

**DRAFT, SUBJECT TO REVIEW, CORRECTION AND APPROVAL**

**DUNBARTON ZONING BOARD OF ADJUSTMENT**

**MONDAY, JUNE 13, 2016**

**DUNBARTON TOWN OFFICES – 7:00 P.M.**

The regular monthly meeting of the Dunbarton Zoning Board was held at the above time, date and place with Chairman John Trottier presiding.

The following members were present:

**John Trottier, Chairman**  
**Dan DalPra, Vice-Chairman**  
**Michael Kaminski**

The following members were absent:

**Alison Vallieres, Secretary**  
**Dave Nault**  
**James Soucy, Alternate**  
**John Herlihy, Alternate**

Other Town Officials Present:

**Stephen Laurin, Building, Planning and Zoning Department**  
**Ken Swayze, Planning Board**

Members of the Public Present:

**Philip Anderson**

John Trottier, Chairman, called the meeting to order at 7:00 p.m.

**Meeting Posting:**

The Chairman verified with Stephen Laurin that the meeting notice had been posted in two public places throughout the Town and published in the Concord Monitor for one day. In addition, the notice was posted on the Dunbarton Web Page.

**APPROVAL OF PREVIOUS MEETING MINUTES – MONDAY, MARCH 14, 2016**

***MOTION:***

*Mike Kaminski made a motion to accept the minutes of the meeting of Monday, March 14, 2016 as submitted.*

*Dan DalPra seconded the motion. The motion passed unanimously.*

Mike Kaminski announced that, since the Zoning Board Secretary was not present at the meeting, he intended to record the audio of the meeting for transcription purposes to aid preparation of the official minutes. There were no objections.

**ELECTION OF OFFICERS:**

Dan DalPra made a motion to nominate John Trottier as Zoning Board Chairman. Mike Kaminski seconded the motion. There were no other nominations. Motion passed, 2-0-1. John Trottier abstained.

John Trottier made a motion to nominate Dan DalPra as Zoning Board Vice Chairman. Mike Kaminski seconded the motion. There were no other nominations. Motion passed, 2-0-1. Dan DalPra abstained.

John Trottier noted that Alison Vallieres could not attend tonight's meeting because of a recent medical procedure, and that she had sent an E-mail to the Board stating that she is interested in continuing her role as Secretary of the Zoning Board.

John Trottier made a motion to nominate Alison Vallieres as Zoning Board Secretary. Mike Kaminski seconded the motion. There were no other nominations. Motion passed, 3-0-0.

**PUBLIC HEARING – PAUL J. CAMIRE AND LYNNE ANN HARTNETT (B5-02-10) REQUEST A MODIFICATION TO A CONDITION OF APPROVAL WITH REGARD TO A VARIANCE PURSUANT TO RSA 674:41, I AND II, GRANTED BY THE ZONING BOARD ON FEBRUARY 10, 1997, TO REDUCE THE 350' BUILDING SETBACK TO 125'. THE PROPERTY IS LOCATED AT 165 KIMBALL POND ROAD.**

Philip Anderson, 163 Kimball Pond Road was the only abutter present.

Chairman Trottier announced that, prior to tonight's meeting, the application had been distributed to Board members, as well as the minutes of the original February 10, 1997 Zoning Board meeting, and the correspondence from the Town Attorney to the Town Administrator dated January 10, 1997 as it related to the application to allow building permits to be issued on a parcel without access to a Class V road.

He said he is troubled by the lack of a current plot plan as part of the application submission. He noted that there are multiple plans that show portions of the site, but there is no plan which has been certified by a surveyor that shows the access to the property, the location of the house, driveway, septic system, well, significant natural features of the property, or the proposed location of the setback line and garage/storage building.

Mike Kaminski said he would also like to see a more comprehensive plan.

Lynn Hartnett responded by pointing to the sketch and photo that show the location of the access way, solar panels, pool, cabana, driveway, septic tank, leachfield, and the proximity of the proposed structure to the leachfield. Lynn said their neighbor, Phil Anderson, supports their request, and noted that the access easement is on Phil's property. Paul Camire said their driveway from Kimball Pond Road to the house is 750 feet. Ms. Hartnett said the access easement is 300 feet, and pointed out that the proposed structure would utilize their existing driveway and be located another 250 feet from their property line. The structure would have the aesthetic look of a barn.

She pointed out that their application includes the original plan that was used to obtain approval to build on the lot. Both she and Paul Camire said that they felt the information they have submitted provides enough detail for the Board to understand the layout.

Paul Camire asked why the property is subject to a 350 foot setback requirement while other properties require only a 50 foot setback. Discussion ensued regarding the purpose of the 350 foot setback requirement noted in the February, 1997 Zoning Board minutes. John Trottier noted that the applicant and the neighbor at the time agreed to a 350 foot setback, and it was established as a condition of Zoning Board approval.

**Dan DalPra and Mike Kaminski agreed with Chairman Trottier that, for non-conforming lots, a certified plot plan is required to be submitted with an application.**

**In response to a question from Lynne Hartnett regarding the practical need for a certified plan, Mike Kaminski explained that, although there is a cost incurred, it provides important information for their use as well as for the Town. The plan ensures that the Zoning Board has complete, accurate information to make their decision, and the building department has the information necessary to accurately communicate zoning requirements and issue permits.**

**John Trottier allowed Ken Swayze to make a comment and ask a question pertaining to their discussion. Ken asked if it would be appropriate for the Board to take a formal vote on whether they should waive the requirement for a certified plot plan.**

**MOTION:**

**John Trottier made a motion to not waive the requirement for a certified plot plan. Mike Kaminski seconded the motion. Motion passed, 3-0-0.**

**Ms. Hartnett said it was her understanding that Stephen Laurin had spoken to the Town Attorney regarding their application and asked if Mr. Laurin if he could share what he learned. Stephen Laurin said that in his experience, there are very few instances where the Zoning Board makes decisions with regard to language found in state statutes, and wanted to ensure that the specific language in the notice to the abutters and for publication was adequate legal notice, to which the attorney concurred.**

**Lynne Hartnett asked the Chairman what their options are at this point. Mr. Trottier said they could continue the application to a date certain, or withdraw the application until they get all of the required information and then resubmit a new application. He noted that either way, they will need to pay fees for the legal notices.**

**Ms. Hartnett said they would like to withdraw their application at this time.**

**She said she was extraordinarily disappointed in the Board's actions, adding that the Board is not acting in a manner consistent with the spirit of a small town. She said that in business dealings she has been involved with in the past, all of the parties in a discussion can come to an understanding and agreement, even though all of the "check-the-box" requirements have not been fulfilled.**

**ADJOURN**

**Dan DalPra made a MOTION to ADJOURN. Mike Kaminski seconded the motion. Motion passed, 3-0-0.**

**The meeting adjourned at 7:25 pm.**

**Respectfully submitted,**

**Stephen Laurin**