

Town of Lincoln Zoning Board of Adjustment – Meeting Minutes
September 8st, 2010 – 5:00 pm

Present: Chairman Joe Chenard, Tom Smith, Ronald Comeau, Patricia McTeague

Staff Present: Planning & Zoning Administrator Matt Henry

Excused Absences: Wilfred Bishop

Others Present: None

I. CALL TO ORDER by the Chairman Joseph Chenard at **6:03PM**;

Chairman Chenard called the meeting to order.

II. CONSIDERATION of the Draft Meeting Minutes of 03/17/2010.

MOTION: Patricia McTeague made a motion to approve the minutes of 3/17/2010. Tom Smith seconded the motion. The motion carried unanimously (3-0).

CONSIDERATION of the Draft Meeting Minutes of 09/01/2010.

Matt Henry explained that the meeting was short and was held just in case abutters showed up. Initially the plan was to have Patricia phone in from her daughters house but after consulting with an attorney, they determined that while she could be counted in the final vote tally, those making up the actual quorum must be physically present.

MOTION: Tom Smith made a motion to approve the minutes of 3/17/2010. Joe Chenard seconded the motion. The motion carried with Ron Comeau and Patricia McTeague abstaining (2-0-1).

III. CONSIDERATION of Case 10-06:

Case No: 10-06: The Zoning Board of Adjustment will conduct a Public Hearing on an application for a Variance from the setback requirements of the Land Use Plan Ordinance, Article VI, Section B4, submitted by Steven Poulin, Tax Map 117, Lot 080. The applicant is seeking a variance from the Lincoln Land Use Plan Ordinance in order to allow an overhang his log home that exceeds the required 15 foot setback requirement.

Joe Chenard stepped down from the Zoning Board of Adjustment due to a perceived conflict of interest resulting from a past land sale to Mr. Poulin. Matt Henry began by explaining that this variance application came about through a complaint filed from a Mr. Jim Boyle. Steven Poulin had the lot surveyed and the result of the complaint was that two sonar tubes for the porch would be removed. The foundation that was in place was found to be in compliance. Steven Poulin stated that the problem would arise when he continues to build and roof will overhang by 11 inches and the corner logs of the log home will overhang by six inches. Steven Poulin showed the Zoning Board of Adjustment a diagram of the property and where the violation occurred. Matt Henry read a letter from Robert and Catherine Turnbull saying they were not concerned with the setback violation. The Turnbull residence is located on the side closest to the violation.

MOTION: Tom Smith made a motion to open the public hearing. Patricia McTeague seconded the motion. The motion carried (3-0).

Acting Chairman Ronald Comeau asked if the only violation would be that corner. Steven Poulin said that the western corner would be the only violation.

Joe Chenard spoke from the audience citing other precedence where they allowed other variances that exceeded the setback requirements. He particularly spoke about a deck at Coolidge that was only a 10' setback and the variance was granted.

Matt Henry pointed out a worksheet that was included in the ZBA's packet that went through variance requirements one by one. He recommended that they go through one by one and talk about each of the five points individually. Doing this protects the ZBA if the case is appealed to higher courts. The following was the Steven Poulin's explanation of each standard:

1. for the following reasons, the values of the surrounding properties (would - would not) be diminished:

Steven Poulin said that he attempted to set back the house from Bourassa Road with respect to his neighbors. He said that the home is going to be nicely landscaped and if anything increase the property values.

2. Granting the variance (would - would not) be contrary to the public interest because:

Steven said that the log cabin would be aesthetically pleasing to look at.

3. Denying the variance (would – would not) create an unnecessary hardship for the applicant.

Steven said that he situated the home in such a manner so he could look at South Peak. While he acknowledged that financial hardship could not be used to justify the unnecessary hardship test, he did wish to point out that moving the foundation would be very costly. He said the hardship that would justify a variance would be the consequences of not granting the variance would be having to modify his log home thereby decreasing the aesthetics and property values.

4. Granting the variance (would - would not) do substantial justice because:

Steven Poulin said that as Joe Chenard has mentioned there have been similar cases approved that have required variances that were more drastic than his.

5. The spirit of the ordinance (would - would not) be observed because:

Steven Poulin said that one of the primary reasons for town Zoning that mandates setbacks is for health & safety having to do particularly with fire safety. The shed that is on the abutting property is so far from the violation that it would pose no fire or other safety risk. His neighbor, Robert Turnbull, said that he felt safe that if a fire were to break out his shed would not be endangered. He did ask that Steven plant some shrubs which he verbally agreed to do.

MOTION: Ron Comeau made a motion to close the public hearing. Tom Smith seconded the motion. The motion carried unanimously.

MOTION: Tom Smith made a motion to go into voting mode. Patricia McTeague seconded the motion. The motion carried (3-0).

The following was the ZBA's findings and explanation:

1. For the following reasons, the values of the surrounding properties would not be diminished (3-0):

The ZBA determined that it **would not** diminish the values of surrounding properties. The manner in which the log home is situated would likely increase property value. Forcing the applicant to alter the side and roof overhang of his home would create a home that has poor aesthetics and thus would diminish values if the variance was not granted.

2. Granting the variance would not be contrary to the public interest because (3-0):

The ZBA determined that it **would not** be contrary to public interest. The applicant has tried to avoid coming to the ZBA all he could and it was a last resort. If the variance is granted, the log home can stay in conformity with the style of the houses in that neighborhood.

3. Denying the variance would create an unnecessary hardship for the applicant (3-0).

The ZBA determined that it **would** create unnecessary hardship. The applicant has tried all other possible motives to avoid coming to the ZBA and he is using the ZBA as a last resort.

4. Granting the variance would do substantial justice because (3-0):

The ZBA determined that it would do substantial justice. Ron Comeau explained that it was such a small oversight in measurement and the applicant did as much as he could do to avoid coming here. There is no objection to the variance by his abutters.

5. The spirit of the ordinance would be observed because (3-0):

The ZBA determined that the spirit of the ordinance would be observed because it is in line with the precedence that the ZBA has used prior to this case.

MOTION: Tom Smith made a motion to exit voting mode. Ron Comeau seconded the motion. The motion carried (3-0).

IV. CONTINUING & OTHER BUSINESS (Staff and Planning Board Member/Alternates).

Matt Henry explained that he received an application from a prospective candidate who wishes to join the ZBA. He said that the Board of Selectmen ask for a recommendation as to whether they should appoint Paul Beaudin as a full ZBA member. Patricia McTeague said that she has no problem with Paul Beaudin and he is very knowledgeable on zoning issues. Ron Comeau said that he is a respected citizen and he has no problems with appointing Mr. Beaudin. It was decided that the entire

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board endorsed his candidacy.

VI. PUBLIC INPUT on Specific Issues

VII. ADJOURNMENT:

MOTION: Joe Chenard made a motion to adjourn at 4:27. Patricia McTeague seconded the motion. The motion carried unanimously (3-0).

Respectfully submitted,

Matt Henry

Dated: October 6, 2010

Pat Romprey, Chairman