

ZONING BOARD OF ADJUSTMENT

TOWN OF BARNSTEAD

TOWN HALL

July 20, 2020 @7:00 P.M.

MINUTES

CALL TO ORDER: David Brown, Chair called the meeting to order at 7:00 P.M.

ROLL CALL: David Brown – Chair, Steve Vail – Member, Mary Clarke – Alternate, Gary Madden - Select Board Representative, Joanie Foss – Alternate/Recording Secretary

CASE No. 0620-258: Morris, Patricia A., of 840 So. Barnstead Road, Map 8 Lot 31-1, Appeal of Planning Board Decision from May 21, 2020, allowing a communications tower to be built on Welch Road in Barnstead. **Public Hearing to be held.** Chair Brown requested the alternates stand in as members to reach a quorum. Chair Brown opened the public hearing for those present, as well as via Zoom at 7:03 P.M. Patricia Morris, Esquire and Jared Davis came forward to present. Atty. Morris explained the Appeal is filed in accordance with New Hampshire **RSA 676:5** as an Appeal to the ZBA from an administrative decision made by the Barnstead Planning Board. Atty. Morris offered detailed information supporting her position on the reasons why the Planning Board’s decision was unlawful and unreasonable. Atty. Morris claims that Industrial Tower and Wireless, LLC (“ITW”)’s proposed complex violates Barnstead’s zoning ordinance and state statutes and should be denied. Atty. Morris feels that ITW’s application comes at a great cost to Barnstead, while providing no benefit to Barnstead and will affect its beauty and rural charm. Chair Brown called for questions from the Board and interested parties. Edward Tasker stated that he believes according to **RSA 676:5** the ZBA should be excluded from weighing in on this issue. Steven Grill, Esquire came forward to speak on behalf of ITW. Atty. Grill explained that the Planning Board properly exercised its site plan review power and since Abutters failed to identify any issues appealable to the ZBA, the Appeal should be dismissed. Atty. Grill explained that the Appeal was untimely and does not appear to have been filed with the Planning Board, only with the ZBA. Atty. Grill explained there are two separate avenues of Appeal from Planning Board decisions, if the decision addresses a specific zoning issue then the Appeal would be brought to the ZBA pursuant to **RSA 676:5**, if the decision does not involve zoning issues, then the Appeal must be brought to the Superior Court pursuant to **RSA 677:15, I**. Chair Brown asked for further questions from the Board and interested parties, there being none Chair Brown closed the public hearing at 7:45 P.M. Chair Brown made a motion to dismiss the Appeal, M. Clarke seconded the motion. The motion was passed unanimously.

Case No. 0620-259: Frost, Richard S. of Province Road, Map 3 Lot 29-10 is requesting a variance to the Town Zoning Ordinance, **Article 4, Section 4-2.07** entitled “Shoreline Lots” which states “There must be fifty (50) feet between the nearest edge of any building and the high water line.” **Public Hearing to be held.** Chair Brown requested the alternates stand in as members to reach a quorum. Chair Brown explained the procedures to be followed in review of the proposal. First the applicant will make a presentation on the proposed project, and then there would be opportunity for questions from the ZBA. Mr. Frost and Ms. Morrison are seeking a variance to the 50’ wetland setback to grade from the house and allow a drive under garage. Ms. Morrison reviewed the criteria for the variance explaining the request

is for approval of approximately 1' to 2' of impingement on the setback to allow ease of construction of the foundation. There will be no harm to the public interest and the request is well within property boundaries. The applicants hired a wetland scientist and it was determined there would be no effect to the flora, fauna or wetlands. There will be no conflict of zoning ordinance **RSA 674:17** and to deny the requested variance would create hardship and would make it financially beyond the applicants' means to build their house.

PUBLIC HEARING: Chair Brown opened the public hearing for those present, as well as via Zoom at 7:50 P.M. Chair Brown called for testimony from abutters and interested parties. Abutters Richard Miller and Karlene Normandin expressed concern for the local brooks in the area, upon assurance that the brooks would in no way be affected, Mr. Miller and Ms. Normandin were okay with the variance with a note to the land owners to please be kind to the land. Abutter Edward Tasker requested to see the property map and after review stated that neither wetlands are associated with the brooks, he also stated he sees no impact to his property. Chair Brown asked if there were further questions from the Board.

S. Vail proposed that the Board conduct an impromptu site visit, the meeting was moved to **Province Road, Map 3 Lot 29-10**. Upon return M. Clarke requested a motion to approve a 10' setback on one border. S. Vail seconded the motion. Chair Brown called the vote and Board voted unanimously to accept the application. The Chair noted that there is a 30 day appeal period on the decision. Chair Brown closed the public hearing at 8:35 P.M.

CHANGE TO RULES OF PROCEDURE – Add new section: Appeals: This section will set 30 days as the time allowed any person affected to file an appeal from a decision. **Public Hearing to be held.**

PUBLIC HEARING: Chair Brown opened the public hearing 8:40 P.M. He called for testimony from interested parties. Hearing none, the Chair asked if there were further questions from the Board. Chair Brown closed the public hearing at 8:42 P.M.

With no further discussion by the Board a motion was made by M. Clarke, seconded by S. Vail to allow the **Change to Rules of Procedure** by adding the new section "**Appeals**". The motion was passed unanimously.

ELECTION OF OFFICERS: J. Foss made a motion that D. Brown continue as Chair, S. Vail seconded, D. Brown accepted - the motion passed unanimously.

CORRESPONDENCE: None

OLD BUSINESS: None

NEW BUSINESS: None

MINUTES: J. Foss proposed a minor edit to the May 18, 2020 minutes, the edit was accepted. M. Clarke made a motion to approve the amended minutes of May 18, 2020. S.Vail seconded the motion. The motion was passed unanimously.

ADJOURNMENT: M. Clarke made a motion to adjourn the meeting, J. Foss seconded the motion. The motion passed unanimously.

Chair Brown adjourned the meeting at 8:55 P.M.

Respectfully submitted,

Joanie Foss
Recording Secretary