

**Ashland Planning Board
Ashland Zoning Board
JOINT MEETING MINUTES
Wednesday, November 28, 2018**

PB MEMBERS PRESENT: Mardean Badger, Susan MacLeod, Leigh Sharps

ZBA MEMBERS PRESENT: Mardean Badger, Alan Cilley, Michelle Fistek (6:48)

STAFF PRESENT: Kaitlyn Morse, Paula Hancock

OTHERS PRESENT: Shelley Randall, Mary Ober, Amy Ober, Eli Badger, Christine Cilley, Kathleen DeWolfe, Robert Snelling (Holderness Planning Board)

CALL TO ORDER: Mardean Badger, chair of the Planning Board, called the **Planning Board** meeting to order at 6:44 PM.

Mardean Badger explained that there are only 2 members of the Zoning Board present. Without a quorum (3 members) present of the Zoning Board, the ZBA hearing for ZBA Case 2018-02 could not take place. The ZBA ruling would be advisable prior to the Planning Board hearing its Case 2018-08. A motion was made and seconded to continue the joint meeting of the ZBA and Planning Board to Wednesday, December 5, 2018, at 6:30pm in the Ashland Elementary School Library. The motion passed unanimously, 3-0.

With the arrival of a third ZBA member (Michelle Fistek, 6:48), the motion and the second were rescinded.

CALL TO ORDER: Mardean Badger called the **Zoning Board of Adjustment** (ZBA) meeting to order.

Mardean Badger made a motion to elect Michelle Fistek as chair of the ZBA. Alan Cilley seconded the motion. The motion passed. The vote was 3-0.

JOINT MEETING PROCEDURES

Mardean Badger stated that this is a joint hearing of the Planning Board and the Zoning Board, as outlined in the Rules of Procedure for both boards. As per those rules, the chair of the Planning Board is the overall chair of these proceedings. The Planning Board will first recess its portion of the meeting; the ZBA will hold its public hearing and make a decision on its application. The Planning Board will then re-convene its meeting to consider its application based on the ZBA's decision.

Two cases will be heard for Shelley Randall, 356 Owl Brook Road, TML 010-004-011:

- ZBA Case 2018-02 is an application for a special exception to operate a yoga studio business in the rural residential zone.
- PB Case 2018-08 is an application for site plan review to operate a yoga studio business in the rural residential zone.

The joint public hearing for the 2 cases was noticed in the *Laconia Daily Sun* (November 16, 2018) and by postings at the town office, the post office and on the town website. Certified mail notices were sent to the applicant, the abutters identified in the applications, and the surveyor of the property, in addition to the Town of Holderness. Eight of the nine certified receipts were returned.

Leigh Sharps made a motion to recess the Planning Board portion of the meeting. Susan MacLeod seconded the motion. The motion passed by a vote of 3-0.

ZBA PUBLIC HEARING: Case 2018-02 Shelley Randall, 356 Owl Brook Road (T/M/L 010-004-011), Application for Special Exception to operate a yoga studio business in the Rural Residential Zone

Public Hearing opened at 6:51 PM.

Michelle Fistek explained to the applicant that as per NH RSA 674:33, a majority (3 members) of a full ZBA (5 members) must agree in order to approve any matter before the Board. Therefore, all 3 members present must agree to approve the Special Exception. The applicant was offered the option of re-scheduling for a full board composition. The applicant denied the option and approved going forward with the process.

Alan Cilley made a motion to accept the Application for Special Exception as complete. Mardean Badger seconded the motion. The motion passed 3-0. It was noted that the digital copy of the plot plan was not received (as required by the application). It was also noted that in *Section 1 (Type of Application)*, Ms. Randall only checked “Application for Special Exception” although she attached a statement for both Special Exception and Variance.

Ms. Randall briefly explained she is requesting a Special Exception from the ZBA in order to offer yoga classes in her barn. She made the following points:

- The classes will be offered in her barn (formerly a woodworking shop).
- She would like to offer two yoga classes per day: 9:00-10:15 AM on Saturdays and Sundays; weekdays 5:30-6:30 or 7 PM. 3-4 times per week.
- The classes would accommodate 10 people. The barn capacity could handle up to 15 people at a time.
- She has been offering free classes for the past 5 weeks to neighbors who walk or carpool to her property.
- Parking for the business would be along Owl Brook Road with 5 spaces; 3 spaces between the house and the barn; 3 spaces in the plowed right of way in a field on her property.
- Business has low impact on traffic and on the community.
- Cars can diagonally park so as not to interfere with flow of traffic.
- Classes offer means for community members to meet and socialize.

No abutters were present for the hearing. Amy Ober spoke in favor of the application. She explained that the yoga business is a positive experience for the town and a means to meet other neighbors in the neighborhood. Mary Ober expressed that the yoga business would be a positive impact on the town. It enables her to meet more of her neighbors which makes her feel safer within her own neighborhood.

ZBA members had concerns about the business and made the following points in discussion:

- Putting a commercial business in a Rural Residential Zone does not meet the definition of rural residential zone.
- Parking spaces are located within the setback, very close to the edge of the road.
- There are no other businesses on the road. The area is comprised of homes and some agriculture.
- A commercial business with 4-5 parked cars adjacent to the road detracts from the rural feel of the area.
- The line of sight along Owl Brook Road is not good, especially for cars approaching over the rise from the Holderness direction. With cars pulling out onto the road, there is not much reaction time for drivers approaching the property.
- Snow piles reduce line of sight and narrow the road in the winter.
- Increased probability of accidents along that stretch of road.
- Location of parking is not appropriate.
- ZBA had safety concerns.

Since the Randall property straddles the Ashland/Holderness town line, Robert Snelling, Chair of the Holderness Planning Board, was in attendance. He expressed the following concerns:

- He identified the same concerns that the Ashland ZBA expressed.
- Need for a 10' x 20' parking space per vehicle.
- Parking spaces are located in the setback.
- Backing out into road would be a health and safety issue.
- Other issues were noted relative to snow piles, visibility and snow removal in the parking area.
- Septic issues: with 40 people using the septic system, is the present septic system adequate?
- Does the present road meet the standard needed for commercial business use? If a business is located in the area the road needs to meet new standards: a dirt road at least 50' wide
- Does the barn meet fire safety requirements? Does it have at least 2 accessible exits?
- This proposal could be considered a regional impact project.

Eli Badger made the suggestion to move the parking spaces from along the road to the field and out of the setback.

The public input and discussion portion of the Public Hearing was closed at 7:27 PM. The ZBA moved into a deliberative session.

The ZBA discussed each of the criteria and then voted on the criteria for granting a Special Exception.

- **The specific site is an appropriate location for the intended use or structure.**
 - The location of a business with customer traffic is not appropriate for a rural residential area.
 - Badger – NO; Cilley – NO; Fistek – NO.
- **The use will be compatible with neighboring land uses.**
 - The zone is rural residential, the surrounding homes are secluded rural, and the multiple parking spaces adjacent to the road detract from the rural appearance.
 - Badger – NO; Cilley – NO; Fistek – NO.
- **The property values in the zone and in the surrounding area will not be reduced by such a use.**
 - The applicant had no realtor or other relevant input regarding the impact on property values. The ZBA also had no professional knowledge regarding impact on property values.
- **There will be no nuisance or serious hazard to vehicles or pedestrians.**
 - The entry/exit of vehicles from parking spaces adjacent to the narrow road could present a hazard to passing vehicles, snow plows. There is a very short line of sight on the road approaching from the Holderness side of the property.
 - Badger – NO; Cilley – NO; Fistek – NO.
- **Adequate and appropriate facilities will be provided for the proper operation of the proposed use.**
 - While the renovated barn can provide appropriate space for a yoga studio, the location of the parking is not appropriate and could be hazardous.
 - Badger – NO; Cilley – NO; Fistek – NO.
- **The proposed use will comply with the minimum lot sizes, frontage and set back requirements.**
 - Lot size and frontage is sufficient. The location of parking in the setback, while not prohibited, is not advised as it is very close to the edge of the narrow road.
 - Badger – YES; Cilley – YES; Fistek – YES.
- **Existing road and highways are capable of carrying the additional traffic.**
 - The existing road is capable of handling the increased traffic, although it will necessitate additional caution.
 - Badger – YES; Cilley – YES; Fistek – YES.

Mardean Badger made the following motion: *To deny the Special Exception Application for a commercial business in the Rural Residential Zone.* Alan Cilley seconded the motion. The motion passed by a 3-0 vote in the affirmative. The ZBA has denied the Special Exception. A formal Notice of Decision will be issued and will indicate deadline for appealing the decision.

Mardean Badger made a motion to adjourn the ZBA meeting. Alan Cilley seconded the motion. The motion passed. The ZBA portion of the meeting was closed at 7:48 PM.

PLANNING BOARD

Susan MacLeod made a motion for the Planning Board to come out of recess. Leigh Sharps seconded the motion. The motion passed. The Chair stated that because the Zoning Board denied the special exception for a yoga studio in the rural residential zone, the Planning Board cannot rule on the application for site plan review for the same property and purpose.

DISPOSITION OF MINUTES

The Planning Board reviewed the minutes of their October 24, 2018 meeting. Leigh Sharps made a motion to approve the minutes as amended. Susan MacLeod seconded the motion. The motion passed. The Board reviewed the minutes of their November 7, 2018 meeting. Leigh Sharps made a motion to approve the minutes as presented. Susan MacLeod seconded the motion. The motion passed.

LEAVITT HILL PAVING PROJECT

Craig Moore, Public Works Department, advised that the Leavitt Hill Paving Project was postponed due to weather conditions. Craig recommended that the Planning Board give the Project Manager and developer a deadline for next year to complete this paving project. Craig recommends that the paving project be completed in June of 2019. The Planning Board will review the issue in January of 2019 at the bond review and consider establishing a deadline for completion of the paving project.

UPCOMING EVENTS

The Selectboard is going to schedule a work session to discuss building permit fees. The Planning Board would like to take part in those discussions.

FEMA has scheduled a meeting to discuss a Risk Mapping Assessment Plan for the Pemi Watershed. The meeting is scheduled for Tuesday, December 11, 2018 from 9-4 PM at the Holderness Town Hall.

The next meeting of the Ashland Planning Board will be Wednesday, December 5, 2018 at 6:30 PM at the Ashland Elementary School Library.

Leigh Sharps made a motion to adjourn. Mardean Badger seconded the motion. The motion passed. The meeting adjourned at 8:10 PM.

Minutes submitted by Paula Hancock