

**SWANZEY ZONING BOARD OF ADJUSTMENT
MEETING MINUTES NOVEMBER 21, 2011**

Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.

ATTENDANCE

William Hutwelker, Chair; Charles Beaugard, Sr., Bob Mitchell, Jerry Walker. Alternates Sarah Tatro, Charles R. Beaugard, Jr. Town Planner Sara Carbonneau also was present.

MINUTES

Motion by Beaugard, Sr. to approve the minutes of the October 17, 2011 meeting. Second by Beaugard, Jr.

1. Request for Re-hearing of decision rendered on September 19, 2011

Applicant: Thomas Bouffard

Property owner: Thomas Bouffard

Property location: 81 Wilson Pond Rd Map 19, Lot 27

Zoning District(s): Residence District and Shoreland Protection District

Denied request: Variance from Section VIII.C. and XI.B.1 to permit the expansion of a non-conforming structure (expansion of an existing deck) situated within the Shoreland Protection District.

Members seated: Hutwelker, Beaugard, Sr., Mitchell, Walker. Beaugard, Jr. was seated for Thibault.

Hutwelker advised those present (Thomas Bouffard, applicant/property owner, and Richard Dell'Erba) that the agenda item was part of a public meeting, but was not a public hearing. Hutwelker determined that Board members all had read the October 18, 2011 request for rehearing submitted by Bouffard. Hutwelker asked members whether, in their opinion, the request provided information that had been unavailable at the September 19, 2011 meeting. Hutwelker asked whether any member felt the Board had made an error in the September 19 decision.

Mitchell, Beaugard Sr., Tatro and Walker agreed that they felt that the request contained no new information. Beaugard, Jr. said that he had driven through the subject neighborhood several times, and had noticed many structures that are located closer to Wilson Pond than the proposed deck. Beaugard, Jr. said that, from the road, it appears that Bouffard is doing his best to prevent erosion, or any other damage to Wilson Pond. Beaugard, Jr. said that he had mixed feelings, regretted the Board's being unable to find

reasonable accommodation for Bouffard to live in his home, and regretted that Bouffard's physical disability was entered into consideration towards the end of the Board's discussion on September 19. However, Beauregard, Jr. said, he felt that, based on the rules, the Board made the right decision.

Motion by Mitchell to deny the request for rehearing, due to the absence of new information beyond what was presented and considered at the September 19, 2011 public hearing, said consideration documented in the meeting minutes, and that the Board did not make any mistakes or errors in procedure. Second by Hutwelker. Mitchell, Hutwelker and Beauregard, Sr. in favor, Beauregard, Jr. and Walker opposed. Motion passes.

2. Consideration of changes to rules of procedure

Carbonneau presented a revised draft and overview of the proposed changes to the rules of procedures. Carbonneau said that the changes clarify rules regarding alternate members, clarify how applications are addressed when less than a full Board is in attendance, and specify where public notices are posted. The rules state that fees must be paid before a hearing, Carbonneau said, and call for the Board chair to present a summary of facts and claims. The rules also clarify the procedure for requests for re-hearings.

Board members and Carbonneau discussed at length the final provision of the rules of procedure, relating to waivers. Hutwelker said that he felt that applicants and opponents need some certainty that the rules would not be waived. Hutwelker said that he would like to see the section tightened up to make clear that the "practical difficulty" to the applicant would have to be catastrophic in nature. Carbonneau said that it would be impossible to lay out parameters for when the Board might consider waiving a portion of the rules. Furthermore, Carbonneau said, being unresponsive to an applicant who had a good reason for a waiver could lead to court action. Carbonneau said that the NH Local Government Center advises in favor of including the waiver language, for greater flexibility; unless the waiver language is included in the rules of procedure, the Board would be unable to waive any procedures. Carbonneau said that so long as the rules of procedure are well written, and the Board operates in a fair and equitable manner, waiving the rules wouldn't need to occur often. Waiving the rules would be very rare, Carbonneau said, and should be. Mitchell said that he was not as concerned with the waiver provision, stating that the purpose of the rules of procedure is to codify a standardized practice for the Board. With all policies there can be exceptions, Mitchell said, and waiving a provision would be a special event requiring a majority vote.

Members agreed that, with the exception of the provision regarding waivers, the balance of the rules of procedure was acceptable. Members agreed that they would like to tighten up the waiver provision, and include more guidance.

Motion by Beauregard, Jr. to adopt the revised rules of procedure, with the exception of the provision regarding waivers. Second by Mitchell. All in favor.

3. 2012 Zoning amendments. Public hearing scheduled for December 8, 2011.

Carbonneau reviewed proposed zoning changes, saying that some changes are housekeeping and some correct archaic language; other changes relate to indoor composting privies and timelines for variances and special exceptions. Board members discussed variance and special exception time limits relative to litigation.

ADJOURNMENT

Motion by Beauregard, Sr. to adjourn. Second by Beauregard, Jr. All in favor. The meeting adjourned at 7:43 p.m.

Respectfully submitted,

Victoria Reck Barlow
Recording Secretary