

ALSTEAD ZONING BOARD OF ADJUSTMENT
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MEETING MINUTES
December 4, 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 2/5/18.**

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

Molesky/Chairman opened the Meeting at 7:30PM. The 11/6/17 Meeting Minutes were reviewed. A Motion (Cartwright/Clark) was made to accept them as corrected. Motion passed.

The #4/2017 Public Hearing for a Variance request by Robert DeLotto was re-opened at 7:55pm. All Members present at the 11/6/17 Hearing were present; Molesky saw no need to re-appoint Konesko, as he was already recognized as a Full Member for the purposes of the Hearing. Abutters and interested parties present included: John Ryan, Robert DeLotto, Susan Rogers, Tom Rogers, Mary Lou Huffling and Benjamin and Emma VanAlstyne.

Abutter Emma VanAlstyne stated she feels like she was still not notified correctly, and feels offended that she is not being addressed correctly. The address provided to the Board was Emma Weightman. DeLotto stated he thought that was what she went by, as it is in her email address, and her son's last name – and he meant no offense. Member Sutcliffe stated that as she was present at the Hearing he felt that showed she had been adequately notified.

DeLotto started by stating he had taken into consideration both Cartwright's and Konesko's suggestion from the November Hearing, and had come up with another option of putting the units back-to-back, with the roof pitching North to South – which would prevent any run-off onto abutting properties. He stated the unit would be 69' from the road, 74' from the property line to the East, 50' from the ROW and 72' from the VanAlstyne property line to the rear. DeLotto stated he was trying to make reasonable adjustments to accommodate all concerns expressed at the last meeting. He stated the units would be 6' from the Rogers property line – which is the only encroachment this Variance is requesting. DeLotto stated the limitations of his lot cause there to be an encroachment. He stated the back-to-back units would be 10' wide and 12' deep.

Tom Rogers introduced himself and stated he was here on behalf of Susan Rogers. He commented that it appeared the survey map that the ZBA had continually asked for was finally here. T. Rogers stated that S. Rogers was adamantly opposed to any wood bin or fence being installed. T. Rogers stated that if DeLotto tried to maintain his fence, that could result in a case of criminal trespass. T. Rogers asked why DeLotto chose to install the fence with the nice side facing himself, not the Rogers' property. T. Rogers also commented that he found it interesting that DeLotto only changed the location of the bins after the Board suggested it, even though he had formerly expressed concern with aesthetics and where it should be placed. He added that he felt DeLotto presented misleading information at his previous Variance Hearing (#4/2015) pertaining to his garage. T. Rogers ended by saying any determination of property values – being diminished or not – need to be determined by a qualified professional, not by the Applicant. T. Rogers expressed concern that this survey map was not made available by the Applicant, nor reviewed by the Board, before this meeting.

Benjamin VanAlstyne stated that he had concerns about DeLotto's concern for aesthetics; and that he (VanAlstyne) had spoken to all the abutters/neighbors in the neighborhood about how they store their wood. B. VanAlstyne stated every household on Prospect and Pleasant Street, and how their wood gets stored in their garages, basement, in wood piles in their yard or on attached shed behind a barn. E. VanAlstyne stated DeLotto formerly stated he took down a woodshed because he did not need it, and he had wanted a garage instead – but now he seems to want a woodshed again. T. Rogers stated that he is concerned that the garage Variance approval (#4/2015) was made without the proper information. Sutcliffe stated that T. Rogers concern was not relevant to the current Hearing (#4/2017). Molesky did re-iterate that the Board was only considering the Variance request before it concerning the wood bins, regardless if he felt the Board erred in it's former decision ((with #4/2015). B. VanAlstyne stated he felt that decision (from #4/2015) has resulted in a seriously dangerous situation. Dustin stated that an appeal on that matter can no longer be made, and that the situation has been brought to the attention of the Select Board. Dustin continued to say the Select Board wanted to understand how the ZBA made their decision (on #4/2015) without seeing a survey map; and pointed out that the ZBA could have gone back to rescind their original decision. T. Rogers stated that no one wants to see the Town get sued regarding #4/2015. B. VanAlstyne stated he feels his rights have been diminished (pertaining to the #4/2015 decision), and he read the preamble to the Town's Zoning Ordinance aloud.

S. Rogers did corroborate that T. Rogers was speaking for her, as she feels so frustrated about the entire situation. B. VanAlstyne stated he felt hurt. Molesky stated that some of their anger and hurt needed to be directed at the Board for the #4/2015 decision that was made. T. Rogers stated that it appeared the Board has admitted to making a decision error with #4/2015, and that the Select Board has questioned it. T. Rogers expressed that the roof edges encroach on a property line. He wanted to know if it was the Abutters' responsibility to pursue legal recourse. Sutcliffe stated that the roof edges are within the property line. B. VanAlstyne showed pictures that portray the roof edges encroaching, and the drip line encroaching. DeLotto stated that the roofers he is currently working with suggest 24 snow guards get installed. Molesky pointed out that he knew someone that he could also talk to about snow retention. T. Rogers stated he has been in the roofing business for a long time, and he feels the butterfly units being suggested pertain to ice retention, not to snow retention.

A Motion (Sutcliffe/Clark) was made to close the Hearing at 8:52pm. Motion passed. A Motion (Sutcliffe/Cartwright) was made to open the Deliberations. Motion passed.

Discussion amongst Members ensued. Clark stated that DeLotto did have a cellar in which to store wood. Cartwright stated there were other possibilities to place the bins further from the front, side and rear property lines. Sutcliffe expressed a concern with the shedding of snow off the wooden bin roof. Cartwright inquired if usage made a difference – example, if it was a wood vs. utility shed being discussed. The Members did not feel there was. Molesky stated that he agreed with T. Rogers that property values, as noted in Criterion 4, needed to be determined professionally, and he did not feel this request fits the definition of a hardship on Criterion 5. Sutcliffe stated he felt Criterion 5 pertained to the size of the lot. Molesky stated DeLotto already has a varianced garage, and wood can be stored in that. Sutcliffe stated that DeLotto's alternative is to stack wood, which can be done anywhere, even along a property line – even though a neat wood bin would look better. Konesko stated he wanted to make sure the Board was looking at this proposal based on it's own merits – that no historical comments/situations were being considered. All agreed they were only looking at the #4/2017 Variance request. Sutcliffe stated he feels the small size of the lot is a big issue. Cartwright stated that no unnecessary hardship is created if the Applicant needs to stack wood outside.

A Motion (Cartwright/Sutcliffe) was made to close the Deliberations at 9:05PM. Motion passed.

Molesky reviewed the criteria by randomly polling the Members present, and explained that all 5 criteria must be met by the affirmative vote of at least three Members, otherwise the proposal fails:

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

As it pertained to Criterion 2) The use is not contrary to the spirit of the Ordinance – Members Cartwright, Sutcliffe, Konesko, and Clark agreed it met this criterion. Member Molesky did not.

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

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

At 9:15pm, Chairman Molesky stated that the Variance request had been denied.

There was brief discussion about the work Lisai's Market was doing, and the possible need for a Variance. Dustin stated he was able to issue a Building Permit with an option that did not require a Variance. The owner had filed two Building Permits, and paid two fees – all were in agreement that one Permit/fee could have been filed.

At 9:50PM a Motion (Clark/Konesko) was made to adjourn the Meeting. Motion passed.

Respectfully submitted,

Melanie Marsden/Administrative Assistant

The next regular meeting is on Monday, 2/5/18 at 7:30PM at the Alstead Municipal Offices.