

Zoning Board of Adjustment
June 19, 2018
7:30pm

Voting Members: Curt Springer, John Russo, Roger Whitehouse, Walter Baird, Michelle Cooper

Others Present: Ernest Brown

2018-2: Appeal from an administrative decision, 227 Main Street, aka: 1 Sweet Street, M&L 3-59-13

John made and Walter seconded a **motion to appoint Curt as chairman for this meeting**. The motion **passed**. Curt appointed Michelle as a voting member. The minutes of June 12th were read. John made and Roger seconded a **motion to approve the June 12, 2018 minutes as written**. The motion **passed** unanimously. An email from Janet Denison, sent June 19th, was read aloud. It outlined the events involving Ed Morrison and Bob Bogosh, the building inspectors dealing with this property.

Curt said he heard back from Peter Loughlin. Michelle made and John seconded a **motion to release Peter's letter**. Walter said there is no legal requirement to tell people about the 30 day appeal period for any administrative decision. It is a courtesy. The motion **passed** unanimously.

It was explained that Peter commented only on whether or not the case should be heard. This was pertaining to when the application was received compared to when the check was written for the application fee. It was noted that when a building permit is issued, if that person doesn't act on it immediately, the neighbors wouldn't know to appeal until after 30 days after the decision has been made. Mr. Brown made an action within 30 days of the original decision and Peter said the courts would look favorably on this. The Board agreed the appeal was made in a timely manner.

Curt showed pictures from online media illustrating the house being torn down. The subdivision approval was in 2014 with no formal decision regarding fees. The demo permit was issued in April 2015. The zoning ordinance (ZO) was revised in March 2017 to allow a two-year window for the impact fee. At the time of the subdivision approval, the ZO stated that if the house is burned down and rebuilt within one year, no impact fee is imposed, but if it were voluntarily torn down and rebuilt, an impact fee is imposed.

It was stated that once a subdivision is approved by the Planning Board (PB), they have nothing more to do with it. Curt stated the PB isn't the only entity dealing with impact fees. He said after the PB approves the subdivision, it's then up to the building inspector to make a decision regarding the fee. Roger pointed out that when the PB expressed their opinion about the impact fee for this subdivision, there was a house on one lot. Although it was cost-prohibitive, the existing house could have been renovated rather than razed.

Mr. Brown said the impact fee is usually a condition of approval and included in the notes on the recorded plan. This plan had no notes regarding the fee. Curt said that the building inspector is the one making the decision regarding the fee when the certificate of occupancy is issued. Peter Loughlin only opined on whether or not the case should be heard, not whether or not the impact fee should be paid.

There was a short discussion regarding what to do when the ZO is changed after a subdivision is approved. It was agreed that the ZO in force at the time of subdivision is the ruling one. Curt pointed out that if this is the case, the two-year window has no bearing on this case since that was not part of the ZO at the time of subdivision.

The five-year exemption in RSA 674:39 was discussed briefly. This states that every subdivision approved by the PB is exempt from changes to zoning and regulations for a period of five years.

After a short discussion, Michelle made and Roger seconded a **motion to waive the impact fee based on what is in the Zoning Ordinance procedures regarding the five-year time period.** Curt opposed. The motion **passed.**

At 8:29 Michelle made and Roger seconded a **motion to adjourn.** The motion **passed** unanimously.