

Town of Milton
424 White Mtn Highway
Milton NH, 03851



Zoning Board of Adjustment
PO Box 310
(p)603-652-4501
(f)603-652-4120

March 24, 2022
Meeting Minutes
6:00 PM

Present Members: Stan Nadeau, Charmian, Philip Bean, Mike Beaulieu, Larry Brown

Absent Members: Steve Baker

Staff Present: Bruce Woodruff, Town Planner, Suzanne Purdy, Land Use Clerk

- I. **Call to Order:** Chairman Nadeau called the meeting to order at 6:02. S. Nadeau stated he will alter the order of the meeting from the agenda, moving item V. Board Organization to item II.
- II. P. Bean made a motion to elect Stan Nadeau as Chairman; L. Brown seconded. M. Beaulieu voted no, L. Brown, P. Bean and S. Nadeau voted yes. Motion passed.

S. Nadeau made a motion to elect P. Bean as Vice-Chairman. Seconded by M. Beaulieu. L. Brown, S. Nadeau and M. Beaulieu voted yes ; P. Bean abstained. Motion passed.

S. Nadeau addressed approving the ZBA By-Laws as written and discussing them at a meeting with a full board present. L. Brown made a motion to approve the ZBA By-Laws as written and discussing them at a meeting with a full board. S. Nadeau seconded. M. Beaulieu asked if there were any changes throughout the year, S. Nadeau replied no there weren't. They can be changed at any time but feels the full board should be present. S. Nadeau seconded the motion. All in favor. Motion passed.

S. Nadeau noted he had an alternate for tonight's meeting, but the gentleman fell ill and couldn't attend tonight.
- III. **Public Comment:** S. Nadeau noted this time is for comment on anything unrelated to the case they are hearing tonight. R. Fernald asked why the Public Comment is after the case has been discussed and decisions have been made. S. Nadeau replied there can be multiple comment sessions; it's up to the board. There were no public comments.
- IV. **Review of Minutes from February 17, 2022 ZBA Meeting:** S. Nadeau asked if anyone had comments or corrections. M. Beaulieu stated he felt it was unbecoming of the Chair to have

made the last statement on page 4. P. Bean motioned to accept the minutes as written. Seconded by L. Brown. P. Bean, L. Brown, S. Nadeau agreed. Opposed by M. Beaulieu.

L. Brown asked for this statement to be duly noted in the minutes: It is the mutual agreement of the board that attendance will go forward on the carefully noted basis with good will. All agreed.

- V. S. Nadeau read: Application for Appeal from an Administrative Decision, Three Ponds Investments, LLC for Open Space Subdivision, Map 23, Lots 40 & 44 Northeast Pond Rd and Bolan Rd.

L. Brown recused himself from this portion of the meeting since he was an appointed member of the Planning Board at the meeting in question and had voted on this matter. He asked if the board will have a quorum when he leaves the room. S. Nadeau said they would not have a super quorum, but with three members they do have a quorum. L. Brown left the room.

Hunter Adams stepped to the podium for the appellant.

Planner Woodruff noted that with only three members they cannot take a vote.

S. Nadeau stated that they cannot go forward tonight. They would love to have additional alternates, and asked people to see him after the meeting.

S. Nadeau discussed continuing the public hearing to Thursday, April 28, 2022. The appellant agreed, and just asked that they try to have at least five voting members for the board that night.

Planner Woodruff noted no public notice or abutters notice need to be sent out.

He spoke about jurisdiction. The appeal is about the Planning B's interpretation of Article 6 of the Zoning Ordinance, which is open space developments. This got them to their decision, which was denied. The first section of that article reads:

1. Authority This Section is enacted in accordance with the provisions of NH RSA 674:21 (Innovative Land Use Controls) and NH RSA 674: 16-20. This authority allows the Planning Board to grant conditional use permits, special use permits and waivers from specific requirements of this Article.

Planner Woodruff also read from the Planning Statute:

676:5 Appeals to the Board of Adjustment, Section III:

III. If, in the exercise of subdivision or site plan review, the planning board makes any decision or determination which is based upon the terms of the zoning ordinance, or upon any construction, interpretation, or application of the zoning ordinance, which would be appealable to the board of adjustment if it had been made by the administrative officer,

then such decision may be appealed to the board of adjustment under this section; provided, however, that if the zoning ordinance contains an innovative land use control adopted pursuant to RSA 674:21 which delegates administration, including the granting of conditional or special use permits, to the planning board, then the planning board's decision made pursuant to that delegation cannot be appealed to the board of adjustment, but may be appealed to the superior court as provided by RSA 677:15.

Planner Woodruff is asking the board to ask Town Counsel if the ZBA does or does not have jurisdiction in this case.

P. Bean made a motion in accordance with the Town Planners instructions, the board seek the advice of Town Counsel. Seconded by S. Nadeau. All in favor. Motion passes.

S. Nadeau made a motion to continue the public hearing to Thursday, April 28, 2022, at 6:00 PM. Seconded by P. Bean. All in favor. Motion Passed.

- VI. Public Comment: The Public asked if the public attendance sheet will be part of the minutes. Answer: Yes.
They asked when the minutes will be available. Planner Woodruff replied 5 days.
They asked if they will be on the web site. Drafts are not posted on the web site but will be posted (paper) in Town Hall.

Adjournment:

***P. Bean motions to adjourn, Seconded by M. Beaulieu. The vote is approved unanimously. The Motion Passes adjourning the meeting at 6:25. ***