



ZONING BOARD OF ADJUSTMENT
AGENDA
March 18, 2021
7:00 PM

Present: Jason Plourde, Chair
Rob Costantino, Vice Chair
Karin Lagro, Member
Michael Thornton, Member
Wade Campbell, Alternate
Paul Dargie, Board of Selectmen Representative

Lincoln Daley, Director of Community Development
Jane Hesketh, ZBA Recording Clerk

Absent: Joan Dargie, Alternate

Meeting Agenda

- 1. Call to Order**
- 2. Work Session**
- 3. Next Meeting:**
 - a. April 1, 2021
 - b. April 15, 2021

1 Chairman Plourde welcomed everyone and declared a State of Emergency as a result of the COVID-19 pandemic
2 and in accordance with the Governor’s Emergency Order #12 pursuant to Executive Order 2020-04; the Board of
3 Adjustment is authorized to meet electronically. This meeting is held in accordance with the applicable New
4 Hampshire State statutes, Town of Milford ordinances, and the Zoning Board of Adjustment Rules of Procedure.
5 He stated that there is no physical location to observe and listen contemporaneously to this meeting, which was
6 authorized pursuant to the Governor’s Emergency Order. However, in accordance with the Emergency Order, he
7 confirmed that the Board is:

- 8 a) Providing public access to the meeting by telephone, with additional access possibilities by video or other
9 electronic means.
- 10 b) Providing public notice of the necessary information for accessing the meeting.
- 11 c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with
12 access.
- 13 d) Adjourning the meeting if the public is unable to access the meeting.

14
15 Chairman Plourde stated all votes taken during the meeting must be done by Roll Call vote. He started the meeting
16 with a roll call attendance by asking each member to state their name, where they are located and if there was
17 anyone in the room with them during the meeting. This is required under the Right-to-Know Law.

18
19 Roll Call Attendance: Jason Plourde alone at home, Rob Costantino alone at home, Karin Lagro alone at home,
20 Michael Thornton alone at home, Wade Campbell alone at home. Rob Costantino asked if it is necessary to take
21 attendance for everyone who is viewing the meeting, beyond the board members. Jason Plourde stated the Right-to-
22 Know Law only pertains to voting Board Members.

23
24 Chairman Plourde continued by stating this meeting would be a work session for the Zoning Board and there would
25 be a number of topics to discuss.

26
27 **RSA 674:33I(a)(2)(E) – Unnecessary Hardship**

28
29 J. Plourde asked L. Daley how he would like to proceed. L. Daley turned the meeting over to R. Costantino for his
30 re-examination and interpretation of the topic. R. Costantino stated he wants to make sure everyone is on the same
31 page and that this subject matter is very difficult to understand. He now has a different perspective on this subject
32 from what he had before. He feels his ideas may or not be completely correct, however, his presentation is to
33 correct his previous views and to leave the subject open for discussion.

34
35 R. Costantino made a power point presentation titled “ZBA Variance Hardship”. Points covered for the discussion
36 were: **ZBA Variance Hardship, Old and New Understanding, Justifying Hardship, Variance Example**
37 **(Dresher)**.

38
39 R. Costantino read what hardship is from the NH ZBA Handbook 2019. He stated that it basically opposes what a
40 special exception is, and a variance is very different from a special exception because hardship needs to be
41 considered. R. Costantino statements emphasized that in his power point under RSA 674:33I(a)(2)(E) are not his
42 additions, but those taken directly from the RSA. R. Costantino did say, however, the first statement about
43 unnecessary hardship is another way of saying owing to the uniqueness of a property is what distinguishes it from
44 other properties.

45
46 **RSA 673:33 I(a)(2)(E)**

47
48 The RSA gives 2 criteria listed as (A) and (B). Dresher said there are 3 criteria to look at, the first being
49 uniqueness, then (A) and then (B). R. Costantino feels to define unnecessary hardship you only need to
50 answer (A) and (B). He is not sure you need to say uniqueness. He then stated what he thought before is not what
51 is said in the RSA; his thinking was that the uniqueness of the property could not allow the property to be used for
52 reasonable use, but this is now different from what his current thinking is.

MINUTES OF THE ZBA MEETING MARCH 18, 2021

1 L.Daley asked R.Costantino on how he defines or determines what a o reasonable use of the property?

2
3 R.Costantino provided an example: If the reasonable use of the property was to build a single family home and if a
4 single-family home could not be built on that property, then that would be a reasonable use that you would be
5 denying. However, if a land owner wanted to build a two-family residence where a single-family home is allowed,
6 then this would be reasonable use of the property.
7

8 R. Costantino went over what he thinks now as shown in his power point. There isn't just a physical condition
9 which he once thought but it can also be the surrounding properties as well as many other characteristics.
10

11 L.Daley suggested that the subject property should not be looked at independently and should be considered within
12 the totality of the surrounding properties being proposed to determine "special conditions". K.Lagro said that based
13 on this interpretation, we need to be careful because grandfathered properties could argue that they do not need to
14 follow Zoning Bylaws.
15

16 R.Costantino said this is a confusing issue that can present many problems. Each situation must be considered
17 separately. K.Lagro said that we also need to consider the intent or purpose of the ordinance. M. Thornton inquired
18 what does the public gain. R. Costantino continued by stating that the purpose of the ordinance is not violated by an
19 owners request but by its purpose.
20

21 R. Costantino the purpose of the ordinance needs to be found, and that the case should not violate the purpose. He
22 presented an example from slide 4 of the Power Point. His thinking now is find what the purpose of the ordinance is
23 and why the ordinance is there. His feeling is, if you have these two then you don't need to consider uniqueness. M.
24 Thornton stated he likes it.
25

26 K. Lagro said Dresher stated in his letter you can ask why is that property in that district; there was a case where an
27 industrial district over laid a district previously zoned residential; the request was to put a single family home in
28 the district where there were other single family homes; the board looked at why that property was zoned that way;
29 a variance was given because single family homes were no longer allowed in that district; therefore, the hardship
30 considered was why that property was zoned that way; the request was approved.
31

32 J. Daley said when we look at the purpose and intent of an ordinance, each district has its own purpose and intent
33 clause that defines the intent and it is very clear what the intent is. He presented a number of examples to discuss.
34 M. Thornton feels the needs of the community are a primary concern. L. Daley summarized that the zoning
35 ordinance is ever changing to the needs of the community and going forward things need to be looked at based on
36 these needs.
37

38 L. Daley thanked R. Costantino for his presentation and the amount of time he put into it. He feels these work
39 sessions are important in keeping everyone up-to-date with the latest information. He stated a work session with
40 Dresher and the new legal counsel is necessary to answer questions brought up in this work session and to ensure
41 the Zoning Board is educated on the latest changes and procedures. There are still many questions about this RSA.
42 J. Plourde said the board is still having difficulty interpreting the definition, therefore, guidance is needed. K. Lagro
43 stated this is a very complex question. M. Thornton expressed his concerns. Selectman Dargie presented an
44 example. K. Lagro requested a copy of the minutes from the meeting Attorney Dresher spoke to the board.
45

46 L. Daley informed everyone that the Planning and Zoning Conference will be held sometime in May; not sure how
47 it will be held (virtually or in person), but he will notify the board.
48

49 Chairman Plourde then asked if they could move on. There were no further comments on this topic. L. Daley again
50 thanked R. Costantino for his presentation
51

52
53

1 **Housing Diversity and Density Determination**

2
3 L. Daley said he met with the Planning Board to go over objectives for the remainder of this year and next year.
4 The Planning Board will be focusing on housing. They will be looking at type of housing and density of
5 determination. He then presented a number of examples for density of determination. He spoke about the need for
6 diverse housing in Milford in order to keep the community growing. The Planning Board will be looking at the
7 Housing Master Plan to determine the type of housing needed going forward. He stated there will be a number of
8 public outreach meetings and his hope is that the Zoning Board will take an active part in this process. He talked
9 about recent legislation being considered regarding tiny homes as well as a Bill allowing for more than one ADU
10 on a property.

11
12 Planning Board will be holding work session meetings the first Tuesday of the month. First work session on April
13 6th @ 6:30 p.m.

14
15 M. Thornton expressed his interests in housing for the future and why. Chairman Plourde summarized by
16 encouraging members to attend the April meeting. L. Daley talked about the downtown area, how people are
17 leaving the community and diverse housing can bring people back by specifically addressing multi-generational
18 needs. J. Plourde said this will be a good topic of discussion for the Economic Development Advisory Council.
19 M. Thornton discussed the need for sidewalks and his personal views on the matter J.Plourde agreed with
20 M.Thornton for the eneed of sidewalks in the certain areas. Unfortunately, not everyone sees the need as we had an
21 80/20 cost split for two new sidewalks projects that was voted down at the 2021Town Vote.

22
23 No further comments were made on this topic.J. Plourde continued by moving to the next topic.

24
25 **Board of Adjustment Rules and Procedures**

26
27 L. Daley stated there needs to be an understanding among Board Members that words can be perceived incorrectly
28 especially from a legal standpoint. Make sure the script is followed and be professional at all times. He emphasized
29 that all boards are legally representing the town. Conversations among members during a board meeting need to be
30 considered. J. Plourde then said, as Board Members we are town officials that represent the Town of Milford and
31 how we make people feel is important. He summarized that as a board we must be cognizant of words and who we
32 are representing. This also means social media. There should never be any cell phone use for texting during Board
33 Meetings. Part of this type of communication during a meeting can be used as part of the meeting and could cause a
34 situation. He cited what happened a few years ago with the School Board. He went on to say he realizes nobody is
35 perfect; he knows the board is doing their best, but as a board we need to ensure the correct procedures are always
36 followed as well as being cognizant of the image that is projected.

37
38 M. Thornton said there are times board members do refer to their electronics for doing research about what is
39 relevant at the time. R. Costantino followed with don't use phones for outside communication, but only for
40 research. M. Thornton professional appearance is important. J. Plourde cited a situation that happened about texting
41 during a Planning Board meeting in another town. J. Plourde moving on to the next topic. No further comments
42 were made on this topic.

43
44 L. Daley will be actively recruiting new members to appoint as alternates since there are times it has been a
45 challenge to get attendance that is needed. He then asked for nominations for Chair and Vice Chair.

46
47 **Other Business**

48
49 J. Plourde nominated K. Lagro. K. Lagro then nominated J. Plourde.
50 R. Costantino seconded the motion for J. Plourde as Chairman. K. Lagro, R. Costantino, M. Thornton all expressed
51 their appreciation for how Chairman Plourde runs the meetings and is able to keep the meetings moving in a
52 positive direction.

MINUTES OF THE ZBA MEETING MARCH 18, 2021

1 M. Thornton requested L. Daley train other board members to be able to fill in for the Chair or Vice Chair. L. Daley
2 agreed. He feels all members could fill in very admirably now, but will provide training as needed.

3
4 L. Daley asked if K. Lagro would like the Vice Chair and he presented a motion for Vice Chair. M. Thornton
5 nominated R. Costantino who then asked if K. Lagro would like it. K. Lagro said she would like to think about it.
6 L. Daley stated since the Chair was elected then the position of Vice Chair can be tabled for the next meeting.

7
8 Chairman Plourde expressed his appreciation for all the board members given the challenges this past year. He feels
9 each member has such respect for the other. Stated he is freely willing to step down, but no board member agreed
10 with that. He thanked everyone for their kind words and asked L. Daley if there were members wanting to step
11 down. L. Daley said there are no changes

12
13 **VOTE (J. Plourde as Chairman):** K. Lagro, yes; R. Costantino, yes; M. Thornton, yes; W. Campbell, yes.

14
15 M. Thornton motion to adjourn. R. Costantino seconded.

16
17 **VOTE (Adjournment):** J. Plourde, yes; K. Lagro, yes; R. Costantino, yes; M. Thornton, yes; W. Campbell, yes.

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21 **Motion to Approve:** _____

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24 **Seconded:** _____

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27 **Signed** _____

28
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30 **Date:** _____

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33 **THE MINUTES OF WORK SESSSION WERE APPROVED** _____

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