

**Zoning Board
Memorial Building**

**March 2, 2011
7:00 pm**

Present: Cynthia Hayes (chairperson), Gene Hayes, Kathy Richardson, Steven Berkley (alt) sat for William Sullivan, John Chiarella (selectmen rep.) Absent: Susan Chiarella, William Sullivan

Also present: Bryan O'Day, George McCusker, John Trachy, Malcolm Patten, Kristin Patten and Clayton Platt

Cynthia called the meeting to order at 7:00pm.

No changes to the minutes. Gene moved to accept them as written, Kathy seconded, and Steven abstained. Minutes as written passed.

Cynthia stated that she received a letter from Susan Chiarella but would wait until later in the evening to present it and the accompanying documents.

Meeting paused until 7:10 to wait for anyone arriving for the Patten hearing.

7:10pm

Cynthia started with asking Malcolm if he intended to enter Clayton Platt's name on the application as his Authorized Agent. Malcolm stated that he did. Cynthia requested Tamara make the entry on the original application.

Cynthia had questions about the abutter list, two of the abutters listed had the same map and lot numbers following their address information and one map and lot location did not have a name listed on the abutter list. Judkins and Fredrick were both listed as owners of Map 30, Lot 256-197, Malcolm and Clayton inspected the map and was unsure of who owned which property. Tamara stepped in and was then asked who the owner of Map 30, Lot 323-217 was and if Poston was the owner of Map 36, Lot 590-179, his map and lot numbers were not on the abutters list.

Map 30, Lot 256-197 is owned by Jennifer Judkins

Map 30, Lot 323-217 is owned by Kristin and Bradford Wise

Map 30, Lot 379-546 is owned by Joni Fredrick

Map 36, Lot 590-179 is owned by Jon Poston

Cynthia picked up the application prior to Kristin and Bradford Wise being added to the abutter list when Tamara consulted the tax maps to insure that all abutters were listed.

Cynthia stated that she appreciated Tamara taking the step to insure that all abutters were listed and notified as it would have caused the hearing to end until all abutters were notified.

Cynthia asked Malcolm if he received the Rules of Procedure from the office when he either picked up the application or when he dropped it off. He stated that he did not. Cynthia then explained what would

happen at the hearing. A Variance is a relaxation of the ordinance. In order to make a decision the Board has 5 conditions that must be met in order to approve the variance.

Conditions being:

- A. The variance will not be contrary to the public interest
- B. The spirit of the ordinance is observed
- C. Substantial justice is done
- D. The values of surrounding properties are not diminished
- E. Literal enforcement of the provisions of the ordinance would result in and unnecessary hardship
 1. For purposes of this section, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - a. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
 - b. The proposed use is a reasonable one
 2. If the criteria in subsection “1.” Are not established, an unnecessary hardship will be deemed to exist, if and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of “unnecessary hardship” set forth in subsection “E.” shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Burden of proof is on the Applicant

If even one (1) of the above conditions is not met the Board will deny the application.

Due to two (2) Board members being absent there is not a full Board to hear the application. Cynthia told Malcolm, Kristin and Clayton that they were allowed to wait until next month to have the board hear their application. With a full Board the chances of approval are better. Malcolm asked if it was normal to have less than a full board and Cynthia told him very rarely are they missing 2 members. They discussed among themselves and decided that they would wait until April.

Cynthia moved to continue the hearing until next month’s meeting April 5th at 7:10pm so that a full board will be present, Gene seconded and the board approved.

Malcolm Patten, Kristin Patten and Clayton Platt left the meeting.

Steven asked if the house location should be shown on the plan with the septic location. Currently the only improvement shown is the leach field. Board would also like to see the driveway location on the map as well because it looks as though it will have to cross the septic system. Gene thinks that the “skinny little line” on one of the maps looks as though it might be the driveway. Steven made a motion to ask for the driveway to be shown on the map, Gene 2nd and the board passed it.

Kathy requested a copy of the denied building permit prior to the next meeting.

The board discussed how to request for Malcolm and Clayton to show the location of the requested proposed improvements. First they requested Tamara call them; they then decided that the best route was for the Board to send a letter.

Discussion moved to the Applicant's Zoning Board of Adjustment checklist.

No issues with the listed items, Cynthia thought that maybe adding "Did you receive the Rules of Procedure?" at the bottom of the list. Kathy requested that the checklist be listed as page 4 of 4 and look the same as the other pages with the letterhead and other information on the top of the page.

The Board felt that putting more info on the website would help applicants to be as informed as possible prior to submitting an application and showing up for the hearing. On the Zoning page the board requested that Tamara include the application, the Instructions to the Applicant and the Rules of Procedure in one location. An example is: when a prospective applicant goes to the website and clicks on the Special Exception they will be taken not only to the application but also the Instructions and also the Rules of Procedure.

Kathy moved to accept the revised Checklist, Gene 2nd Board passed. Checklist must be looked at during 2 more meetings.

Cynthia read the letter/email sent by Susan Chiarella regarding sending Notice of Decisions to the Registry. Town of Sutton Zoning Board and Planning Board have been doing this for years. Susan did not find that Grantham, Sunapee or Newport are doing something similar to Sutton but didn't see a reason why Sullivan County wouldn't record a zoning or planning board decision. The cost should not exceed \$12.44, would be one page with certain measurement requirements.

Kathy questioned whether an increase in the fees charged would need to be made. Cynthia did not feel that was necessary.

In wrapping up the meeting Cynthia announced that Tamara had stepped up to take minutes for meetings. It was agreed that there would be a trial period of 6 months to make sure the arrangement worked for both Tamara and the Board. Everyone was happy with the decision. Cynthia moved to accept Tamara as the new recording secretary, Gene 2nd Board passed.

Each Board member would have a copy of the tax map showing Malcolm Patten's property for the next meeting and a copy of the denied building permit.

A brief discussion as to questions being asked as far as applying to the Zoning Board they should be directed to the Rules of Procedure and Instructions to Applicant.

Meeting Adjourned at 8:30 pm.

Respectfully submitted
Tamara Butcher