Wilson stated that he intended for no shooting to occur after 7:30PM, and that test firing will only be allowed on Monday, Wednesday and Fridays.

Cartwright inquired if Wilson intended to have any employees- Wilson stated only himself.

Wilson explained that the ATF can visit his site to view his retail space and loading area at any time, with no notice – and will do so at least once a year.

At 8:54pm A Motion to close the Hearing was made (Molesky/Cartwright) Motion passed. The Deliberations were then opened.

Molesky stated that the Board needed to discuss conditions, such as hours of operation, test firing, driveway access requirements. Molesky also reminded the Board that any Special Exception granted goes with the land. Wording on conditions discussed:

1. Applicant receive a commercial Driveway Permit from NH DOT.
2. Business Hours are limited to 5PM-9PM Monday through Friday; and 9AM-5PM Saturday.
3. Test Firing to be limited to Monday, Wednesday and Fridays 5PM-7:30PM.
4. The business will meet all State and Federal requirements for a Type 01 and a Type 06 Federal Firearms License.
5. Any new signage will be compliant with the Town of Alstead Sign Ordinance and NH DOT sighting requirements.

A Motion (Cartwright/Konesko) was made to close the Deliberations. Motion passed. Discussion commenced:

As it pertained to criterion A) The proposed use is in an appropriate location by virtue of the adequacy of public roadways and the nature of surrounding development and land uses – all Members agreed it was.

As it pertained to Criterion B) the granting of the Special Exception would not reduce the value of any other property in the area, nor otherwise be obnoxious, injurious or offensive to the neighborhood – all Members agreed it met this criterion.

As it pertained to Criterion C) No nuisance or hazard to vehicles or pedestrians will result from the granting of the Special Exception – all Members agreed it met this criterion.

As it pertained to Criterion D) Adequate and appropriate facilities will be provided for the proper operation of the proposed use – all Members agreed it met this criterion.

It was determined that criterion E) Additional reports or studies may be required by the Board including but not limited to traffic; High Intensity Soil Survey; parking; stormwater, erosion and sediment control; and fiscal and environmental impact analysis was not applicable.

Molesky stated the five conditions, aforementioned.

A Motion (Clark/Sutcliffe) was made to vote on the proposal:

On Criterion A – all Members felt it was met.

On Criterion B - all Members felt it was met.

On Criterion C - all Members felt it was met.

On Criterion D - all Members felt it was met.

On Criterion E – none required.

Chairman Molesky stated that the Special Exception request for a Type 01 and a Type 06 Federal Firearms License had passed unanimously, with the five aforementioned conditions.

Wilson was given a copy of the Notice of Decision; \*Marsden to post it in the Keene Sentinel.

At 9:15pm the continuation Variance Hearing #4/2015 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 the required minimum setbacks from the side and rear lot lines, was re-opened.

DeLotto showed Board Members pictures he had taken of the existing conditions, and his Lot. DeLotto stated he was not sure of the Right-of-Way agreement that Abutter Mary Lou Huffling has over the land of Benjamin VanAlstyne. DeLotto explained that VanAlstyne has a Right-of-Way across his property onto VanAlstyne's own lot. DeLotto proposes his new building to be built 4 to 5 feet from the Right-of-Way that Huffling uses across VanAlstyne's Lot. DeLotto intends to use the same pitch (10 over 12) on his garage as is currently on the house. Konesko \*expressed concerns with access to the new building for construction or maintenance that could require access from Abutter's property, therefore stated a possible need for maintenance easements. Konesko asked about the construction details – DeLotto stated it was to be slab on grade, and he hopes to use a cedar timber frame for the garage structure.

At 9:29PM a Motion (Konesko/Cartwright) was made to close the Hearing. Motion passed. The Deliberations were then opened. Molesky stated that he would like to see the survey for DeLotto's Lot recorded (DeLotto can not locate it right now), as the structure he is proposing is located on a property line. It appears that one of the rear pins DeLotto located is from a survey that Heman Chase conducted; another rear pin is from a survey that VanAlstyne had done.

DeLotto stated that he had spoken to VanAlstyne about 6 weeks prior to this hearing, and VanAlstyne expressed no concerns with this proposal of building the garage and removing a few trees in order to be able to build. DeLotto also stated he walked the side property line with Abutter Susan Rogers, as both his existing woodshed and her barn are very close to the property line – and that she had not expressed any concern with this proposal at that time. \*Cartwright stated he would like to see both VanAlstyne and Rogers put in writing that they agree with the location of the two rear pins set.

\*Molesky expressed a concern with snow coming off the roof of the proposed garage (which will sit only 4 ½ to 5-feet from the Right-of-Way that Huffling uses to access er property) and causing blockage onto Schoolhouse Lane. DeLotto stated that he plans to use slate on the roof of his garage, just like what is on the house. DeLotto stated that the Right-of-Way is on the north side of the garage, and snow would tend not to melt. Molesky inquired if DeLotto would be willing to install a snow fence on the roof to help hold the snow in place; Konesko expressed a concern that snow weight could affect the structure if there was uneven/unstable weight distribution. DeLotto stated that he would be willing to plow if the snow fell in the Right-of-Way; Konesko stated that would have to be noted in an easement or the Deed to be enforceable. Cartwright inquired if the Right-of-Way could possibly be purchased from VanAlstyne.

DeLotto stated that he could change the direction of the pitch of his roof, therefore the snow could fall onto his driveway, not the Right-of-Way; and to the rear of his garage in a space not being used now beside Rogers' barn.

Different ideas discussed thus far were reviewed: \*the Board would like to see a lot survey; \*place a snow fence on the roof of the garage; \*neighbors need to agree with the location of the two pins; \*have a deeded provision for the Right-of-Way with a maintenance easement.

DeLotto commented that it was his understanding that he had the right, as his current building was 100% encroached, to build a 12'X18' garage (there is an 8'X12' building there now), and would only need a Building Permit.

Waldmann inquired how much space was proposed to be between the house and the garage – DeLotto stated 4-feet. Konesko asked why DeLotto had not considered building a garage in the front yard – DeLotto stated it was mainly for aesthetics, example, not placing a garage in front of a newly remodeled building.

A Motion (Molesky/Cartwright) was made to continue the Public Hearing until 1/18/16 at 7:30Pm. Motion passed. In the meantime, \*DeLotto is to talk to his neighbors regarding his specific plans, and the current placement of the pins. \*Cartwright also asked for dimensions from the corner of the house to the two located pins. Konesko asked DeLotto \*to find out if VanAlstyne has a recorded Plat survey (or to look for himself through the Cheshire County Register of Deeds).

At 10:08PM a Motion (Molesky/Cartwright) was made to adjourn the Meeting. Motion passed.

Respectfully submitted,

Melanie Marsden/Administrative Assistant

**The next regular meeting is on Monday, 2/1/16 at 7:30PM at the Alstead Municipal Offices.**

**The DeLotto Variance Public Hearing is scheduled for 7:30pm at the 1/18/16 meeting. (After the meeting was adjourned, DeLotto called to say that date did not work for him; a quorum could not be attained, and DeLotto was not available until 3/7/16 at 7:45PM)**