

**Zoning Board of Adjustment  
27 School Street  
HILLSBOROUGH, NH  
July 10, 2023**

**DATE APPROVED: 09/11/23**

**TIME:** 7:00 p.m. – 8:00 p.m.

**CHAIRPERSON:** Lucy Pivonka

**VICE CHAIRPERSON:** Roger Racette

**MEMBERS:** John Segedy, Keith Cobbett, Russ Galpin

**PLANNING DIRECTOR:** Robyn Payson

**ALTERNATES:**

**EXCUSED All Present**

**Public Present:** David Sherwin, Maureen Sherwin, Larry Baker

**CALL TO ORDER:**

Lucy Pivonka called the meeting to order at 7:00 pm. She read the “Rules of Decorum and Commitment to Civil Behavior” from the Rules of Procedure. She then called the roll.

**Pledge of Allegiance**

**Minutes 4/10/23**

John Segedy said the member’s section on page one needed to be updated to delete Meg Curtis Sauer as a member and add Keith Cobbett. Keith Cobbett needed to be removed from the “Alternates” list.

John Segedy said at the bottom of page four, “...Certificate of Occupancy can be issued “it” the Building Inspector...” needed to be changed to “by”.

John Segedy said on page five under Criteria E, “bring” should be changed to “bringing”.

Roger Racette said on page four, in the 4<sup>th</sup> paragraph from the bottom, the sentence “Judging by the area that it’s in” should be deleted.

John Segedy made a motion to approve the minutes as amended. Russ Galpin seconded the motion. The motion carried unanimously.

**Appointment of Alternate**

Larry Baker has submitted a letter of interest to be an alternate member of the ZBA. Mr. Baker has been on the ZBA before and has also served on the Planning Board.

Lucy Pivonka asked him why he wanted to be on the Board.

Larry Baker said he wanted to serve the Board and the Town, and his schedule allows for participating on the ZBA.

Roger Racette said he is a fine addition to the ZBA.

John Segedy made a motion to appoint Larry Baker to the Zoning Board of Adjustment. Russ Galpin seconded the motion. The motion carried unanimously.

## **Public Hearing**

### **Variance**

7 Old Mill Farm Road (Map 8 Lot 106-7)

David and Maureen Sherwin

Robyn Payson read the meeting notice.

John Segedy said he wanted to address this issue before they got into the hearing. John said this issue of a structure in the setback came up in 2016 with the location of a propane tank in the setback. It was determined by the Board that the propane tank was a “structure” by definition in the Zoning Ordinance, but setbacks only applied to “buildings”. Therefore, by the definitions in the Zoning Ordinance no variance was required.

John Segedy brought the minutes from the meeting in 2016 where this occurred. Robyn Payson copied and distributed the 2016 minutes to the Board.

John Segedy said at that time Robyn Payson was asked in 2016 to bring this before the Planning Board for action.

Robyn Payson said she did not remember the issue but if the ZBA wanted her to bring it before the Planning Board she would have done it. It is apparent that the Planning Board decided to take no action at that time.

There was a lengthy discussion about the contradiction in the Zoning Ordinance. Roger Racette said there needed to be input from legal counsel on this matter. Robyn Payson said she would bring it up to him for guidance. She also said she would bring it up with the Planning Board again.

Following further discussion, John Segedy made the following motion:

“That whereas the pool is considered a structure by definition in the Zoning Ordinance, and where the setback definition only applies to a building it is the determination of the Zoning

Board of Adjustment that a variance is not needed for the application. Keith Cobbett seconded the motion.

Roger Racette said he didn't think it was the intent of the Zoning Ordinance to allow people to erect structures on their property line. He said this appears to be an error. He said he didn't think it was the intent of zoning to allow structures to be built on a property line.

Following further discussion, the motion carried unanimously.

Robyn Payson recommended the applicant be refunded the application fee, the Certified Notice to the Applicant fee, and the Recording Fee which totals \$103.00.

John Segedy said he would make that motion. Keith Cobbett seconded the motion. The motion carried unanimously.

### **Other Business**

#### **Special Exception/Conditional Use Permit**

Robyn Payson gave an overview to the Board about the Planning Board's consideration to change some of the uses that require a Special Exception to Conditional Use Permits. This will be helpful to applicants who have a use that also requires Site Plan Review. That is not going to be addressed by the Planning Board this year due to the amount of zoning changes on their plate.

#### **NH Municipal Association Training**

Robyn Payson said she would like to set up a training with the NH Municipal Association to address the ZBA decision making process. She said she has concerns about elements from Site Plan Review being included in ZBA decisions.

The consensus of the Board was to schedule it on the 4<sup>th</sup> Monday of the month.

Robyn Payson will arrange it.

John Segedy made a motion to adjourn. Keith Cobbett seconded the motion. The motion carried unanimously.

The meeting was adjourned at 8:00 pm

Respectfully Submitted,  
Robyn Payson, Planning Director