

**Town of Boscawen, NH  
ZONING BOARD OF ADJUSTMENT  
Boscawen Municipal Complex**

**MEETING MINUTES  
Tuesday, November 28, 2017 at 7:00 PM**

Members Present: Gail Devoid, participated via telephone, Acting Chair Edward J. Cherian Jr., Ann Dominguez, Tracy Jo Bartlett and Mark E. Varney.

Others present: Kellee Jo Easler, Planning & Development Community Assistant, Alan Hardy Planning & Community Development Director and Rose Fife, Recording Secretary.

Not present: Doug Supry, Roger Sanborn.

Meeting opened at 7:04 pm.

Roll Call by Secretary

Members voting this evening include Dr. Gail Devoid via telephone, Acting Chair Edward Cherian Jr., Ann Dominguez and Tracy Jo Bartlett. Mark Varney will be a voting member.

Minutes from 10.24.17: A **motion** to approve the Minutes with amendments as noted was made by Devoid, seconded by Varney and passed by a unanimous vote.

Ex-parte communications were read into the record by Rose Fife, Recording Secretary as well as the decision letter from the 10.24.17 meeting and the agenda item for this evening's meeting.

**New Business:**

**Motion for a Rehearing, pursuant to RSA 677:2** submitted by **Elaine A. Clow, 357 Queen Street Boscawen & Andrew Newcomb, 171 King Street, Boscawen** concerning the **Application for Appeal from an Administrative Decision** regarding the **Planning Board decision of 08.29.17 voting to accept application for Site Plan Review (Dollar General), concerning Zoning Ordinance Article V, Minimum Dimensional Requirements, Article VIII, Off-Street Parking Requirements, Parking Calculation & Use of Parking Areas for Maneuvering Areas**, on property owned by **The Peach Pond Trust, 100 River Road, Boscawen, NH**, with a location of **169 King Street, Boscawen NH, Tax Map 81A, Lot 42**, in a **COM** zone. Please be advised that the Board will not take input from the public while deliberating on this matter. Information on the motion for rehearing is on file with the Planning & Community Development Office. In the event that the Board grants the motion for rehearing, a public hearing on the matter will be scheduled for a separate date.

Acting Chair Cherian asked the Board if they found either new evidence or procedural error. Those are the two standards that if met would allow for a rehearing to go forth.

Hardy asked the Board to introduce Mark Varney who is an ex-officio of the Board and a Selectmen. Doug Supry is in Arizona for the winter and will not participate. He is still on the Board, but not participating.

Hardy noted that Mark Varney was brought up to date on the case as well as the past history of the case.

Varney stated that he reviewed everything and sees no new evidence in the motion. Everything listed in the motion for rehearing has already been discussed. He feels that there is no new factual information.

Devoid asked if Attorney LeFevre was present. Cherian stated that he was not.

Cherian agreed with Varney. There have been 8 or 9 Zoning Board of Adjustment meetings and all matters were discussed. He sees nothing new that has not been considered. The decision regarding the non-conforming lot was made October 16 by the Zoning Board. Hardy determined that it was a pre-existing nonconforming lot. That determination was voted on and accepted. Hardy and Easler can make determinations and the Board can accept them or not accept them. The Board, at that time, made a determination to accept Hardy's determination. Dominguez concurs. The Board was thorough at entertaining all requests. She feels there is no new information. Bartlett also agrees. Devoid has not heard any new evidence nor has she heard any procedural error.

Cherian discussed procedure. Some issues raised by the applicant speak to the number of members at the 10.17.17 meeting. In his view the procedures clearly state that a quorum shall be 3 members. They had 4 members. Procedures also state that the Board shall make all efforts to have a 5 member Board. The Chair made all efforts to have a 5 member Board. He sees no procedural error. Varney agrees based on the rules and procedures. Dominguez agrees. Devoid stated that they did have a quorum. They did all they could to get a fifth member. She sees no error in what they did.

Cherian noted that when there are lawyers involved coming before them, the Board generally wants to talk to Town Council. Their Attorney does not have to be present for the Board to have a nonpublic session with Town Council. Article 91-A:3 of the NH Planning and Land Use Regulation book allows this. The Board had questions regarding if the notification dates were correct and if it affected the schedule of meetings. Devoid stated again that she sees no procedural errors and the Board was behind closed doors so they could figure out what the best action was and considering all stake holders. Varney agrees. It's in everyone's best interest that the Board recesses and speaks with Council if they have a question instead of going forward blindly. Devoid believes they covered both conditions with which a rehearing could be granted. Bartlett feels the Board did their duty in determining each request.

A **motion** to deny the request for a rehearing was made by Devoid. Her reasons are as follows: the Board discussed what they did and they see no procedural errors, as they stated previously, and there is no new evidence in the request. This motion was seconded by Varney and passed by a unanimous vote.

### **OTHER ITEMS:**

Easler discussed the non-public minutes which are in draft form. They will become public minutes. 10.10.17 non-public minutes were reviewed by the Board. Those Minutes discussed scheduling. Easler noted that at that meeting they discussed speaking with Town Council by telephone, but instead they just discussed it amongst themselves.

A **motion** to approve the draft Minutes and make them a public permanent record was made by Bartlett, seconded by Dominguez and passed by a unanimous vote.

Election of Officers: it was decided by suggestion from Cherian to defer this action until Devoid was in attendance.

Discussion regarding the December meeting schedule. Easler noted that December's meeting is scheduled for 12/27/17 which is on a Wednesday. They scheduled Wednesday instead of Tuesday as the office is closed Christmas and the day after. That is also a vacation week. Does the Board still want to hold a meeting? Devoid will be traveling and unavailable. Cherian will also not be available. Easler stated that they have a possible applicant for December. Cherian asked Easler to follow up by email to see if the Board will have a quorum. Varney noted that if Sanborn is available, he will not be in attendance.

A **motion** to adjourn the meeting at 7:34 pm was made by Devoid, seconded by Varney and passed by a unanimous vote.

*Respectfully submitted,*  
*Rose Fife*