

**ALSTEAD ZONING BOARD OF ADJUSTMENT**  
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**MEETING MINUTES**  
**May 2, 2022**

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 5/16/22.**

ZBA Members present: Dennis Molesky/Chairman, Mike Rau, Kevin Clark, Joe Levesque, David Konesko/Alternate Member and Allan Kauders/Zoning Officer.

At 7:30pm Molesky/Chairman opened the Meeting. The 4/3/22 Minutes were reviewed. A Motion (Clark/Rau) was made to accept them as corrected. Motion passed. Members Levesque and Molesky have been re-sworn in; Rau still needs to be re-sworn in.

Benji and Emma VanAlstyne were present to discuss an on-going concern of a building overhang that encroaches on two properties and a Right-of-way; and wanted to report that Robert DeLotto has people staying in the upper part of the new garage that he built, that is supposed to only be storage. B. VanAlstyne mentioned that he did not believe DeLotto ever got water or septic approval for the garage, nor should there be any. Molesky reminded the Board that the ZBA had approved a 9" additional encroachment, in addition to what the owner (DeLotto) would have been entitled to a few years ago – which resulted in the overhang. Subsequently a Zoning Ordinance was updated, to include measurement from the drip line to be taken into consideration (passed at recent Town Meeting). This New Business had to be returned to due to a scheduled Hearing.

At 7:45PM, the Public Hearing for Application #1/2022 for a Special Exception for Bonnie N. and Laurence E. Howard of 3 Warwick Terrace, Marblehead, MA, for property located on Tax Map 11, Lot 99, on 5 Prospect Street in Alstead, NH, was opened. The Hearing was concerning Article VII Section G a iii for Conversion of Existing Building to Two-Family Use - to allow for an Accessory Dwelling Unit.

Member Konesko was appointed a Full Member for the purposes of this Hearing. Abutters and interested persons in attendance: Benji and Emma VanAlstyne, Bill Blaiklock, and Bob Clark/Griffin Construction.

Molesky read over the Application, and reviewed the process of the Hearing. The Checklist was deemed complete. A Motion (Rau/Clark) was made to accept the Application as complete. Motion passed.

At 7:55PM Clark gave an overview of the project. He stated that the barn is, and has always been, attached to the house. There is an additional bump out (14'X13') that is in line with the existing barn. Clark explained that he had originally turned in a Building Permit, and once it was approved, Griffin Construction began work. It was after the fact that the owner was notified of the necessity to go through the Special Exception process.

Clark explained that barn and bump out is 30' from the private Right-of-Way (as identified on the Site Plan) at the rear of the property line. The Board questioned if it was a 30' or 50' setback required – Molesky stated it was 30' from a rear property line after looking up Setback requirements in the Village A District. B. VanAlstyne kept interrupting with questions, even though the Hearing was not opened to public comment yet.

Article VI F 2 Alterations to a Non-Conforming Building was reviewed – and was determined to meet that requirement, as the bump-out was less than 50% of the area that was already encroaching. All Members were in agreement. Clark stated the original barn is 24’X32’ (along the Right-of-Way). Molesky explained that the issuance of the Building Permit was an Administrative error. Marsden explained that L. Howard had inquired about putting in an apartment back in the Fall to the Town Clerk, who guided her to reach out to the ZBA; but she never did. It was determined that the barn was in existence prior to zoning being enacted in Town. B. VanAlstyne spoke out again about a former Variance (DeLotto) – Molesky re-directed the Hearing. Molesky asked Clark what was in the barn prior to the recent construction – Clark said it was unfinished. Molesky asked Clark about the septic system size on site – Clark did not know. The Building Permit #37/2021 was reviewed – it was listed “n/a” under State Septic System.

Molesky reviewed Special Exception Criterion D regarding if Adequate and appropriate facilities will be provided for the proper operation of the proposed use – Molesky stated he felt the septic size and information was needed to determine if that Criteria is met. Molesky asked how many bedrooms were in the house – Blaiklock stated there were two upstairs; Clark added that with the Accessory Dwelling Unit, there would be 3 bedrooms served by the septic system. \*Molesky stated that the State Permit number and size are needed.

Konesko asked if the new roof of the apartment was tying into the existing barn roof; and if run-off would run towards the Right-of-Way. Clark confirmed it did, but mentioned that the Right-of-Way is higher than the lawn along it.

At 8:25PM Molesky opened the Hearing to the public. Blaiklock asked if there were any other concerns beyond the septic system. Molesky began a discussion about the Criteria with the Members. There was no discussion on Criteria A, B, C; the Board was concerned with Criterion D regarding the capacity of the septic system, with the new bedroom, additional bathroom and kitchenette.

A Motion to continue the Hearing (Clark/Rau) was made at 8:40PM. Motion passed. It has been continued to 5/16/22 at 7:15PM. The Meeting will open at 7PM to review those Minutes prior.

Discussion continued on the DeLotto concern that B. VanAlstyne had brought up earlier concerning the overhang onto two people’s property and the Right-of-Way. Molesky explained that a Variance had been filed, and because of the Non-Conforming Use the Applicant had the right to increase the size of the building. B. VanAlstyne wanted to know if it was legal – Rau said he could not answer that; Members Molesky and Levesque felt the decision was made in error. B. VanAlstyne stated he thought the Town has already looked into this with Legal counsel; \*Levesque stated he will look into this situation again.

This brought up the discussion as to what the Town could do if there is a blatant disregard to the adopted Zoning Ordinance. \*Marsden to make sure the most current, correct version of the Zoning Ordinance is on the Town website – only in one location – as a link. \*Marsden to also check that the correct version of Article III E 3 a&b are online.

Building Permits #1-13/2022 were reviewed. Three of them were Demolition Permits. #4/2022 Berringer still never provided septic system information; Kauders will check #7/2022 to make sure the driveway is 10-feet off of the property line.

Brief discussion of zoning ordinance updates took place. Kauders asked if there should be information about Demolition Permits in the Zoning Ordinance. Kauders feels that additional information should be added about the requirement of Driveway Permits. Kauders suggested additional clarification in the Table of Allowable Uses for manufactured housing on wheels vs. a permanent foundation. Kauders feels the District Map should be

located with the Zoning Ordinance, not separate. And he wanted to discuss further enforcement protocols/process.

Old Business:

- \*the manufactured home on Gilsum Mine road is still there; no change yet
- \* no word from Plaisted on the farm stand on Alstead Center Road; noone knows if it is open yet.
- \*Max Zurmuhlen wants to join the ZBA; needs appointment from the Select Board.
- \*Marsden to still get Floodplain Maps for Kauders
- \*Marsden to get updated Zoning Ordinance version for everyone

A Motion (Clark/Rau) was made to adjourn the Meeting. The Meeting adjourned at 9:53PM.

Respectfully Submitted,

Melanie Marsden/Administrative Assistant to the Board