

**ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING MEETING MINUTES
Wednesday, February 21, 2024 – 6:00PM
Lincoln Town Hall, 148 Main Street, Lincoln NH**

*Hybrid meeting available both in person & via Zoom Meeting Platform to allow for town wide participation. A quorum of Planning Board members must be physically present at the meeting. Although there is space in the large conference room for 8-12 guests in addition to the Board members, the public is welcome to participate remotely using ZOOM. Planning Board Meetings can be attended in-person at the Town Hall Building. Recordings of all Planning Board meetings can be found at www.youtube.com (Lincoln NH ZBA Meeting 02-21-2024). Zoom access is for your convenience; use at your own risk. If any technical difficulties or if ZOOM should go down, the meeting will NOT be rescheduled.

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(See also town website www.lincolnnh.org for same link, meeting ID and passcode.)

- I. CALL TO ORDER** by the Chairman of Zoning Board of Adjustment; announcement of excused absences, if any, and seating of alternates(s), if necessary.

Motion made to appoint Jack Daly as acting chairperson for tonight's meeting was made by Member Sullivan.

Seconded by Member Moran. All in favor.

Acting Chair Daly now appoints Alternate Susan Chenard to serve as a voting member.

Present:

Members: Acting Chair Jack Daly, Member Delia Sullivan, Member Myles Moran, and Alternate Susan Chenard appointed as a regular voting member.

Excused: Chair Ray D'Amante & Vice Chair Mark Ehrman.

Staff: Planner Carole Bont

Guests:

- **James Spanos**, (resident) (APPELLANT'S AUTHORIZED AGENT), c/o Gloria Spanos, Mountaineer Motel, 374 US Route 3, PO Box 896, Lincoln, NH 03251-0896, and realtor for Colwell Banker Old Mill Properties, 86 Summer Street, Bristol, NH 03222 and Chair of the Planning Board.
- **Joanne Moser**, (nonresident) (ABUTTER), 268 Beaver Brook Road, Campton, NH 03223, as one of several heirs of Aline Dumont who own property at 28 Franklin Street with a mailing address listed as Claude B. Dumont et.al., c/o Aline Dumont, 28 Franklin Street, Lincoln, NH 03251.

II. CONSIDERATION of meeting minutes from:

- July 5, 2023 (Present: Chair Ray D'Amante (via Zoom), Acting Chair Jack Daly, Member Delia Sullivan, and Alternate Susan Chenard appointed as a regular voting member)
 - Member Sullivan advises she hasn't had a chance to read the draft minutes yet and asks if they can be approved at the next ZBA meeting.

III. CONTINUING AND OTHER BUSINESS (Staff and Zoning Board Member/Alternates).

None.

IV. NEW BUSINESS

- A. Hand out ZBA Rules of Procedure to review/revise for next ZBA meeting.**
- B. Reminder: Meeting after Town Meeting – elect officers**
- C. Request for:**
 - 1. EQUITABLE WAIVER of DIMENSIONAL REQUIREMENTS;**
 - 2. VARIANCE; and**
 - 3. WAIVER OF SURVEY REQUIREMENT.**

Concerning Article VI District and District Regulations, Section B District Regulations, Paragraph 2 Land Use Schedule, Paragraph 4 (Dimensional Chart) of the zoning ordinance known as the Land Use Plan Ordinance (LUPO) by Appellant George Sourgiadakis d/b/a Ice Cream Delights, at 73 Main Street, for his property at 73 Main Street (Map 112, Lot 072).

Appellant & Property Owner: George Sourgiadakis
d/b/a Ice Cream Delights
73 Main Street
PO Box 701
Lincoln, NH 03251-0701

Subject Property: 73 Main Street (Map 112, Lot 072). Lot Size: 0.13 acres. Village Center (VC) District. Appellant also owns the two closest two abutting lots: (1) 75 Main Street [Map 112, Lot 018] and (2) Franklin Street #LO [Map 113, Lot 017] that would be most impacted by the proposed project.

LUPO: In the Village Center (VC) District the rear setback requirement is fifteen feet (15') from the property boundary line. No "structure" is permitted within the setback areas. The proposed attached shed is a "structure" and would encroach approximately eleven feet (11') into the fifteen foot (15') rear setback area and be approximately four feet (4') from the rear property boundary line.

Requests are for the ZBA to grant:

- 1. An **Equitable Waiver of Dimensional Requirements** to allow the existing ice cream store structure that was erected in 1960, prior to the adoption of the zoning ordinance in 1986, and that currently encroaches approximately one or two feet into the fifteen foot (15') rear setback areas to remain. There was no violation by previous owners when the building was constructed because there was no zoning in effect. No enforcement action has been taken in 38 years.
- 2. A **Variance** to allow a proposed (24' 4 1/2" X 10') shed with a refrigerator unit in it within the fifteen foot (15') rear setback area.
- 3. A **Waiver** of any usual requirement to provide a survey to show the exact measurements on the lot and the buildings on the lot when requesting a variance to put structures within the setback areas.

Planner Bont explains to Appellant's Agent Spanos that she does not have a full board. He can ask for a full board for his hearing and a hearing will be rescheduled for a full board. Appellant's Agent agrees to go ahead without a full board.

APPELLANT'S PRESENTATION:

- A. **Appellant's Agent Authorization:** Appellant's Agent James Spanos presents a notarized document of agent authorization on behalf of Appellant George Sourgiadakis to authorize James Spanos represent him in this matter.
- B. **Agent Spanos** sums up Appellant's desire to put a freezer along the [entire] backside of Ice Cream Delights with a 10-foot addition. The addition won't encroach on the back parking lot, but Appellant Sourgiadakis also owns the lot behind the Ice Cream Delights Shop.

ZBA QUESTIONS:

A. Definition of "Shed":

- 1. Member Moran states that when he thinks of a "shed", he thinks of a "shed" as being a roof with an end wall on each side. In the Appellant's description it appears that the "shed" is more like full walls all the way around from eaves to the ground.
 - a. Agent Spanos says the ZBA should consider the shed to be more of a 10-foot addition.
- 2. Member Moran asks what the size of the freezer will be if the space is going to be 24' x 10'.
 - a. Agent Spanos advises the freezer will be a 10' x 10' leaving the rest of the space in the addition for dry storage.

B. Survey Needed:

- 1. Member Moran suggests a survey of all of Appellant Sourgiadakis's property so the ZBA can see what this [proposed shed] will all look like [on the ground].

C. Change Location/Orientation to Avoid Variance:

- 1. Member Moran noticed, recently, an 18-wheeler was having a difficult time pulling in to get to Appellant's GH Pizza place [next door]. For the moment, it's great that Appellant Sourgiadakis owns all the property that abuts the subject lot so he can maneuver where his employees park and such, but if he were to ever sell off parts of the combined properties, what happens then?
- 2. Member Moran suggests Appellant Sourgiadakis "shed" be placed on the east or west side of the ice cream shop versus the north side and then none of the variances would be needed.
 - a. Agent Spanos advised putting the "shed" on the west or east side of the ice cream shop would [negatively] affect the seating on the sides and interfere with the efficiency of the ice cream business.
- 3. Member Sullivan asks how wide the freezer is and asks whether maybe the freezer could be turned.
 - a. Agent Spanos advises the freezer is a square freezer.

D. Curb Cuts Impacted:

- 1. Member Moran also discussed curb cuts that could be affected if any portions of this combination of properties are sold off.

E. Survey Needed:

1. Member Moran states, again, the need for a survey for the ZBA to consider his request for a variance.
2. Planner Bont advises she did tell Appellant Sourgiadakis he was going to need a survey for his Application for a Land Use Authorization Permit (LUP) and she suggested a waiver of the survey for getting a variance only, not a waiver of the requirement of the survey for a Land Use Permit.
 - a. Agent Spanos thought they were here for a waiver on the survey [for both purposes].
3. Planner Bont said that is not [the reason] why Appellant Sourgiadakis is there before the ZBA. She was clear with Appellant Sourgiadakis about the requirement for a survey for a Land Use Permit to build the shed, and he said he didn't want to spend the money.
 - a. Agent Spanos advises that Appellant Sourgiadakis owns very small businesses in Town.
4. Member Moran states Appellant Sourgiadakis businesses are not little businesses in Town; they are major businesses. Member Moran feels that \$3,000 is a small amount of money to spend for a survey.
 - a. Agent Spanos disagrees.

F. Compare

1. Member Sullivan discusses the auto store that goes right to the back of their property, and they are busy. She doesn't see an issue with the addition.

G. Agreement/Easement to Maintain Adjacent Lot Behind for Parking for Businesses in Front

1. Alternate Member Chenard discusses how she also asked if there might be an agreement to keep the parking area located on the lot behind the Ice Cream Delights shop and GH Pizza Restaurant for those two (2) businesses. She wasn't sure if that parking lot was shared with Appellant Sourgiadakis.

H. Merger of Subject Lot with Lot with Parking in Back

1. Alternate Member Chenard asks if he would ever consider merging the two (2) properties.
 - a. Agent Spanos advises not at this time.

I. Merger of Subject Lot with Lot with Parking in Back

1. Acting Chair Daly asks why Appellant Sourgiadakis needs such a large addition for a freezer that is only 10 x 10 or 10 x 8? Why is the additional space is needed?
 - a. Agent Spanos thought it would be a good time to build the addition while they needed the freezer.

J. Additional Onsite Parking Needed if Sell Back Lot Currently Use for Parking for Two Businesses

1. Planner Bont is asked if she has any more concerns.
2. Planner Bont is also concerned about the lack of room for adequate onsite parking for the two (2) front businesses if Appellant were to sell the lot behind it. Parking for both businesses would be problematic.

K. Survey Needed:

1. Planner Bont reminds the board of her discussion about needing a survey for a Land Use Permit.
2. Member Moran reiterates his desire to see a survey done.

L. Don't Re-Engineer Appellant's Plan

1. Agent Spanos reminds the ZBA that Appellant Sourgiadakis is asking permission to have the addition put on the back of the building. He isn't there for the ZBA to try and re-engineer Appellant's plan.

Public Comment:

Motion made to open public comment by Alternate Member Chenard.

Seconded by Member Moran. All in favor.

A. Joann Dumont Moser, property owner of 28 Franklin Street.

1. Joann Dumont Moser feels the area around the two shops is already congested and she believes Appellant Sourgiadakis should have to change his rear lot line. She says his customers park on both sides of Franklin Street when the parking lot on the adjacent back lot is full.

Further ZBA Discussion:

- A. Alternate Member Chenard confirms on the plan and with Appellant's Agent Spanos that where the addition is going, there are no existing parking spots that will be lost.
 1. Appellant's Agent Spanos confirms that is correct.
 2. Appellant's Agent Spanos advises it is not Appellant Sourgiadakis' fault if someone decides to park on the street.
- B. Member Moran says putting the freezer addition in the driveway area causes more congestion.
 1. Agent Spanos disagrees.
- C. Agent Spanos advises the PB can waive the dimensional requirements within the Village Center (VC) District; so maybe he should go to the PB.
- D. Appellant's Agent Spanos' says his understanding was that he was before the ZBA for a waiver of the survey for the Land Use Permit [and the Variance].
 1. Planner Bont disagrees.
- E. More discussion was had about merging the lots.
 1. Agent Spanos said they are not there to talk about merging lots but about a variance.
- F. Agent Spanos requests the ZBA Chair poll the board.

Acting Chair Daly polls the board.

- **Member Moran and Sullivan both want a survey done.**
- **Acting Member Chenard wants to know if the lot line can be adjusted.**

Appellant's Call

Acting Chair Daly asks what Agent Spanos would like to do at this point.

- A. Agent Spanos asks if they can come back for another meeting or just go back to the PB for a dimensional waiver.
- B. Agent Spanos comments that the ZBA is going to squeeze the mom-and-pop businesses and let the big developers get away with murder which isn't very fair.
 1. Planner Bont states the ZBA doesn't do variances for large developments; that's the PB (e.g., Hampton Inn – maximum height restriction, and Copley Loon Housing, LLC – minimum setback requirements.)

C. Member Moran asks Agent Spanos if he can get a dimensional waiver from the PB why come to the ZBA?

1. Agent Spanos said he thought they were applying for the waiver for the survey requirement in the LUPO.
2. Action Chair Daly advises the Town has an application [for a Land Use Permit] that's requesting a survey.

D. Agent Spanos requests to have a new hearing in a month.

Member Sullivan makes a motion to have Appellant come back for a new hearing in a month.

Member Moran Seconds.

- A. Member Moran says he would like to add the variance for the shed too.
- B. Planner Bont advises April 3rd is available as a hearing date.

No vote was taken.

- A. Agent Spanos asks if the Appellant made a smaller addition, [would that make a difference]?
 1. Member Moran says it would be too hard to say without seeing [the footprint of the building] on a survey.
- B. Alternate Member Chenard asks if the handwritten drawing was more of the first option of a smaller addition.
 1. Agent Spanos confirms it is.

C. Member Moran suggests instead of putting on the walls, just having the roof and four (4) posts.

Second to motion to continue the meeting to April 3rd made by Member Moran. All in favor.

V. OTHER BUSINESS – ZBA members/alternates, Zoning Board Staff

None.

II. CONSIDERATION of meeting minutes from:

- July 5, 2023 (Present: Chair Ray D'Amante (via Zoom), Acting Chair Jack Daly, Member Delia Sullivan, and Alternate Susan Chenard appointed as a regular voting member)

At the end of the meeting, the ZBA chose to review the draft minutes for July 5, 2023.

Motion to approve made by Member Sullivan.

Seconded by Member Moran. All in favor, none opposed.

Motions to approve the July 5, 2023 ZBA Meeting Minutes by Member Sullivan.

Acting Chair Daly seconds. All in favor.

VI. PUBLIC PARTICIPATION AND OTHER BUSINESS: Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the ZBA will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

VII. ADJOURNMENT

Motion to Adjourn made by Alternate Member Chenard.

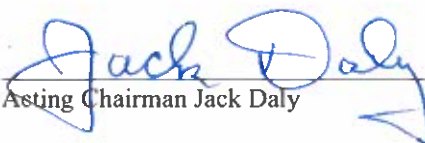
Member Moran seconded. All in favor.

Meeting adjourned at 6:59:30 PM (59:30).

Respectfully submitted,

Kara Baker
Recording Secretary

Date Approved: April 17, 2024


Acting Chairman Jack Daly