

LANCASTER ZONING BOARD OF ADJUSTMENT
January 27, 2021
6:30 PM

CALL TO ORDER:

The meeting was called to order at 6:30 pm by Vice Chairman Tricia Frenette.

ROLL CALL:

Regular Members Present: Steve Young, Tricia Frenette, Chris McVetty

Regular Members Absent: Rick Bernier and Les Hilton

Alternate Members Present: Linda Ogle, Nathan Kenison and Don Freddette.

Others Attending: Planning/Zoning Advisor Ben Oleson.

APPROVAL OF MINUTES:

Moved by Steve Young and seconded by Linda Ogle to approve the minutes of the December 30, 2020 meeting. Motion carried.

PUBLIC HEARINGS:

None.

OTHER BUSINESS:

Training Topic(s)/Material(s):

- Zoning Board Decisions Making Process – Variance
Ben Oleson conducted a brief training on a Zoning Board's process in making decisions from application submission to final decision. He provided each board member with a paper copy of the presentation (copy attached to minutes) and answered any and all questions as he presented the information.

Master Plan Update:

- Mr. Oleson explained that after speaking with Planning Board Chair Andy Nadeau, Selectboard Chair Leo Enos, and Town Manager Ed Samson it was decided to suspend the Master Plan update until at least April. He did notify the Committee and the Chairs of the Selectboard, Planning Board, Zoning Board and Conservation Commission. He explained he did not have the time to support the Committee due to continuing obligations with the COVID19 response and he hoped that would change in April. He also felt due to COVID there were fewer people interested in coming to meetings and he did not feel utilizing teleconferencing produces ideal public participation. He hopes by spring people will feel more comfortable coming to meetings in person.

Announcement(s)/Correspondence(s):

- 2021 Meeting Schedule: Included in board packets.

- Board terms to expire in March of this year: Steve Young, Les Hilton and Linda Ogle. Mr. Oleson announced that if they would like to be re-appointed they will need to submit a letter of interest to the Board of Selectmen.

Moved by Linda Ogle and seconded by Steve Young to adjourn the meeting.
Motion carried – meeting adjourned at 7:30 pm.

Respectfully submitted,



Jean E Oleson
Clerk

Approved: 2/24/2021



Tricia Frenette
Vice Chair

ZBA Decision Making Process

Considering Requests for Variance

Functions of Zoning Board

Zoning Boards are Judicial/Quasi Judicial

- Interpret ordinances and regulations to consider requests before them
- Not Legislative-Do not create or amend ordinances or regulations
- Not Executive-Do not enforce

Meeting Requirements

Do not need to meet monthly-RSA 673:10, I

- Meet when required by Chairman
- Meet when decided by Board
- Meet when requests are made by applicants

Meeting Requirements-cont.

Quorum

- Majority of membership of Board
- Necessary to conduct business, make decisions
- Chair designates alternates to fill member vacancies
- 3 votes needed to render decision

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Making Decisions

Quasi-Judicial Board

- Collects evidence
- Hears testimony
- Receives documents
- Finds facts
- Can, within reason, use member knowledge

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Making Decisions-cont.

Decisions based on fact

- No or overwhelming opposition does not matter
- Board has 4 options
 - Approve
 - Deny
 - Modify
 - Approve with conditions

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Making Decisions-cont.

Applicant has burden of proof
Courts could review decision of Board

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VARIANCE PROCESS

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Application

Must be received no less than 14 days before next meeting

Must be on form provided by Town

Must have Applicant and Owner signatures

Additional information may be required for decision to be reached

Hearing must be held within 30 days of receipt of application

- RSA 676:7, II

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Public Noticing

Must notice public hearing topics

- Notice to abutters
 - 5 Days before hearing-RSA 676:7
- Notice in paper
 - 5 Days before hearing-RSA 676:7
- Notices 2 places (One could be website)
 - 24 Hours-RSA 91-A

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Participation at Hearing

Board members ask questions

Alternates may participate as regular members (no vote) if Rules of Procedure allow it

- RSA 676:6, V

Recused/Disqualified members may participate if they can prove standing

Board must hear all abutters and others it deems appropriate

- RSA 676:7, (a)

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Independent Expert

Board may hire independent (third-party) expert to review applicant submissions

- Costs paid by the applicant-RSA 676:5, V

Applicant has right to review invoices and scope of work

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Public Hearing

Open when applicant begins presentation

Give opportunity for abutters/public to speak

- Time limit
- No direct questions to applicant-asked through Board Chair

Close Public Hearing everyone has had opportunity to speak

Board deliberates

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Deliberation

Does not have to be right after closing hearing

- May deliberate several cases at end of meeting
- Board can continue deliberation to another day
- Deliberations must be done in public-RSA 673:17

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Decision

Board has 4 choices

- Approve
- Approve with conditions
- Deny
- Modify request

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Statement of Reasons

Decisions must be based on the merits of the proposals

Board should consider Statement of Reasons when making decision

Use references as guides

- Zoning Ordinance
- Land Use Law Book
- Zoning Board Handbook
- Rules of Procedure

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Contrary to Public Interest

Does it violate the objectives in Zoning Ordinance?

- Alter character of neighborhood
- Threaten Health
- Threaten Safety
- Threaten general public welfare

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Is Spirit of Ordinance Observed?

Must determine the purpose of the ordinance under review

- Review purpose and intent language (if any)
- Review Master Plan
- Understand characteristics of land being considered
 - Anything unique from others in general area
- Does it alter character of neighborhood

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Substantial Justice

Must be a case by case decision

If loss to applicant is not outweighed by gain to public there may be injustice

Is request consistent with area's present use?

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Surrounding Property Values Diminished

Board weighs all testimony

- Expert testimony vs. general public input
- Must consider credibility, are witnesses "experts" in field of knowledge

Use own knowledge

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Unnecessary Hardship

Does ordinance impact some more than others

Is restriction needed for ordinance to have purpose

Based on special conditions of property, is proposed use reasonable

- Are there alternatives

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