**NEWMARKET ZONING BOARD OF ADJUSTMENT MEETING**

**NOVEMBER 5, 2018**

**MINUTES**

Present: Chris Hawkins (Chairman), Bob Daigle (Vice Chairman), James Drago, Wayne Rosa, Richard Shelton (Alternate)

Absent: Diane Hardy (Zoning Administrator), Steven Minutelli (Alternate) – both excused

**Agenda Item #1 – Pledge of Allegiance**

**Agenda Item #2 - Review & Approval of Minutes: 09/17/18 & 09/24/18**

Richard Shelton had been appointed to sit as a full Board member for this application at a previous meeting and he continued in that capacity for this meeting.

 **Action**

**Motion: Bob Daigle made a motion to approve the minutes of 09/17/18 & 09/24/18**

**Second: James Drago**

**Vote: All in favor**

**Agenda Item #3 - Regular Business**

***Request for Rehearing regarding the following application, which was denied (both items) on September 24, 2018:***

***Donald Eaves III – Application for a Special Exception from Section 32-234, of the Newmarket Zoning Ordinance, and a Variance from Section 32-234(b) to allow an accessory apartment in an existing detached structure. The property is located at 21 Bald Hill Road, Tax Map R7, Lot 19-7, R1 Zone.***

 Richard Shelton stated the applicant requested this Special Exception and stated that the ZBA decision was unreasonable and unlawful. He stated the Zoning Board respectfully states that their decision is reasonable & lawful. This application was first heard on September 17, 2018. At that meeting, the Board voted to continue the meeting to a site walk, at 21 Bald Hill Road, at 9:00 AM, September 22, 2018. Another meeting followed that on Monday, September 24, 2018. This decision is reasonable and lawful based on the facts of the September 24, 2018, meeting, the Newmarket Zoning Ordinance, and Definitions under Section 32-11 Accessory Dwelling Unit, as amended March 1, 2017, meaning “a residential living unit that is within or attached to a single-family dwelling and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling it accompanies. Its use is subordinate to the principal dwelling and can be either a studio, a one or two bedroom apartment”. He stated, as there is no new evidence presented that was not available at the time of the first hearing to warrant a rehearing, the rehearing should be denied.

Bob Daigle made a statement regarding RSA 674:72 being enabling legislation. It allows towns to tailor the ordinance to their specific need. The ordinance was developed after hearings with the Planning Board, who put time and effort into it. It would be improper for the ZBA to go against the express written intent of the ordinance. As a result, he has to vote to deny the request for rehearing.

 Chairman Hawkins stated he agreed with the statements of Richard Shelton and Bob Daigle. Chairman Hawkins stated that ordinance Section 32-234(b) requires that an accessory apartment shall be contained entirely within or attached to the detached single family residence. The applicant applied for a variance from that requirement, which the Board denied, and the applicant has not appealed that decision. Without the variance, the applicant could not satisfy the requirements of the Special Exception. Chairman Hawkins stated that the applicant’s remaining arguments lacked merit, and agreed that the rehearing should be denied.

 Wayne Rosa stated he sympathized with the applicant, but that the Board was obliged to apply the ordinance. On that basis, he stood by his vote from the hearing on September 24, 2018.

 **Action**

**Motion: Richard Shelton made a motion to deny the request for rehearing**

 **Second: Bob Daigle**

 **Vote: All in favor 5-0**

**Agenda Item #4 - New/Old Business**

None.

**Agenda Item #5 - Adjourn**

 **Action**

 **Motion: James Drago made a motion to adjourn**

 **Second: Bob Daigle**

 **Vote: All in favor**

**(The meeting length was nine minutes)**