



TOWN OF NEW IPSWICH

661 Turnpike Rd, New Ipswich, NH 03071

ZONING BOARD OF ADJUSTMENTS



Meeting Minutes October 5, 2023

The Zoning Board of Adjustments held its regular monthly meeting at the Town Office, 661 Turnpike Road, New Ipswich, New Hampshire, on Thursday, October 5, 2023 at 7:00 p.m.

1.) Call to Order and Seating of Alternates

Chairman Walker Farrey called the meeting to order at 7:13 PM.

Present at the meeting were Chair Walker Farrey, Member David Lage, Danielle Sikkila, Jeff Muhonen, Lou Alvarez, Alternates Dwayne White, Jay Hopkins, and Brett Kivela. Staff present included Land Use Clerk Jennifer Worth.

2.) New Business

a. Discussion with property owner of 445 Turnpike Road, Stephen Malerba.

Mr. Malerba discusses the property, the business that is registered in New Hampshire at this address, and the plans for the parcel at 445 Turnpike Road. Mr. Malerba is a resident there. Has been working on getting a permit for re-modeling with the town to create additional space in the residence. Mr. Malerba drives a truck for a living. He parks a truck at 445 Turnpike Road, but is on the road Monday through Friday. There are multiple trucks/trailers parked on this parcel. Mr. Malerba claims that one truck is used to store furniture. He plans to sell the trailer once the contents have been removed. The trailer will be removed from the parcel then. David Lage states that the zoning board of adjustments received a complaint and documentation that there is a registered trucking business for this property and asks if Mr. Malerba owns a business. Mr. Malerba stated to operate his truck for work, he needed to register the truck with his residential address as it is a motor vehicle. He also states he is the sole owner of one truck. When asked, said it was correct that he registered a business with the state of New Hampshire for his long distance on road trucking services. Mr. Lage lets the resident know that due to New Ipswich zoning ordinances and the fact that this property is in a residential area, where a trucking business is not a permitted use. Before Mr. Malerba registered his business with the state he should have come before the board for a variance relief. It was recommend by the board that Mr. Malerba should research the zoning appeals, apply for a variance, and seek relief for this trucking business.

There was a public comment on this matter by Earl Somero. Mr. Somero's brother is an abutter. He has concerns about the digging activities on this parcel. Mr. Somero claims that Mr. Malerba disregards property lines, the property is not kept clean, and there is drainage into the Furnace Brook that runs along this property. Mr. Somero suspects that because of the digging maybe the gravel is sold. Mr. Malerba states that he does not sell gravel. The gravel that was dug out was put on lower pitches of his property. Mr. Malerba states that he does cut and stack wood, but does not sell wood. It is simply recreational. Chair states that it is factual that property owners have rights and these activities are allowed. The board will focus on the variance relief for the business.

b. Discussion with Peter March – Village Mobil, signage.

Peter March is absent. In his place, Fred Pineault will speak. Village Mobil would like to make a modification to a pre-existing non-conforming sign. The sign currently has electronic digits that change when gas prices change. What Village Mobil would like to do is to incorporate what is called, a toggle. The toggle would be a new line on the sign that would say, member/nonmember, cash/credit, and car wash. In order to modify the sign the dimensions would not have to change. David Lage states that this sign is not a non-conforming sign, it is an illegal sign because it was never permitted to be constructed. Mr. Pineault was not aware of this and asks what direction Village Mobil should go in now. The board informs Mr. Pineault the best thing to do is apply for a variance and go through the process of seeking relief for a non-conforming sign.

c. Approval of Minutes

David Lage moved to approve the September 7, 2023 meeting minutes and the September 21, 2023 meeting minutes with amendments. Dwayne White seconded the motion. The motion passed unanimously. Lou Alvarez abstains.

3.) Application Reviews

- a. **Case ZBA-2023-11:** Benjamin and Chelsea Hatcher requesting a Variance in accordance with Article VI – Section B for the property at 159 Greenville Road to permit building a timber pavilion for hosting events.

Dwayne White, Lou Alvarez, and Danielle Sikkila recuse themselves as voting members.

Voting members sitting were; Chair Walker Farrey, David Lage, Jeff Muhonen, Jay Hopkins, and Brett Kivela.

The pavilion events will include any event you could imagine including; farmer's markets, weddings, family reunions, company picnics, and/or field trips. The Hatcher's will provide the board with a more specific list of events that are planned for the use. The applicants should include any events out of the norm. For example, a fireworks display or concerts.

David Lage made a motion to accept the application as complete. Jeff Muhonen seconds the motion. The motion passed unanimously.

The public hearing for Case ZBA-2023-11 was set for Thursday, November 2, 2023 at 7:05 PM.

- b. **Case ZBA-2023-09:** Richard and Sharin Smeeth requesting an Appeal of Administrative Decision in accordance with Article XIII, Section G(3) of the zoning ordinance in question and Article X, Section D(3)(b) of the zoning ordinance in question.

Dwayne White steps back in as a voting member. Jeff Muhonen recuses himself as a voting member.

Voting members sitting were: Walker Farrey, David Lage, Jay Hopkins, Dwayne White, and Brett Kivela.

Nancy Clark will speak on behalf of the applicants. David Lage asks Mrs. Clark if the applicant could provide the board with the approved site plan from the planning board in which her clients are appealing. Mrs. Clark claims that this is not the responsibility of her clients. Land use clerk will check with the Planning Board if they have an electronic copy. If not, and copies need to be made for the board, the applicant may incur an additional payment fee for cost.

David Lage makes a motion to accept the application for an appeal of an administrative decision by the applicant pending payment of fees, any further cost of the town that would occur to provide the zoning board of adjustments with the approved site plan from the planning board. Jay Hopkins seconds the motion. The motion passes unanimously.

David Lage revises the motion to include that applicant provide duly notarized documentary evidence that counsel is the authorized agent. Jay Hopkins seconds the motion. The motion passes unanimously.

The public hearing for Case ZBA-2023-09 was set for Thursday, November 2, 2023 at 7:45 PM.

- c. **Case ZBA-2023-09(R):** Continuance of Public Hearing

Nancy Clark will speak on behalf of the applicants. Upon reviewing the audio recording from the September 21, 2023 meeting, Mrs. Clark states there should be two recusals of board members before the continuance of the re-hearing should start. A conversation during the meeting that took place between board members and the applicant (Jane Elwell) shows bias and this is the reason they should recuse. The time stamp of 2:30:41 has an unidentified speaker stating, "You should invite the planning board for tea". The applicant responds, "Yeah, I should have the planning or zoning board of adjustments over for tea." David Lage responds, "You

just said no men.” followed by laughter from the board, Dwayne White responds, “I’d go”. Dwayne’s comment was a voluntary statement of a desire to attend a tea party at the applicant’s home. This demonstrates a bias and support for the applicant and need for recusal. The second recusal should be, Mr. David Lage. The conversation just cited demonstrates Mr. Lage as jovial, friendly, and having a supportive attitude towards the applicant. Mr. Lage has demonstrated a chronic pattern of behavior to harass, intimidate, belittle, and argue with abutter’s with the intention to sway board members. He also interrupted, yelled, and harassed abutter’s as so, should recuse himself. The board does not feel David Lage should recuse himself. Chair decided he would like to listen to the recording and touch base with the Council about this matter and will continue the re-hearing.

David Lage motions to continue the hearing for deliberations of Case ZBA-2023-09(R) for Thursday, October 12, 2023 at 6:00 PM. Jay Hopkins seconds the motion. The motion passes unanimously.

4. Old Business

- a. Jeff Muhonen steps back in as a voting member.
- b. Town of New Ipswich Zoning Board of Adjustments Rules of Procedure Handbook

The applications have been drafted and will be finalized alongside the procedures at the meeting on October 12, 2023.

5. Notes

- a. Museum at Appleton Academy

The gym area is currently being used as a museum that is open to the public for free. David Lage is concerned about this because this matter had never come before the board. The board never received an application for an appeal for a variance. The process needs to be respected, a building permit was granted to a previous owner for an apartment and electronics museum, but it was noted that this matter never went to zoning board of adjustments to open a museum. Board advised Land Use Clerk to notify the town administrator of the decision so that the selectmen can advise the resident.

6. Adjournment There being no further business to come before the zoning board of adjustments, Chair Mr. Farrey motioned to adjourn the meeting at 9:01 p.m. David Lage seconded the motion. The motion passed unanimously.

Respectfully Submitted,

Jennifer Worth - Land Use Clerk