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DRAFT

ZONING BOARD OF ADJUSTMENT
Tuesday, September 15, 2020 at 7:00 p.m.
Town Council Chambers, Town Hall
8 Newmarket Road, Durham, NH
MINUTES

MEMBERS PRESENT: Chris Sterndale, Chair (attending in person)
Tom Toye, Vice Chair (attending remotely)
Joan Lawson, Secretary (attending remotely)
Micah Warnock (attending remotely)
Mark Morong (attending remotely)

OTHERS PRESENT: Audrey Cline, Code Administrator (attending remotely)

I. Call to Order

Chair Sterndale called the meeting to order at 7:03 pm. He noted that he was the only ZBA member in the room, and said under the Governor’s Executive Order related to Covid-19, a quorum of members could meet remotely, which was the case tonight. He said no members of the public were present in the Council Chambers.

INCLUDE ADDITIONAL LANGUAGE HERE IF NEEDED

II. Roll Call

The roll call was taken.

<i>Chair Sterndale</i>	<i>Yes</i>
<i>Tom Toye</i>	<i>Yes</i>
<i>Joan Lawson</i>	<i>Yes</i>
<i>Micah Warnock</i>	<i>Yes</i>
<i>Mark Morong</i>	<i>Yes</i>

III. Seating of Alternates

No alternates were seated.

IV. Approval of Agenda

V. Other Business:

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A. **REQUEST FOR REHEARING** on an August 11, 2020 denial of a petition submitted by Scott J. Winslow, Durham, New Hampshire for an APPLICATION FOR VARIANCE from Article XXI, Section 175-111(C)(2)(c) of the Durham Zoning Ordinance to allow for the widening of the driveway, encroaching on the side setback. The property involved is shown on Tax Map 6, Lot 5-55, is located at 15 Garden Lane, and is in the Residence A Zoning District.

Chair Sterndale said the issue in this application was one of a number of issues with the property. He noted that a Special Exception was granted. He said the variance that was requested was denied, and said the decision on this was based on failure to meet the hardship criterion.

Mr. Morong asked if Ms. Cline had any new information to provide.

Ms. Cline noted the email she had sent to the Board. Chair Sterndale said he hadn't seen it. Ms. Cline said her email said that if the Town owned the road, the ZBA couldn't grant a variance across it, but if the Town had a right of way across someone's property, the ZBA could grant a variance up to the roadway itself, but couldn't grant a variance for anything that would impede travel down the roadway itself. She said Garden Lane was owned by the Town, and said the strip of land involved wasn't a right of way and was owned by the Town, so a variance couldn't be granted within the right of way.

Mr. Morong asked how wide the area was that the Town owned. Ms. Cline said she didn't know, but said someone with an application would have to show where their property line was, and would need to prove they were building something on their own property.

Chair Sterndale said the applicant had raised objections to a number of issues. He said the ZBA had covered a lot of ground over the course of two meetings, and said the only thing they passed judgment on was that the variance application didn't meet the hardship criterion. He said that was the only thing the Board needed to focus on now, and said he didn't see anything that pointed out that the Board had erred or missed anything in their judgment concerning hardship. He said he was therefore inclined to let the prior decision stand, and to deny the request for rehearing.

Ms. Lawson said she agreed. She said the Board discussed the idea that the applicant had other options, such as moving the fence panel, and said because of that she couldn't justify that there was a hardship.

Mr. Morong said he couldn't either. He said a variance went with the property, and said the fence could be easily moved. He also said there were other options around the corner,

1 He said he didn't see how this property was different from neighboring properties so that
2 the hardship criterion could be met.

3 Mr. Warnock agreed. He said the applicant wanted to widen the driveway at the right of
4 way, and the Board knew that it couldn't grant a variance for this. He also said there
5 wasn't a hardship because there were other options.

6
7 Mr. Toye said he had nothing to add. He said the Board spent a lot of time discussing the
8 different angles, and said ultimately it came down to the criteria.

9
10 ***Micah Warnock MOVED to deny the REQUEST FOR REHEARING on an August***
11 ***11, 2020 denial of a petition submitted by Scott J. Winslow, Durham, New Hampshire***
12 ***for an APPLICATION FOR VARIANCE from Article XXI, Section 175-111(C)(2)(c)***
13 ***of the Durham Zoning Ordinance to allow for the widening of the driveway,***
14 ***encroaching on the side setback. The property involved is shown on Tax Map 6, Lot 5-***
15 ***55, is located at 15 Garden Lane, and is in the Residence A Zoning District. Mark***
16 ***Morong SECONDED the motion and it PASSED unanimously 5-0 by a roll call vote:***

17 ***Chair Sterndale Yes***

18 ***Tom Toye Yes***

19 ***Joan Lawson Yes***

20 ***Micah Warnock Yes***

21 ***Mark Morong Yes***

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23 **VI. Approval of Minutes:**

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25 July 14, 2020

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27 ***Mark Morong MOVED to approve the July 14, 2020 Minutes as presented. Micah***
28 ***Warnock SECONDED the motion and it PASSED unanimously 5-0 by a roll call vote:***

29 ***Chair Sterndale Yes***

30 ***Tom Toye Yes***

31 ***Joan Lawson Yes***

32 ***Micah Warnock Yes***

33 ***Mark Morong Yes***

34
35 August 11, 2020

36 Page 1, line 22, should say "The meeting was called to order at approximately 7:10 pm."

37 ***Micah Warnock MOVED to approve the August 11, 2020 Minutes as amended. Tom***
38 ***Toye SECONDED the motion and it PASSED unanimously 5-0 by a roll call vote:***

39 ***Chair Sterndale Yes***

40 ***Tom Toye Yes***

41 ***Joan Lawson Yes***

1 *Micah Warnock* *Yes*

2 *Mark Morong* *Yes*

3 **VII. Other Business**

4 It was noted that alternates were needed for the ZBA. Chair Sterndale said anyone
5 interested could contact Ms. Cline. He said training was available for this position.

6 **VII. Adjournment**

7

8 *Joan Lawson MOVED to adjourn the meeting. Tom Toye SECONDED the motion and*
9 *it PASSED unanimously 5-0 by a roll call vote:*

10 *Chair Sterndale* *Yes*

11 *Tom Toye* *Yes*

12 *Joan Lawson* *Yes*

13 *Micah Warnock* *Yes*

14 *Mark Morong* *Yes*

15

16 Adjournment at 7:14 pm

17

18 Victoria Parmele, Minutes taker