

Walpole Zoning Board of Adjustment Minutes
May 15, 2024
Town Hall
7pm

Roll Call: Present board members: Chair Tom Murray, Vice-Chair Dave Edkins, Clerk Pauline Barnes, Tom Winmill and alternates Myra Mansouri and Don Sellarole. Absent: Board member Shane O'Keefe,

Call to Order: Mr. Murray called the meeting to order at 7:03 pm. He asked alternate Mansouri to sit in for the absent board member. She agreed.

Minutes of April 2024: Ms. Barnes made typo corrections. On page 1 final two paragraphs she placed a comma between "position" and "this" and changed changed the "T" in This to lower case "t". She added a "d" to the word "encourage" in the last paragraph of page 2 and on page 3 she removed the word "the" from the second to last paragraph about the joint workshop.

Mr Edkins moved to approve the amended minutes. The motion was seconded by Ms. Mansouri and the motion carried.

Mr. Winmill made several motions. Regarding the May minutes under Election of Officers he made the motion "Resolved that section of the minutes be revised to comply with RSA 91-A:2, Right to Know law."

The April minutes say "Three motions for a candidate for Chair of the Zoning Board were made before someone was finally chosen. The first motion for a candidate was not seconded. The second motion had a vote of two yeas, two nays with one person abstaining. So the necessary threshold of three votes for approval was not met. In a third vote Mr. Murray received a unanimous vote for Chair. That followed with a unanimous vote for Mr. Edkins for Vice-chair and a unanimous vote for Pauline Barnes as Clerk."

Mr. Winmill's motion was "specifically that the substance of each motion and the names of the members who made or seconded each motion be recorded in the minutes." The Board agreed that the secretary should do this. The reader will find this at the end of these minutes.

The total vote in the section of the Minutes of March 2024 is incorrect. It should add up to being five votes not six. This too will be revised at the end of these minutes.

The topic of Indemnity was on the agenda. Mr. Winmill said in light of the situation in Swanzey where a developer is suing the Zoning Board as a group as well as suing individual members on its zoning board, the Walpole Zoning Board should seek counsel from the town attorney about what happens if this board were to be sued or if individual members of the board were to be sued.

He made the following motion. "Resolved, that the Chair request that legal counsel to the Zoning Board make himself or herself available by phone or in person to discuss (1) the role of the zoning board in order to address the uncertainty and confusion of Zoning Board members reflected in the minutes of April 17, 2024 and (2) the extent to which Zoning Board members, whether sued in their official or individual capacities, are entitled to indemnity and advancement of expenses for all claims of the type made in the complaint filed on 4/16/24 entitled Avanru Development Group, LTD. v. Town of Swanzey, NH Zoning Board, Town of Swanzey, NH Planning Board; Ann Karasinski, Adam Mulhearn;

Bryan Rudgers; Robert Mitchell; Richard Lane; Jane Johnson; Steve Malone; Sylvester Karasinski; and Matthew Bachler. Case 1: 24-cv-00103-AJ.” Mr. Edkins seconded he motion.

Ms. Mansouri said that the Chair had to go to the Select Board and request that the town attorney address this question with the Zoning Board. Mr. Murray and Mr. Edkins agreed to go to the next Select Board meeting. The Board voted unanimously that Mr. Murray and Mr. Edkins should do this.

Mr. Winmill’s next motion was: “Resolved that the minutes preceded by the title “Riggins Rules” be deleted and further that the Zoning Board limit its discussion to matters under its legal authority, namely interpreting zoning ordinances and granting relief under the ordinance, and further that in the future the minutes not record a discussion of an absent member of the Walpole community unless the discussion is undertaken in connection with a matter noted in the publicly disseminated agenda for the meeting, advance notice given to the member of the Walpole community under discussion, and is accompanied by a reference to applicable law.”

This motion was not seconded.

Mr. Winwill’s next motion was “Resolved, that the section of the minutes stating ‘The motion was seconded and passed by a vote of 4 yeas, 1 nay and 1 abstention’ is incorrect. Mr. Edkins seconded the motion. The Board agreed that the secretary should check her notes and record the correct vote in these minutes. The correction will be found at the end of these minutes.

Mr. Winmill’s next motion was “Resolved, that the secretary to the Zoning Board make audio recordings of meetings, commencing with the next meeting of the Board, to benefit the Walpole community and all members of the Walpole Zoning Board, the secretary of the Zoning Board shall make and preserve for 1 year an audio recording of each Zoning Board meeting open to the public and make such recording available to any member of the public and members of the Zoning Board within 48 hours of a request.” Mr. Edkins seconded the motion.

The secretary replied she has a choice of taking minutes by audio recordings or by hand. A couple of years ago the Board voted that if there was an audio recording of a meeting, it may be deleted after approval of those minutes at a subsequent meeting.

The Board voted 3 nays and 2 yeas. In this motion and the following motions the nay votes are by Tom Murray, Pauline Barnes and Myra Mansouri. The yea votes are Dave Edkins and Tom Winmill.

Mr. Winmill’s next motion was “Resolved, to benefit the Walpole community and all members of the Walpole Zoning Board, all publicly emailed disseminated Board agenda noting for a public hearing a written application for consideration by the Board have attached to the agenda the written application.”

This motion did not get a second.

It was established by several of the Board members that the secretary already does this. The Board already gets copies of the application, abutter list and any other pertinent information about the application, including all drawings, prior to a public hearing.

Mr. Winmill’s next motion was “Resolved, to benefit all members of the Walpole Zoning Board, all legal advice provided by legal counsel to the Zoning Board and received by any member of the Zoning Board be shared by such Board member with all other Zoning Board members within 48 hours after receipt.” Mr. Edkins seconded the motion.

Ms. Barnes remembered that Town Counsel Jeremy Hockensmith said he wanted to be contacted only by the Chair of the Board. It has been the practice of the Board to not share legal counsel via email. Ms. Mansouri said that the practice has always been that the Chair, who has the legal information, shares the legal information with the rest of the Board at the regular meeting.

The Board voted 4 nays and 1 yea.

Mr. Winmill's next motion was "Resolved that the draft minutes of April 17, 2024 be discarded and a draft reissued in accordance with the foregoing resolutions for further Board reviews."

The Board voted 3 nays and 2 yeas.

Joint meeting

The entire Board attended the Joint meeting of the Planning and Zoning Board with Southwest Region Planning Commission executive director Todd Horner and planner Carol Ogilvie. All agreed it went well and are looking forward to an update in a couple of months.

Cell tower

The Board received a letter from the Stoddard Zoning Board of Adjustment that informed the Walpole Zoning Board of Adjustment that the Stoddard Board will hold a public hearing for a Special Exception on May 9, 2024 at the Stoddard Town Hall beginning at 7:30 pm for an application by Vertex Towers, LLC for locating a new telecommunications facility on property located at 1325 NH Route 123 North in Stoddard. Towns within a 20 miles radius must be included in this notification.

Alternates

Mr. Sellarole said someone inquired about being an alternate and he was wondering if the board was still interested. Mr. Murray said yes that the board was interested and suggested the person come to a meeting to see what it was like.

Adjournment

Mr. Edkins made a motion to adjourn at 8:25 pm. Ms. Mansouri seconded the motion and the motion carried.

These minutes are unapproved and will be reviewed at the ZBA's May 15 meeting for corrections.

Respectfully submitted,
Marilou Blaine
ZBA Recording Secretary

cc: ZBA, WPB, Town Offices, The Walpolean.
Posted: Inside the Town Offices, on the bulletin board outside the Post Office,
www.walpolenh.us

The April minutes should now say Mr. O'Keefe nominated Mr. Edkins for Chair of the Board. This motion was not seconded. Ms. Barnes made a motion that Tom Murray be Chair of the Board. The motion was seconded by Mr. Edkins. The vote was two yeas, Ms. Barnes and Mr. Murray and 2 nays Mr. Edkins and Mr. O'Keefe and 1 abstention by Don Sellarole who was an alternate filling in for the absent board member. A few minutes later Mr. Sellarole said he wanted to change his vote to a yea for Mr. Murray. He did so and then the motion passed unanimously. Mr. O'Keefe then nominated Mr. Edkins for Vice-Chair and the motion was seconded by Mr. Sellarole and the motion passed unanimously. Mr. Murray nominated Ms. Barnes as Clerk. Mr. Edkins seconded the motion and the motion passed unanimously.

Regarding the vote on the Minutes of 2024. It should read 3 yeas, 1 nay and 1 abstention.