**NEWMARKET ZONING BOARD OF ADJUSTMENT**

**SEPTEMBER 16, 2019**

**MINUTES**

Present: Chris Hawkins (Chairman), Bob Daigle (Vice Chairman), Diane Hardy (Zoning Administrator), Wayne Rosa, James Drago, Steve Minutelli

Absent: Connor Crowley (Alternate) excused, Jonathan Sack (Alternate)

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

**Agenda Item #2 - Review & Approval of Minutes: 04/01/19, 04/15/19, 06/03/19**

 ***04/01/19***

 **Action**

 **Motion: Bob Daigle made a motion to accept, with a clarification of the date as 04/01/19 (and not 04/13/19 as shown on the agenda.)**

 **Second: James Drago**

 **Vote: All in favor**

 ***04/15/19***

**Action**

 **Motion: Bob Daigle made a motion to approve the minutes,with a change to page 5, line 37, to delete the second word “would”.**

 **Second: Wayne Rosa**

 **Vote: All in favor**

 ***06/03/19***

**Action**

 **Motion: James Drago made a motion to approve the minutes**

 **Second: Steve Minutelli**

 **Vote: Bob Daigle abstained due to absence**

 **All in favor**

**Agenda Item #3 - Regular Business**

 **Bingham Junction, LLC/Shawn McGowan – Public hearing for an application for a Variance from Section 32-87(2), of the Newmarket Zoning Ordinance, to permit construction of an 18’ x 12.3’ addition to the railroad depot, which will be 17.1’ from the easterly property line, where a 25’ setback is allowed. The property is located at 3 Rockingham Junction, Tax Map R3, Lot 13A, B1 Zone.**

 Alex Ross, engineer and surveyor, stated Shawn McGowan was also present. He gave the Board four new photos. He stated they have been working on this site for a long time. He did not know if any current Board members were around in 2008, for an involved site plan with both Newmarket and Newfields. The plan had included additional buildings. He handed copies of that plan to the Board. He stated, in 2008, they proposed an addition to the station, two new large buildings and a very large asphalt paved parking lot. The economy took a nose dive and the owner decided not to do such an intense project. In 2013, they came back before the Town with a downsized small addition to the station, a smaller parking area, and a gravel parking area. That was all with a previous owner. The plans for this application have less impact than 2013. There is now a small addition being proposed for 12’ x 18’ and a small, reasonable parking area. Chairman Hawkins asked if variances were required in 2008 and 2013. Mr. Ross stated there were for setbacks. Diane Hardy stated the Planning Board had also granted waivers for the gravel parking lot. Mr. Ross stated what they were presenting tonight has less impact. He asked if he should read the application. Chairman Hawkins stated the Board read the material and this was his opportunity to expand on that, if he wished.

 Mr. Ross stated it was a great site. It is right next to Rails to Trails. They have worked out there at all times of the year and so many people go cross country skiing, biking, snowmobiling, etc., they feel the proposed improvements will further that activity and will be a benefit for the town.

 Shawn McGowan stated this was not a financial investment. It is a community impact investment. This property has been graffitied and vandalized. It is in disrepair and people tend to park wherever they want. People have tried to burn it down multiple times. He, respectfully, felt they would not find another opportunity where anyone would be willing to restore and renovate this property. It is an economic uncertainty at best. He is doing this because he is passionate. He lives in Newfields on the other side of this location. He spent years running on the trail. He wants to do this for the community.

 ***Chairman Hawkins opened the public hearing.***

No comments.

 ***Chairman Hawkins closed the public hearing.***

Bob Daigle had no questions and thought the written information was well put together and quite clear to him.

 Chairman Hawkins stated for the record the first four criteria were very clearly met. Regarding the hardship criterion, it is a small property that is hard up against the railroad tracks, which limits the options. The lot is an unusual configuration and the building is back up against one of the corners of the triangle. This makes it unique compared to other properties in the area. The expansion into the setback will have no impact to abutting properties. There are unique characteristics to this property that distinguish it from others in the area. The unusual shape and configuration of the lot and the proximity to the railroad tracks would make it an unnecessary hardship, if the variance were denied. Bob Daigle stated the historic aspect makes it very unique.

**Action**

 **Motion: Bob Daigle made a motion to approve the variance and use the material presented as the Finding of Facts**

 **Second: Steve Minutelli**

 **Vote: All in favor**

**Reading and discussion of amendments to the Zoning Board of Adjustment Rules of Procedure.**

Diane Hardy stated there have been some changes to the statutes and these were the suggested changes from the NH Office of Strategic Initiatives.

 She stated she drafted some language regarding two methods used by ZBAs in voting on variance criteria over the years. Some take a single vote on the five criteria and some do each criterion individually. Since she has been here, the Board has always taken a single vote. Chairman Hawkins stated either way is okay, but the rules should reflect the Board’s actual practice. As long as it’s clear in the record, when each criterion is discussed, why the Board is voting the way it is, they are okay with the current procedure.

Bob Daigle stated there was new language regarding disqualification of a Board member. NH OSI had language stating the disqualified Board member shall exit the meeting. He asked if that was necessary. Diane Hardy stated, if you state you are disqualifying yourself and sit in the audience, removing yourself from the Board that should be enough. Bob Daigle stated you may be an abutter and want to speak as a member of the public. Steve Minutelli supported striking that sentence from the amendment.

 Chairman Hawkins suggest running the amendments by the Town Attorney. The rest of the Board supported this.

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

 Diane Hardy mentioned the October 5 Planning & Zoning conference.

**Agenda Item #5 – Adjourn**

 **Action**

 **Motion: Bob Daigle made a motion to adjourn**

 **Second: James Drago**

 **Vote: All in favor**