

**Town of Goshen
Zoning Board of Adjustment
Minutes of May 11, 2011**

Members Present: Tom Lawton, Chair; Peta Brennan; Allen Howe; Bob Johnson; Ray Porter

Chair Lawton called the meeting to order at 7:05 p.m. He advised the Board members that he may not be able to Chair the meeting scheduled in July, therefore the Board should be giving thought to electing a Vice-Chair in his absence.

MINUTES

The Board reviewed the minutes of April 15, 2011. No corrections were made.

Mr. Howe made a motion to approve the minutes of April 15, 2011 as written. Mr. Porter seconded. All in favor.

RULES OF PROCEDURE

Chair Lawton began the review of the Suggested Rules of Procedure for Local Boards of Adjustment.

APPLICATION/DECISION

3. Public Hearing

Ms. Brennan commented that paragraph g. ‘The applicant shall be called to present his appeal,’ sounds as though the applicant has been denied something before the ZBA has made a decision.

Chair Lawton explained that at this point in the process, the applicant would be appealing a denial decision made by the Building Inspector, Planning Board, or Board of Selectmen; not the Zoning Board of Adjustment and the ZBA has determined there is a reason for a public hearing and notices of the hearing have been sent. The ZBA hears appeals from decisions made by other Boards, it does not necessarily mean the ZBA has denied anything.

Mr. Porter suggested changing Section #3.I. by replacing the word ‘compel’ to ‘request’. The Board agreed.

1. Any person who wants the board to **request** the attendance of a witness shall present his request in writing to the chairman not later than 3 days prior to the public hearing.

4. Decisions

Chair Lawton stated that he questions the last sentence of paragraph 4, ‘Notice shall be published in the (insert name of local newspaper)...’ He commented that he does not feel it is necessary to go through the additional expense of publishing notices of decision in the local newspaper. He suggested changing the last sentence to ‘Notice shall be posted in two locations, at the Town Hall and at the Post Office.’ The Board agreed.

The board shall decide all cases within 30 days of the close of the public hearing and shall approve, approve with conditions, or deny the appeal. Notice of the decision will be made available for public inspection within 5 business days, as required by RSA 676:3, and will be sent to the applicant by certified mail. If the appeal is denied, the notice shall include the reasons therefore. The notice shall also be given to the planning board, the board of selectmen, town clerk, property tax assessor and other town officials as determined by the board. Notice shall be posted at two locations, the Town Hall and the Post Office.

Ms. Brennan asked if there has been a change in the law that mandates the applicant to pay for experts to advise the Town if necessary.

Chair Lawton stated that it is a law that the applicant pay the expenses of expert consultation if necessary, but what the Board is working on tonight is working out the details of procedural policy.

5. Voting

After discussion, the Board agreed to insert 'After the conclusion of the public comment' at the beginning of 5 so that it will now read:

After the conclusion of the public comment, the chairman may assign the task of drafting a motion to a board member who shall bring a draft motion to the board at the continuation of the deliberative portion of the meeting for the consideration of the board. Should a motion result in a tie vote or not receive the necessary 3 votes to decide in favor of the applicant, the opposite of the failed motion does not automatically prevail. The board must put forth a new motion to affirmatively set forth a decision.

6. Reconsideration by the Board

Chair Lawton commented that 6. Reconsideration by the Board. sounds like law, and the Board does not have much discretion to change what is written. The Board agreed.

RECORDS

The Board discussed the feasibility of making the ZBA records available since it does not have a clerk on staff during the day.

Mr. Howe suggested that the Board should indicate that the records are available for public review at the town office during regular office hours. The Board agreed.

1. The records of the board shall be made available for public inspection at the town office during regular office hours in accordance with RSA 673:17.
2. (keep as written)

After discussion, the Board decided to insert the word 'draft' at the beginning of #3 and indicate that the meeting minutes will also be posted at the town hall and post office.

3. Draft minutes of all meetings including names of board members, persons appearing before the board, and a brief description of the subject matter shall be open to public inspection within 5 business days of the public meeting. RSA 91-A:2 II. Draft minutes shall be posted at the town hall and post office.

AMENDMENTS

1. (keep as written)

WAIVERS

Ms. Brennan commented that the Board should follow the written rules and not enter into the grey area of giving waivers, thereby opening the Board up to speculation of showing favoritism.

Chair Lawton commented that granting waivers under appropriate circumstances should not cause problems. At the end of the paragraph on WAIVERS, there is a statement that justifies the Boards' actions '...not be contrary to the spirit and intent of the rules' to the extent we are not mandated by the RSA's.

JOINT MEETINGS AND HEARINGS

Mr. Howe commented there is a lot of unnecessary wording in this paragraph and suggested eliminating the middle portion. The Board agreed to the following.

1. RSA 676:2 provides that the board of adjustment may hold joint meetings or hearings with other "land use boards." Each board shall have discretion as to whether or not to hold a joint meeting with any other land use board.
2. (keep as written)
3. (keep as written)

Chair Lawton stated that after all of the changes have been made, a final draft should be prepared for review by Bernie Waugh.

Chair Lawton instructed that board members should be prepared to review and comment on the meeting minutes for January 2011 and May 2011 and to review all changes made in the Rules of Procedure document. After the Board finalizes the procedure manual next month, Chair Lawton will take the manual to the Board of Selectmen for public record and request the appointment of additional alternate ZBA members. He informed the Board that there is an alternate member whose term has not yet expired, and he will contact that alternate member to find out if she plans to be an active member or resign.

Chair Lawton encouraged the Board members to review any and all documents in the Zoning Board mail box in the Selectmen's Office; and if anyone would like to take something home for further review, he authorized photo copying the document for personal review outside of the town hall.

Mr. Howe made a motion to adjourn. Ms. Brennan seconded. All in favor.

Meeting adjourned at 8:10 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary