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**HILLSBOROUGH ZONING BOARD**  
Meeting Minutes  
November 24, 2014

Date Approved: January 12, 2015

Present:

Members: Chairman Roger Racette, Larry Baker, James Bailey and Richard Booth

Alternates: John Segedy, Russell Galpin

Absent: Michael McEwen

Members from the Public: Denise DeForest, Martha Caron, Nancy Torres, Michael Jasmine, Joseph Manning, Kimberly Manning, Warren Fleck, William Clohessy, Melissa Thuillier, David Thuillier, Scott Osgood and Joyce Bosse.

Chairman Racette called the meeting to order at 7:04 pm.

**MINUTES:**

**November 10, 2014:** Mr. Segedy asked that the approval of the minutes be postponed until the Board's next meeting as he feels important information was omitted from the Board's discussion regarding the adoption of their rules and procedure.

Chairman Racette appointed Mr. Segedy to fill in for Mr. McEwen for the purposes of approving the November 10 meeting minutes.

Mr. Segedy made a motion to table the approval of the minutes. Mr. Bailey seconded the motion. The Board voted all in favor except for Mr. Booth who abstained.

**PUBLIC HEARING:**

Chairman Racette appointed Mr. Segedy to sit on the Board in place of Mr. McEwen.

Chairman Racette said the item on the agenda tonight is an administrative appeal submitted by Joseph Manning. It is appeal of the Building Inspector's issuance of a Cease and Desist Order to stop work on the installation of a manufactured home located at Emerald Lake.

Chairman Racette established a few rules before beginning: only one person will be allowed to speak at a time, when speaking please state your name and if you wish to speak raise your hand until the Board recognizes you. He said the Board would hear first from the applicant Mr. manning and then from the Building Inspector, Mr. Jasmine, followed by any rebuttal and then from the public.

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Mr. Manning, representing Razor Wire Properties, LLC of 20 Old Henniker Road, Unit 15, Hillsborough, New Hampshire, gave each member a package containing: item one is a break down summary in support of lifting the Cease and Desist Order on 24 Autumn Road, item two is the initial letter he received from Mr. Jasmine issuing his cease and desist that he prepared, item three is RSA 676:17-a which governs how cease and desist orders are done in the State of New Hampshire, item four are copies of two letters of complaint sent by me to the Town which the Selectmen never received, item five is a copy of a letter from Eckman Engineering, LLC which states the sight and slab preparation was done in accordance with New Hampshire Manufactured Housing Installation Standards Board, specifically Chapter Inst. 600-3 Slab Preparation.

Chairman Racette asked if that was RSA 600.

Mr. Manning answered yes. He explained that slabs had to be installed by New Hampshire licensed installers which he is.

Mr. Manning explained each item which supported his request for the lifting of the Cease and Desist Order on 24 Autumn Road. (See attached).

Chairman Racette asked if his claim was that the Cease and Desist Order wasn't handled properly.

Mr. Manning said yes.

Chairman Racette asked if the person who inspected it, from Eckman Engineering, was approved by the state as an inspector.

Mr. Manning answered no, he is a structural engineer.

Chairman Racette asked Mr. Manning to read the letter from Eckman Engineering.

Mr. Manning read the letter from Eckman Engineering. (See attached).

Chairman Racette asked if Mr. Eckman actually came out to the site to inspect the work.

Mr. Manning answered yes, we hired him to come out and inspect the job.

Chairman Racette said it sounds like he is saying it appears as though the slab was installed per state and the slab is acceptable as long as it was constructed to be 100% compliant.

Mr. Manning said you can install the slab as specified or have it engineered. He said he is a state licensed installer and the slab was installed per the state specifications.

Chairman Racette asked if Mr. Manning, as a licensed installer, had filed a complaint with the state licensing board regarding the dispute you have with the building inspector.

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Mr. Manning said he sent them a copy of the letter of complaint he had sent to the town.

Chairman Racette asked to hear from Mr. Jasmine.

Mr. Jasmine commented on the points Mr. Manning had presented to the Board. Mr. Jasmine agreed with #2-a and #2-b. As to #2-c, he agrees there was no time frame set because he was trying to be generous and left it open ended. He agrees with #2-d, #2-e, and #3, he thought the inability to enter the house was suffrage enough. As to #4, he has issued Cease and Desist in the past which have held up in court. Mr. Manning had no knowledge on #5 and #6 as to the actions of the Board of Selectmen or Laura Buono. He did meet with the Mr. and Mrs. Manning on September 26.

Mr. Jasmine spoke regarding issue #8; he said the pictures still left questions as to the do we have the right thickness and the right pitch throughout.

Mr. Jasmine said as to issues # 9, #10 and #11, again that is between Mr. and Mrs. Manning and Mrs. Buono and the Board of Selectmen.

Mr. Jasmine said he noted the same point as Chairman Racette mentioned earlier. He would be fine with the letter from Eckman Engineering if it said upon site inspection and he stamps it.

Mr. Jasmine showed the Board pictures of another building in another town which was placed on an incorrectly built slab.

Mr. Segedy asked that copies of the pictures be sent to the Town to be added to the record.

Chairman Racette said that the points Mr. Manning made regarding things not being in accordance with RSA 676 it appears Mr. Jasmine is agreeing to.

Mr. Jasmine said in the short time he has had to review the information yes he would agree to that.

Chairman Racette asked if there was difference between the States Manufactured Housing Installation Chapter Inst. 600 and the International Residential Codes regarding slabs.

Chairman Racette asked about the opinion of Ren Horne, at the State, who reviewed all the documentation and pictures and agreed with Mr. Jasmine's assessment that there are issues with the slab.

Mr. Jasmine said his main concern was with the overall thickness of the slab and lack of proper grading especially if the hill is nothing but sand.

Mr. Segedy asked if those were the only two issues.

Mr. Jasmine said yes along with meeting the setback requirements.

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Chairman Racette said according to Mr. Jasmine the 6" slab thickness and the grading are in question.

Chairman Racette asked Mr. Manning to address the issues Mr. Jasmine has brought before the Board.

Mr. Manning said he does use two by fours to create his concrete form and then digs down to create the 6" thickness thus using the ground as part of the concrete form.

Mr. Manning then explained how he graded the property to drain away from the house and because he couldn't meet the ten foot minimum requirement he created a swale on one side and a retaining wall on the other.

Mr. Thuillier is concerned about the grading because before Mr. Manning graded his property it was lower than his property and now it is higher.

Mr. Manning said there is a swale between the two houses.

Mr. Jasmine said his main concern has always been the slab. If the engineer is willing to stamp his letter and state it is based on a field inspection then the slab is no longer an issue. He said the other concern is the slope and the oil tank which is sitting on a pad on an unstable slope.

Mr. Manning said the grading specifications are under Installation Standards Chapter 603-02h – all drainage.

Chairman Racette read the chapter which says all drainage shall be diverted away from the home and must slope a minimum of one half inch per foot away from the foundation for the first ten feet were property lines, walls, slopes and other physical conditions prohibit the slope the site shall be provided with drains or swales or otherwise graded to drain water away from the perimeter of the house.

Mr. Manning presented pictures of the site showing the swales.

Mr. Jasmine said the swales are acceptable if they are part of the original plan. He said the grading of the septic system appears to match the plan which was approved by the State. He said if a professional designer revises the plan to show the present grading and says it will work.

Ms. Caron spoke, on behalf of the Emerald Lake Village District as one of their commissioners, regarding their concern that all construction has to be treated the same in terms of being sited properly, graded properly and meets setback requirements. She said if the inspector wasn't allowed the opportunity to conduct an inspection of the work deliberately by Mr. Manning then all issues fall on him especially if work was done after the Cease and Desist was issued.

Mr. Clohessy for the record stated other issues Mr. Manning has had with him and the Emerald Lake Village District.

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Chairman Racette asked Mr. Jasmine what he would accept from Mr. Manning in order to satisfy his Cease and Desist.

Mr. Jasmine answered: a letter stamped by the engineer stating per site inspection of the slab and it is structurally sound. He needs to get a certified professional to create a site plan to address the grading, swale and everything else to make sure the water is going where it is suppose to go and it was done right.

Mr. Segedy asked where in the codes it says professional plans and engineering inspections are necessary.

Mr. Jasmine said it doesn't say they are necessary but it is an option I can use according to the IRC Codes and Chapter Code 600.

Board reviewed with Mr. Jasmine and Mr. Manning the grade contours shown on the septic system design plan. Mr. Jasmine pointed out his issue with the closeness of the different elevation lines.

Mr. Manning feels he is being harassed by Mr. Jasmine because of his requests for engineered plans. He said Mr. Jasmine has to follow the law and he didn't in regards to the Cease and Desist Order.

Mr. Osgood, identified himself as a civil engineer, said a sand base will take a straight down load but not a slope, it needs to be contained.

Mr. Bailey asked Mr. Manning is he had a state approved and inspected septic system.

Mr. Manning answered yes.

Mr. Segedy asked Mr. Manning if he would be able to obtain the requested approval from an engineer regarding the slab.

Mr. Manning said his point tonight is that Mr. Jasmine didn't follow the procedure based on New Hampshire Law regarding the issuance of the Cease and Desist. He contends that because the Cease and Desist was not issued correctly it doesn't have to be adhered to.

Chairman Racette closed the public hearing at 8:40 p.m.

Chairman Racette reviewed the issues discussed. He said the Cease and Desist Order was not served correctly and Mr. Jasmine admitted as such. He added Mr. Manning disregarded the Ceased and Desist Order regardless as to how it was served.

Mr. Segedy said he thinks the only issue before the Board is whether the Cease and Desist Order was correctly issued in accordance with the law. He added that even though the Board heard evidence regarding problems with the land, Mr. Manning's argument is simply that the Cease and Desist Order was illegal because it wasn't issued properly.

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Mr. Baker pointed out that the RSA states that the Cease and Desist shall contain certain information which to him means that it doesn't have to.

Mr. Segedy said in the law "shall" means "must" and "may" means "optional".

Chairman Racette posed the question was the Cease and Desist Order handled lawfully and correctly. The Board voted: Mr. Booth – no, Mr. Bailey – no, Mr. Baker – yes, Mr. Segedy – no and Chairman Racette – no.

Chairman Racette said the Board finds that the Cease and Desist Order was handled incorrectly.

**ADJOURNMENT:**

Chairman Racette announced the meeting adjourned at 8:55 p.m.

Respectfully Submitted:

Iris Campbell  
Land Use Administrator