

*These minutes were approved at the June 14, 2016*

**ZONING BOARD OF ADJUSTMENT  
Tuesday, April 12, 2016 at 7:00 p.m.  
Town Council Chambers, Town Hall  
8 Newmarket Road, Durham, NH  
MINUTES**

**MEMBERS PRESENT:** Chair Sean Starkey  
Vice Chair Chris Sterndale  
Mike Hoffman  
Ruth Davis  
Tom Toye  
Henry Smith

**OTHERS PRESENT:** Victoria Parmele, Minutes taker

**I. Call to Order**

Chair Starkey called the meeting to order at 7:00 pm.

**II. Roll Call**

The roll call was taken.

**III. Seating of Alternates**

No alternates were seated.

**IV. Approval of Agenda**

*Chris Sterndale MOVED to approve the Agenda as submitted. Mike Hoffman SECONDED the motion and it PASSED unanimously 5-0.*

**V. Public Hearings:**

- A. **CONTINUED PUBLIC HEARING** on a petition submitted by Jennings & Celie Boley, Portsmouth, New Hampshire, on behalf of Terry W. & Linda E. Zych, Intervale, New Hampshire, for an **APPLICATION FOR SPECIAL EXCEPTION** as per Article IX, Section 175-29(B) of the Durham Zoning Ordinance to construct a house and septic system on an existing lot of record within the Wetland Conservation Overlay District. The property involved is shown on Tax Map 14, Lot 27-2, is located at 80 Wiswall Road, and is in the Rural Zoning District. Site walk of this property at 6:00 p.m. prior to the meeting.

Chair Starkey noted that there had been a site walk. He said the Board had had some questions concerning the application, which Ms. Davis would address.

Mr. Boley said he and his wife were asking for a few hundred square feet of encroachment into the wetland buffer. He explained that instead of having a specific drawing, they were looking for some flexibility in order to adequately meet their needs so if there were issues on the site with ledge, etc., they would be able to move the building 10-15 ft and not have to cause undue disturbance. He said they felt this flexibility was appropriate, and noted that the property contained 21 acres. He also said their views were in line with conservation concerns.

Chair Starkey noted that there was a knoll in the middle of the area where the applicants planned to build, which could mean more disturbance of the site would be needed.

Ms. Davis said a question Board members had asked was why the footprint couldn't shrink, with the applicants making the building and porch a little smaller so they wouldn't impact the wetlands. Mr. Boley said that was certainly an option, but said they didn't feel that a smaller footprint would meet their needs, given that they expected to raise a family. He noted again that they wanted to have some flexibility. Ms. Davis asked what the square footage of the proposed home was, and Mr. Boley said it was 1600-1800 sf based on the current plans, with a single floor.

Ms. Davis said another question Board members had was whether the house and garage were going to be on slab. Mr. Boley said yes, explaining that the house was going to be slab at the west end, and that as it went to the east and if ledge wasn't struck, there would be a full walkout basement.

Ms. Davis asked if what was shown on the plan would have the least possible impact on the wetlands. Mr. Boley said yes, and said engineer Mike Sievert had reviewed all of the potential sites on the property.

Ms. Davis noted that the applicants proposed to build a passive solar house. Mr. Boley provided some details on this, explaining that they wanted southern exposure and planned to have a shed style roof that was higher on the south wall than the north wall, and that would have a decent overhang on the south side to shade the house in the summer.

Chair Starkey asked if there were any members of the public who wished to speak in favor of the application. There was no response. He asked if any members of the public wished to speak against the application.

**Rob Sullivan, Chair of the Conservation Commission**, said the Commission hadn't seen a detailed building drawing. He said as a principle, it was important not to compromise wetland setbacks unless this was absolutely necessary, and said it would be good if there was a way to shrink the footprint and bring it within the wetland setback. He said if the ZBA decided that the footprint proposed was ok, a question was whether there were some things that could be done to mitigate the impacts. He said it was important for the Commission to weigh in on these issues.

**Robin Mower**, first apologized that she wasn't able to be at the site walk, but said she'd listened to the March 8<sup>th</sup> ZBA meeting.

She said she appreciated it that the prospective property owners appeared to be oriented toward energy efficiency, including solar generation, so she understood one reason why they were seeking some flexibility in location/orientation of the final structure.

She said she believed the ZBA must determine that the application met all eight criteria for a special exception, and said it seemed that two of these criteria, #2 and #3 presented real sticking points. She said the Board must define both “undue hardship” and “reasonable and economically viable use”. She asked if “undue hardship” had the same meaning for a special exception that it did for a variance, and related to circumstances unique to the property. Chair Starkey said yes.

Ms. Mower asked if the Board had discussed the unique circumstances of the property. Chair Starkey said once the public hearing was closed, the Board would go through each of the criteria.

Ms. Mower said “reasonably and economically viable use of the lot” might reasonably be viewed through the lens of “one man’s meat is another man’s poison,” in that this was often a matter of perception and subjectivity. She said the size of the house desired by a family of five might well be different from the size of a house desired by a family of two, and said it wasn’t the community’s responsibility to provide for the full range of wishes of property owners of prospective buyers. She said it wasn’t up to the Board to make sure the prospective buyer was happy with its ruling, and said sometimes the shoe just didn’t fit.

She said from what she’d heard at last month’s presentation, options were available for configuring or locating a house that provided a reasonable and economically viable use that did meet the Zoning Ordinance. She said these options must might not match the prospective buyer’s wishes.

Ms. Mower said over the ten years since she’d returned to Durham, the Town’s land use boards had granted numerous waivers and variances for wetland and shoreland impacts. She said while each alone might have seemed to board members as having de minimus consequences, which was often not the way natural systems such as wetlands worked.

She said she was primarily puzzled why the Board was entertaining an application for a plan that hadn’t been nailed down sufficiently for the Board to know what the final impact on the wetlands would be and whether a special exception really would be needed, and for what, exactly. She asked if granting a special exception should be conditional upon or tailored to a specific plan, since the exception would run with the property.

Ms. Mower summarized that the case had not yet been proven that the application required relief from Durham’s land use regulations.

Mr. Boley stated again that their views were aligned with conservation, and said a set number of feet for a setback didn’t always take into consideration the best use of the land. He said they were trying to use the land in the best and most conservation-minded way

possible, and to minimize the wetlands impacts through having a bit of flexibility as they were designing the project.

Chair Starkey asked Mr. Boley to explain what it was that would make the plan not work if the covered porch fit within the setback. Mr. Boley said the porch could shrink so everything would be within the setback, but said it couldn't be said that there wouldn't be something in the landscape that required blasting and bringing in fill. He said they would therefore like to be able to move the footprint if needed.

Chair Starkey said when the ZBA did an approval and based this on a plan, this meant that the footprint needed to be what was on the plan or inside of that. He said if the Board approved the special exception and the garage was then moved back a foot, the special exception would be gone because it wouldn't reflect the plan.

Mr. Hoffman spoke about the fact that the lot was created in 1974 and there was a lot line adjustment in 2004, and said that concerning the issue of vesting, the wetland setbacks existed in 2004 but not in 1974. He asked Mr. Boley if he was trying to avoid blasting because he wanted a walkout basement. Mr. Boley said if having a walkout basement didn't work as they were digging the foundation, it wouldn't be done.

Ms. Mower said she appreciated the applicants' sincere interest in respecting conservation values, and the fact that they were uncertain what they'd find as construction started. She asked what the appropriate procedure was for an applicant who wanted some flexibility, when the ZBA could only grant relief based on something specific. Mr. Sterndale said if what was designed was within the Zoning Ordinance requirements, the applicants had all the flexibility they wanted.

Ms. Davis asked whether the applicants could rotate the house however they wanted as long as they didn't infringe on the wetland buffer. Chair Starkey noted that the layout in part was based on capturing the sun, so turning the house too much wouldn't necessarily work. He also said again that shifting the footprint couldn't happen, and said everything had to fit within the footprint in the plan. There was discussion on this with Mr. Boley. Ms. Davis confirmed with Chair Starkey that a two store house that stayed within the footprint in the plan would be acceptable. There was further discussion.

Mr. Smith said he'd been thinking about how critical protection of the wetland overlay district was, and noted that it wasn't very far from the Lamprey River, which was a major source of water for the Town and the University. He said his fear was that approving this application would set a precedent. He noted that engineer Mike Sievert had said at the meeting last month that it could turn out that the encroachment would go down to zero.

Mr. Smith said he didn't think the application met criteria 2 and 3. He said he appreciated the applicants' efforts to respect conservation values, but said he believed that the ZBA should not approve the application because it wasn't necessary, and the project could be done without causing hardship.

***Chair Starkey MOVED to close the Public Hearing. Mike Hoffman SECONDED the motion and it PASSED unanimously 5-0.***

Chair Starkey went through the special exception criteria.

**1. The lot upon which the exception is sought was an official lot of record, as recorded in the Strafford County Registry of Deeds, prior to the date on which this Article was posted and published in the town.**

Chair Starkey said it was an official lot of record.

**2. The use for which the exception is sought cannot be carried out on a portion or portions of the lot which are outside the Wetland Conservation Overlay District or Shoreland Protection Overlay District without undue hardship.**

Chair Starkey said there were no other portions of the lot where the house could be built. Mr. Toye said part of the hardship was due to wanting to do a passive solar design. Mr. Sterndale said this was a self-created hardship and not a feature of the land. He said the applicants could do an 1800 sf house on this parcel, without encroaching on the wetlands and without undue hardship, and the criterion therefore wasn't met. Mr. Hoffman questioned whether this was the best thing to do from an environmental perspective, and questioned having an oil burning furnace instead of passive solar. Mr. Sterndale said the Board didn't know that the current design was the only way to do a passive solar home on the site. Chair Starkey agreed, and said it wasn't something required as part of the special exception process.

**3. Due to the provisions of the Wetland Conservation District or Shoreland Protection Overlay District, no reasonable and economically viable use of the lot can be made without the exception.**

Chair Starkey said the applicants had said the property could be used without the special exception. Ms. Davis said blasting could mean the project wasn't economically viable.

**4. The location and design of the building(s) and all structures shall provide for the maximum setback from the reference line consistent with reasonable use of the property considering the size, shape, slope, and natural conditions of the lot including, but not limited to, soils, flood hazard areas, and wetlands.**

Chair Starkey said he thought the application met this criterion. Mr. Sterndale said the applicants could provide more setback without much difficulty, so he thought the application failed on this criterion as well. Mr. Hoffman said the reference line wording in #4 was in regard to the high tide mark or shoreline of a great stream, which related to the shoreline overlay, so in this case criterion #4 was moot. Other Board members agreed.

**5. The design and construction of the proposed septic system will, to the extent practical, be consistent with the purpose and intent of this Article.**

**6. The proposed septic system will not create a threat to individual or public health, safety and welfare, such as the degradation of ground or surface water, or damage to surrounding properties.**

Chair Starkey said criteria 5 and 6 were met because the applicants would be using a Clean Solutions septic system, all of which would sit within the wetland setback.

**7. All other state, federal and local approvals required for the septic system have been obtained.**

**8. Where site review is required, prior approval shall be obtained from the Planning Board**

Chair Starkey said criteria 7 and 8 were met. He said he didn't think criteria 2 and 3 were met.

Ms. Davis said she was still uncertain as to why the covered porch had to be as large as was proposed. Chair Starkey said it was because of the orientation of the property and the fact that it was a conceptual design. He said as more work was done it could get smaller and there would be no wetland encroachment. There was further discussion.

Mr. Hoffman said he was having some difficulty with criterion #3. He said he thought the building could be slightly reconfigured. He also said he thought the applicants were asking for a very small amount of impact area on a 20 plus acre lot, and said the area in question was well beyond 250 ft from the Lamprey River.

Chair Starkey noted the issue of asking for a little bit of impact, and these small amounts of impact adding up over time.

Mr. Toye said it was unfortunate that there couldn't be an iterative, give and take process with the ZBA for this project, but said the Board didn't have the authority to do this. There was discussion about how a special exception application tied the Board's hands more than a variance application would.

***Chris Sterndale MOVED that the ZBA deny the petition submitted by Jennings & Celie Boley, Portsmouth, New Hampshire, on behalf of Terry W. & Linda E. Zych, Intervale, New Hampshire, for an APPLICATION FOR SPECIAL EXCEPTION as per Article IX, Section 175-29(B) of the Durham Zoning Ordinance to construct a house and septic system on an existing lot of record within the Wetland Conservation Overlay District. The property involved is shown on Tax Map 14, Lot 27-2, is located at 80 Wiswall Road, and is in the Rural Zoning District. The motion FAILED for lack of a SECOND.***

Ms. Davis said her understanding was that the applicant was asking for some flexibility, and wanted to be allowed no more than a certain amount of exceedance of the wetland

setback. She said the plan the Board was looking at and would be voting on was a worst case scenario.

There was further discussion on criteria 2 and 3. Mr. Toye said things might be different if the ZBA was allowed to exchange the solar aspect of the project for the wetlands encroachment, but said they couldn't do this.

Mr. Hoffman said he was trying to work with criterion #3 concerning a "reasonable and economically viable use of the property". He said it would be more economical and might be more environmentally friendly not to do blasting. Ms. Davis said a project being done by one of her neighbors had to be shut down because it wasn't economical to do blasting. Chair Starkey said the Board didn't have information to satisfy that question in regard to this property.

Chair Starkey asked for another motion.

***Ruth Davis MOVED that the ZBA approve the petition submitted by Jennings & Celie Boley, Portsmouth, New Hampshire, on behalf of Terry W. & Linda E. Zych, Intervale, New Hampshire, for an APPLICATION FOR SPECIAL EXCEPTION as per Article IX, Section 175-29(B) of the Durham Zoning Ordinance to construct a house and septic system on an existing lot of record within the Wetland Conservation Overlay District. The property involved is shown on Tax Map 14, Lot 27-2, is located at 80 Wiswall Road, and is in the Rural Zoning District. Mike Hoffman SECONDED the motion.***

Mr. Sterndale said the ZBA didn't have room to be flexible here. He said if the Board followed the discussion it had just had, ignored it and approved the application, this would open a pretty substantial gate for a lot of other people.

***The motion FAILED 2-3, with Mike Hoffman and Ruth Davis voting in favor of it.***

***Chair Starkey MOVED that the ZBA deny the petition submitted by Jennings & Celie Boley, Portsmouth, New Hampshire, on behalf of Terry W. & Linda E. Zych, Intervale, New Hampshire, for an APPLICATION FOR SPECIAL EXCEPTION as per Article IX, Section 175-29(B) of the Durham Zoning Ordinance to construct a house and septic system on an existing lot of record within the Wetland Conservation Overlay District. The property involved is shown on Tax Map 14, Lot 27-2, is located at 80 Wiswall Road, and is in the Rural Zoning District. Chris Sterndale SECONDED the motion, and it PASSED 3-2, with Chair Starkey, Chris Sterndale and Tom Toye voting in favor of it.***

Chair Starkey said he believed there was a 30 day appeal period for a special exception, but would check on this, and the proper correspondence would be provided to the applicant.

Mr. Boley thanked the Board for their time and consideration and said he and his wife planned to be good stewards of the land and good neighbors shortly.

- B. **PUBLIC HEARING** on a petition submitted by Scott Righini, Durham, New Hampshire, on behalf of Adam Fogg & Patricia Nagle, Durham, New Hampshire, for an **APPLICATION FOR VARIANCE** as per Article XX, Section 175-109(D)(2) of the Durham Zoning Ordinance to permit the expansion of an accessory apartment to be greater than 25% of the total floor space of the dwelling in which it is located. The property involved is shown on Tax Map 14, Lot 7-5, is located at 149 Mill Road, and is in the Rural Zoning District.

Mr. Righini said the Fogs were the current owners of the property in question, and said he had a current Purchase and Sale agreement on the property, contingent upon getting a variance that would allow an increase in the size of the apartment in it. He said he and his wife were long-term Durham residents, and had been looking for a house that was large enough for their family and also would have an apartment for his parents so they could be cared for as they aged. He said this house suited their needs, and said the existing apartment above the garage had kitchen and bathroom facilities but was a little smaller than would be comfortable for two people.

He went through the variance criteria and how they were met with the application.

1. He said no decrease in value of the surrounding properties would be suffered because the proposed addition to the existing apartment would be in keeping with the character of the existing structure. He also said the proposed addition would be located on the back side of the garage, which would minimize visibility from the road and neighboring lots.
2. He said granting the variance for the proposed addition to the accessory apartment would not be contrary to the public interest because the character of the neighborhood would be unchanged and the addition would be unobtrusive to neighbors.
3. He said owing to special conditions of the property that distinguished it from other properties in the area, denial of the variance would result in unnecessary hardship.
  - a. He said no fair and substantial relationship existed between the general public purpose of the ordinance provision and the specific application of that provision to the property, because the general purpose of this ordinance was to control the population density of rural and residential zones. He said the proposed addition would not increase the potential occupancy of the existing studio apartment.

He said for two years, they'd been searching for a residence in Durham with a house to accommodate his family and an accessory apartment that could accommodate his parents. He said this was the only residence they'd found with the appropriate facilities, and that only required an increase in the apartment square footage. He also said this property was located directly across from an assisted living facility, and would allow his parents a smooth transition to this facility when they required more care than he could provide.



- b. He said the proposed use was a reasonable one because the existing studio apartment had an area of 754 sq ft (22.6% of the total area of the dwelling). He said the proposed addition would result in a one bedroom apartment with an area of 1066 sq ft (29.7% of the total area of the dwelling), and said this additional 5% over the ordinance limit would allow 2 adults to occupy the apartment in a reasonable and comfortable manner.
4. Mr. Righini said by granting the variance, substantial justice would be done because it would allow his family to remain in Durham while providing his parents a place to live comfortably with the independence they deserved and yet close enough for him to provide the support they would need. He said this would have no negative impact on the surrounding area or neighborhood.
5. He said the use would not be contrary to the spirit and intent of the ordinance because the overall character of the residence would not be changed and the potential occupancy of the residence would remain the same.

Mr. Righini explained that there was currently a two stall garage with a studio apartment above it. He said the plan was to add a third stall on the backside of the garage, and living space above it. He said while it might look like the studio apartment was pretty spacious, 4 feet of it was somewhat unusable, noting that the front side of the apartment had a fairly steep cape roof. He said the room in the apartment they wanted to expand was currently called a computer storage room, and said with that roof line, they could probably get a queen size bed in there, but it would be difficult to walk around it.

There was discussion that there was a stairwell coming up from the garage, and Chair Starkey asked if it would be the only egress. Mr. Righini said whatever needed to be done concerning access would be done, such as egress windows, etc. Chair Starkey asked if there was egress from the apartment to the main portion of the house and Mr. Righini said the access to the house went through the garage. He said it was a legally approved studio apartment.

There was discussion that there were two driveways. Mr. Righini explained that one was on the abutting property, and there was an easement to use it.

Mr. Hoffman said there couldn't be egress from a bedroom to a garage, and said the stairwell had to be totally enclosed and separated, which was a building code issue. Mr. Righini said there was a separation for the stairwell, and said it didn't simply lead to the garage. He noted that the plan provided didn't show all of these details.

Chair Starkey asked if the back of the current studio had a dormer, and Mr. Righini said yes.

Mr. Smith noted that Mr. Righini's application said that if his parents moved to the facility across the street at some point, the two person occupancy would remain the same. Mr. Righini said his point in saying this was that he wasn't going to turn the apartment

into student housing and rent it to eight people. He said they were looking to add some square footage to the apartment, but could still only rent it to a maximum of two people.

Mr. Toye said he was looking to see if there was a way to reconfigure the design in order to get to 25% of total floor space. He asked if part of the objective with this application was to get a third full bay for the garage. He talked about possibly cutting back the proposed addition to the computer room, and noted that there was a lot of wasted space in the existing 12 ft by 26 ft bedroom. Mr. Righini said it was possible the computer space could be cut down in the final design process, depending on what they found in the area. He said what was being asked for now was the biggest envelope they would be looking for.

Mr. Hoffman noted the accessory dwelling unit legislation the Legislature had recently passed and that the Town would have to comply with. He said it would include a provision that an accessory dwelling unit couldn't be limited to less than 40% of the living space. He said what the applicant was asking for would be what the bill already addressed.

Chair Starkey said he didn't mind the garage bay, because a parking spot was being added for a tenant.

There was discussion that there was an existing deck where the addition was proposed. Mr. Righini said he would go through the normal permitting process in order to add back a deck later.

Chair Starkey asked if there were any members of the public who wished to speak in favor of the application or against it.

**Troy Fogg, Mill Road** said he was the only abutter, and said the rest of the land around the property in question was conservation land. He said he had zero issues with this application.

***Chris Sterndale MOVED to close the Public Hearing. Chair Starkey SECONDED the motion and it PASSED unanimously 5-0.***

Chair Starkey said what was proposed was a bedroom added to the existing studio apartment. He said the percentage being asked for wasn't that much, and said it would probably be less than the 40% amount that would go into effect next year. He said separate from that, he believed the application met the five variance criteria. He said he could see what Mr. Toye was saying about closing things in a bit, but said he didn't know that he'd want to limit the applicants in this way, because they were also not asking to add living space to the back side of the house.

Mr. Toye said this was a nice plan, and had been speaking in the interest of complying with the Ordinance. Chair Starkey said he would be more concerned if there was a wetland issue since more volume was being requested. He said he thought what was proposed met the spirit and intent of the Ordinance.

Mr. Hoffman said it was important that one of the units would be owner occupied, in keeping with the new State accessory apartment law, and he suggested including a condition on this in the approval. There was discussion.

Chair Starkey noted concerning granting the variance that the abutter was in favor of granting it and there was quite a bit of conservation land around the property.

***Mike Hoffman MOVED that the Zoning Board of Adjustment approve a petition submitted by Scott Righini, Durham, New Hampshire, on behalf of Adam Fogg & Patricia Nagle, Durham, New Hampshire, for an APPLICATION FOR VARIANCE as per Article XX, Section 175-109(D)(2) of the Durham Zoning Ordinance to permit the expansion of an accessory apartment to be greater than 25% of the total floor space of the dwelling in which it is located, with the requirement that there will be owner occupancy of one of the dwelling units with no specification as to which unit the owner should occupy, and based upon the drawings provided by Lauren Roman Interior Design LLC. Chair Starkey SECONDED the motion and it PASSED unanimously 5-0.***

## **VI. Other Business**

- A. **REQUEST FOR EXTENSION as per RSA 674:33(I)(a)** on an Approved Variance from May 13, 2014 to permit the construction of an attached one and one-half story, 26' x 36' addition to a legal non-conforming dwelling within the shoreland and side yard setbacks. The property involved is shown on Tax Map 12, Lot 16-14, is located at 15 Edgerly Garrison Road and is in the Residence C Zoning District.

Chair Starkey reviewed the variances that had previously been received from the Zoning Ordinance, to permit the construction of an attached one and one-half story, 26' x 36' addition to a legally non-conforming dwelling within the shoreland and side yard setbacks.

From Article IX, Sections	175-29(D) 175-30(D)(1) 175-30(D)(3)(c&d)
From Article XII, Sections	175-40(E) 175-54 175-55(B)
From Article XIV, Sections	175-71(A)(5&6) 175-75.1(A.1, 2 & 5)
From Article XXII, Section	175-120

He said State statute didn't indicate how the ZBA was required to handle requests like this. He said it could be done either administratively or by the ZBA and could include a public hearing or not. He said how this was handled varied from town to town. Mr. Smith said he preferred to see a 6 month extension with good cause, and no public hearing.

Mr. Hoffman said most of the conditions hadn't changed and the abutters hadn't changed. He said one year to get everything done wasn't really much time, and said they didn't want to rush the construction. He said he didn't see there was a problem having someone come to the ZBA asking for a one year extension, and not having a public hearing. He recommended doing that in this instance.

Mr. Sterndale agreed, and said there needed to be a relief valve. He said he thought the public body needed to affirm this, but said he didn't think a full public hearing process was needed. It was noted that this agenda item had been published. Mr. Sterndale said until the Board got more guidance on what criteria to use, it would use its judgement on something like this.

Mr. Hoffman noted that with the ZBA making a decision on this, this took pressure off of the Code Officer to make the decision. There was further discussion. Chair Starkey said he agreed with what others had said. It was noted that if the ZBA denied this request, it would go to court after that.

Mr. Toye said he liked the circuit breaker analogy, but said if the Board did vote on this, it was doing so in a qualitative capacity. Mr. Sterndale said there was most likely to be an issue if there was a change in an environmental provision of the Ordinance, and the Board would have the opportunity to say the Ordinance had changed and things had to start over. Chair Starkey said if in the future the Board was concerned about something like that, it could take it to public hearing. There was further discussion.

It was noted that there was the question of how to handle this current request for extension, and also the question of what procedure for handling requests for extension made sense in the future. Board members agreed that all of these requests for extensions would go under Other Business in the agenda, and the Board would then decide whether or not a public hearing would be scheduled.

David Hadley, the applicant, explained that the variances were a part of a Purchase and Sale agreement. He provided details on work done on the site since the variances were approved, including land clearing, excavation for the foundation, drainage work, etc. He explained that a contractor hired had to withdraw, he tried to find another contractor and then ran out of time. He said he was seeking a request for a one year extension, and was not asking for any modifications to any of the variances that were approved.

Chair Starkey explained to Mr. Hadley that this was a one-time extension being granted, and said he would need to come before the ZBA again if work wasn't started on the addition within the year.

Board members said they didn't have any concerns about the extension being requested.

***Chair Starkey MOVED that the ZBA approve a one year extension as per RSA 674:33(I)(a) on an Approved Variance from May 13, 2014 to permit the construction of an attached one and one-half story, 26' x 36' addition to a legal non-conforming dwelling within the shoreland and side yard setbacks. The property involved is shown on Tax Map 12, Lot 16-14, is located at 15 Edgerly Garrison Road and is in the Residence C Zoning District. Tom. Toye SECONDED the motion and it PASSED unanimously 5-0.***

## **VII. Approval of Minutes**

February 9, 2016

Page 8, 2<sup>nd</sup> and 3<sup>rd</sup> paragraphs from the bottom should be joined.

***Mike Hoffman MOVED to approve the February 9, 2016 Minutes as amended. Chair Starkey SECONDED the motion and it PASSED unanimously 5-0.***

March 8, 2016

Page 3, 2<sup>nd</sup> paragraph from bottom, should read "...any threat of degradation of ground or surface water..."

Page 5, add a space between the 1<sup>st</sup> and 2<sup>nd</sup> paragraphs.

***Chair Starkey MOVED to approve the March 8, 2016 Minutes as amended. Mike Hoffman SECONDED the motion and it PASSED unanimously 5-0.***

Chair Starkey noted that this was Ms. Davis's last meeting on the ZBA. He thanked her for her hard work, and gave her a certification of appreciation from the Town.

He said Mr. Smith would move into the regular ZBA seat, and noted that for the time being there wouldn't be any alternates.

Chair Starkey said the Board would vote to designate the Chair, Vice Chair and Secretary at the next meeting.

He noted the upcoming Office of Energy and Planning conference in June.

## **VIII. Adjournment**

***Chair Starkey MOVED to adjourn the meeting. Tom Toye SECONDED the motion and it PASSED unanimously 5-0.***

Adjournment at 8:39 pm

Victoria Parmele, Minutes taker

---

Thomas Toye, Secretary