



# **ZONING BOARD OF ADJUSTMENT**

**Town of Greenland · Greenland, NH 03840**

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## **MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC MEETING**

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Tuesday, August 16, 2022 – 6:30 p.m. – Town Hall Conference Room

Members Present: Dick Rugg, David Sandmann, Leonard Schwab, Chip Hussey (Alternate)

Members Absent: Steve Gerrato

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D. Sandmann, Chairman, opened the Board of Adjustment meeting at 6:30 p.m. and a roll call was taken. He stated a quorum was present and the meeting was being recorded.

D. Sandmann stated that although this was a public meeting, they would not be taking testimony or comments from the audience. Board members would be discussing the motion that was before them.

### **1. Acceptance of Resignation; Appointment of Alternate to Board**

Ron Gross submitted his resignation from the Zoning Board of Adjustment, effective June 31, 2022 (sic).

MOTION: Leonard Schwab moved to accept the resignation of Ron Gross from the Zoning Board of Adjustment, effective June 31, 2022 (sic). Second – D. Rugg; roll call vote: L. Schwab – yes, D. Rugg – yes, C. Hussey – yes, D. Sandmann – yes; all in favor. MOTION CARRIED

An individual must be appointed to fill R. Gross' term until March 2023. At that time, the position will be on the ballot as a one-year position expiring in March 2024 when that term would normally expire. In March 2024, it will be on the ballot as a three-year position. This process is followed to avoid conflict with Board rotation.

MOTION: L. Schwab moved to appoint Chip Hussey to fill the vacant Zoning Board of Adjustment position, term to expire March 2023. Second – D. Rugg; roll call vote: L. Schwab – yes, D. Rugg – yes, C. Hussey – abstain, D. Sandmann – yes; three in favor, one abstained (C. Hussey). MOTION CARRIED

### **2. Alternate Appointment**

Bill Bilodeau has submitted an application for appointment to the Zoning Board of Adjustment. He has served on the Planning Board and currently serves on the Conservation Commission. His term will expire in March 2025.

MOTION: L. Schwab moved to appoint Bill Bilodeau as an alternate to the Zoning Board of Adjustment, term to expire March 2025. Second – D. Rugg; roll call vote: L. Schwab – yes, D. Rugg – yes, C. Hussey – yes, D. Sandmann – yes; all in favor. MOTION CARRIED

3. Motion for Rehearing: 480 Breakfast Hill Road (R1, 9 – Residential/RCIM District)

Filed By: Steven Beattie, 48 Seavey Way (R1, 10F)

A Motion for Rehearing has been filed by an abutter to 480 Breakfast Hill Road. A Variance was granted by the Zoning Board of Adjustment on June 21, 2022.

A Motion for Rehearing was filed on July 21, 2022, by an abutter to 480 Breakfast Hill Road. The Zoning Board granted a Variance to Seacoast Family Promise (SFP), 480 Breakfast Hill Road, at its June 16, 2022, meeting. L. Schwab suggested that the Board review and discuss each of the applicant's points submitted (copy on file) as a reason for the rehearing. A motion will be made by the Board at the conclusion of the discussion.

**On the Topic of Tax Burden on the Town of Greenland:** L. Schwab commented that during the testimony in June it was shown that the people living at that house, including children, would be registered at the Exeter address for SFP. The applicant cited the McKinney-Vento Homeless Act. That act came into being largely because of transient people, especially farm workers who move from place to place and had no fixed address. Based on the statement from SFP that students would be registered in Exeter, McKinney-Vento does not apply. D. Sandmann clarified that there is no tax burden on the Town of Greenland.

**Approval of this Variance is in Opposition of Greenland's Zoning Ordinance for RCIM Districts:** C. Hussey stated no evidence has been presented. In the RCIM District, there could be residential housing, a restaurant, a manufacturing facility. C. Hussey felt the proposed use would be the best use of the property. No new evidence was presented that would change his mind.

**Impact of Variance Approval on Diminishing Value of Neighbors:** D. Sandmann stated that the impact would not affect the values of any of the properties. C. Hussey added that the only evidence offered was an article from the New York Times. Unfortunately, that really cannot be used. First, it is incomplete; second, it should be more like a mortgage going in and writing an evaluation. There has been no demonstration it would affect property values. L. Schwab, referring to the sentence "The homes on Seavey Way that abut this property will experience a change in the view...", stated there was a very dense bunch of trees in that area. When the Variance was granted, the condition was additional visual barriers would be added. L. Schwab did not see that there would be a change in view. He continued that the proposed building would definitely contribute to the quality of the building. L. Schwab looked at the tax records and did not see any indication that there was any diminishment in value. L. Schwab and D. Sandmann stated they did not see that as viable. B. Bilodeau, referring to the sentence "The Code Enforcement Officer denied the building permit for the property, in part, because other properties in the area will experience a diminishment in value", stated that was not specifically stated in his denial. C. Hussey added that he is not qualified; D. Sandmann agreed the Building Inspector was not qualified to make those statements.

**The current use of the building was never appropriately approved by the town of Greenland, thus expansion of unapproved use is unjust:** L. Schwab had a hard time with this statement because it started as a building owned by Bethany Church. People returning from a mission and between assignments or jobs lived there for a period of time. L. Schwab and D. Sandmann stated that when SFP purchased the property, it was with the understanding that it would continue to be used as interim housing similar to how Bethany Church used the building. L. Schwab did not know if it was provable that the building was never appropriately approved by the Town. The closest one can get to appropriate approval is with an occupancy permit. He had no reason to believe an occupancy permit was not issued.

**The concept of hardship by not approving the Variance was misused in the application of this Variance approval:** D. Sandmann had a hard time understanding the argument. A place is purchased with the intention of using it a certain way and if it cannot be used that way, that is a hardship. It has nothing to do with selling or reselling the property, it has to do with the use of the property when it is purchased. C. Hussey stated he would want to see some court documentation and some rulings from the court stating that. It has not been provided; unfortunately, C. Hussey did not see how it could move forward on this issue.

**Request for additional restrictions to the Variance that was approved:** (a) It is a requirement of SFP that a trained staff member be on site when guests are in the house. (b) No alcohol or non-prescribed drugs on the site is an understanding with SFP: they do not have alcohol or recreational drugs on the site. (c) Smoking in designated locations: there is a requirement for no smoking inside the building. (d) Individuals arrested for or convicted of a violent or drug-related crime not be allowed in the program: D. Sandman was unsure if that was within the keeping of SFP—they try to provide rehabilitation; L. Schwab noted these are not individuals brought into the program, these are families with children. There is an automatic weeding out of people who are convicted of a violent crime. (f) Adequate screening and secure fencing, and (g) Not allow the use of flood lighting: C. Hussey noted those would be Planning Board issues. L. Schwab felt many of the items would be Planning Board issues. C. Hussey noted there is a fine line between Planning Board and ZBA; the Planning Board will let the ZBA know if that line is crossed. He did not think the 10-foot fence was a great idea. The Planning Board will definitely be overseeing the lighting because it is a commercial building. L. Schwab noted that one of the additions to the Variance was that SFP needed to generate an acceptable site review plan for the Planning Board. Some of the items are already taken care of by SFP. D. Sandmann stated the ZBA requested that SFP provide adequate screening between the property line; the ZBA did not request a 10-foot-tall fence and it was redundant with the screening. There should be lighting along the parking area but not necessarily all around the property. L. Schwab thought that all, or most, parking was along the eastern side of the building.

MOTION: C. Hussey moved to deny the Motion for Rehearing as requested by the abutter at 48 Seavey Way. Second – L. Schwab; roll call vote: L. Schwab – yes, D. Rugg – no, C. Hussey – yes, D. Sandmann – yes; three in favor, one opposed (D. Rugg). MOTION CARRIED

#### 4. Approval of Minutes

MOTION: C. Hussey moved to approve the minutes of Tuesday, June 21, 2022. Second – D. Sandmann; roll call vote: L. Schwab – yes, D. Rugg – yes, C. Hussey – yes, D. Sandmann – yes; all in favor. MOTION CARRIED

#### 5. Other Business

D. Rugg questioned why the public was excluded from speaking if this was a public meeting. The people appealing the decision came to this meeting and comments can be limited. C. Hussey stated that on a Motion for Rehearing comments are not taken. D. Rugg firmly disagreed with that and felt it was completely wrong. B. Bilodeau stated they did not meet any of the requirements. The Board reviewed the six steps in the appeal and nothing qualified. C. Hussey stated this was a public meeting, not a public hearing which has to be noticed. L. Schwab read the paragraph from the Board of Adjustment in NH, 2021-NH OPD, Chapter IV: Appeal From A Board's Decision, page IV-3 (second full paragraph), which was included in the packet (copy on file). It can still be appealed to Superior Court; they do have another route.

6. Adjournment

MOTION: C. Hussey moved to adjourn at 7:01 p.m. Second – L. Schwab; all in favor. MOTION CARRIED

NEXT MEETING

Tuesday, September 20, 2022 – 6:30 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant