

**Zoning Board of Adjustments
Meeting Minutes
March 7, 2024**

The Zoning Board of Adjustments (ZBA) held a meeting at the Town Office, 661 Turnpike Road, New Ipswich, New Hampshire, on Thursday, March 7, 2024 at 6:00PM.

1. Call to Order and Seating of Alternates

Chairman Walker Farrey called the meeting to order at 6:04 PM.

Present at the meeting were Chair Walker Farrey, Vice Chair Danielle Sikkila Members David Lage, Jeff Muhonen, Lou Alvarez, Alternates Dwayne White. Staff present included Land Use Clerk Jennifer Worth.

2. Public Hearings

- a. **Case ZBA-2024-3:** Public hearing for Pilot Realty, LLC, Map 12 Lot 10-1, 151 Main Street for a variance requested from Article V of the Zoning Ordinance to permit a proposed use of allowing a group home on parcel.

Chair announces to the public that Applicant has requested to extend the case to continue the public hearing to the next ZBA meeting.

David Lage motions to continue Case #: ZBA-2024-3 to April 11, 2024 at 6:00PM. Dwayne White seconds. The motion passed unanimously.

- b. **Case ZBA-2024-2:** Public hearing for an appeal of administrative decision of the Board of Selectmen from Dean Pacheco, Map 3 Lot 92-2, 110 Lower Pratt Pond Road, requested from Article 2, Section IV of the Zoning Ordinance in question to appeal stop order.

Dwayne White and Lou Alvarez recuse as affirmative members.

The Chair discloses that at the time there was not a full (five member) board present, but another member would be arriving shortly. Asks applicant if they would like to continue with limited quorum. The applicant would like to wait for additional members to arrive. The hearing will continue until another ZBA member arrives.

3. New Business

Discussion with Benjamin & Chelsea Hatcher regarding Map 15B Lot 1, 159 Greenville Road.

Lou Alvarez, Dwayne White, and Vice Chair recuse as affirmative members.

The Chair opens the floor to Benjamin and Chelsea Hatcher (Property Owners).

The Hatchers stated that not long ago they were in front of the ZBA for a variance requested, it was granted. Since it was granted, Meridian is finishing the site plan for the wedding pavilion that was approved. The site plan is needed so they can get approved by the Planning Board. While waiting for this task to be done, a wedding planner was contacted. The wedding planner is helping by providing insight for the business. A gap in the plan was pointed out and because of that gap, the Hatchers would like to construct a 20' x 40' log cabin, along with a potential of an additional four 14' x 40' log cabins on the property. In addition, they are proposing to clear an area to accommodate tent camping

(no recreational vehicle setups). The log cabin would provide guests with a place to get ready before the wedding and a place to sleep safely after. The reason for coming to the board tonight is to verify what Zoning Ordinance this relates to and what application/venue would be needed for an appeal. The Hatchers have presented the board with pictures of the proposed cabins and submitted plans to the clerk. The Building Inspector has seen these documents. He has said that he does not see any problems with the plans. The cabins and/or campground would never be for permanent housing. A push for the cabins is that there are limited options in the area for people to stay while attending a wedding.

The board responds with the obstacles and options that could be had. A subdivision of the property could be made to allow multiple dwelling units as an option and a challenge could be coming up with limitations as to the use. Mr. Hatcher informed us that an option could also be to go after an agricultural exemption. The board agrees because any State decision would override a ZBA decision, however he thought the exemption was for agricultural farm worker housing, which is not the intent. Accessory Dwelling Units (ADU) were also discussed, but it was determined that this would not be an option because the cabin/s would not be used for permanent residency which is the intent of an ADU. A campground Special Exception could be applied if the structure could be smaller and meet all requirements of the Zoning Ordinance. A larger structure would have to be a variance appeal because it is outside the limitations of the Zoning Ordinance. A campground with smaller cabins or just tents could be a Special Exception. A Two-Family structure came up as another venue to take. There is an option for a variance appeal for a bed and breakfast. Finally, The Hatchers could apply for a variance for a business use expansion. The Hatchers were advised to consider these options.

4. **Public Hearing (cont.):**

Case ZBA-2024-2: Public hearing for an appeal of administrative decision of the Board of Selectmen from Dean Pacheco, Map 3 Lot 92-2, 110 Lower Pratt Pond Road, requested from Article 2, Section IV of the Zoning Ordinance in question to appeal stop order.

Danielle Sikkila joins as an affirmative member.

Dwayne White and Lou Alvarez recuse as affirmative members.

Jason Bielagus is representing Dean Pacheco who is contesting a stop work order from the Board of Selectmen. A letter in support of an appeal was submitted to the Clerk for record. Applicant wishes to reverse errors created by the Select Board. The Selectmen are trying to impose driveway regulations that did not exist before 2021 on a driveway that did exist before 2021. Mr. Bielagus exhibits to the ZBA photos and site maps of the parcel the driveway is on. The driveway is across the road from a parcel owned by the Cotzins who subdivided the lots on Lower Pratt Pond originally. The subdivision was approved in 1996, after Zoning Ordinances were in place. This is when The Cotzins constructed a house on the lot. Prior to the subdivision, the way the Cotzins traveled, the driveway (which at the time had a barn) in question was used. The driveway with the barn was pointed out by Mr. Pacheco on the site plan. It was sometime from 2002-2019, the “second driveway” was graveled to connect the driveway that existed near the barn to a second entrance/exit to the road for better access to the newly constructed home which was purchased by Mr. Pacheco.

Mr. Lage corrects applicants about driveway regulations, that in 2021 driveway regulations were in fact in place as part of the zoning ordinances. In 2021, the date seen on the regulations policy is the date when the Planning Board adopted the driveway regulations.

The Board stated there is no real documentation of the driveway in question. Mr. Pacheco was unable to find a driveway permit on file with the town. Mr. Pacheco states that he does have an approved septic design. If he could provide a copy of that, the driveway in question may appear on that plan. A receipt was referenced that the applicant found of work that was done in 2022 for underground electrical lines. The lines are located under the driveway in question. The Chair responds to this by stating that electrical services come off whichever pole is nearby, this may not be proof that there necessarily was an existing driveway.

David Lage asks why the applicant does not apply for a driveway permit? Seems like it would be easier to apply for a driveway permit per the Selectmen's order to be compliant rather than going through an appeal process. The driveway plan would need to have the wetlands delineated by a wetlands scientist and recommended the existing paved driveway be removed, which Mr. Pacheco agreed with. Mr. Pacheco stated he did not go this route before because he was told by the previous Building Inspector, he did not need a permit to lay gravel down on the driveway. Mr. Pacheco now knows that this is not true.

It is the opinion of the board that a newly surveyed site plan that shows the location of the driveway should be done to show the correct wetland delineations, setbacks and property lines which could then be submitted to the town for a driveway permit. The board recommended that the applicant should review all the requirements of the driveway regulations to be sure that all requirements are met. It was also advised to abandon the driveway which is technically on Pratt Pond Road Association owned land.

Applicant requests to continue the public hearing to June. In the meantime, Mr. Pacheco will apply for a driveway permit from the building department.

Chair opens the floor for public comment:

Dwayne White, Vice President of Pratt Pond Association – 120 Upper Pratt Pond Road

Mr. White provides the Clerk with a letter from The Pratt Pond Association requesting to uphold the stop work order issued by the Board of Selectmen to Dean Pacheco.

"I was asked to speak tonight on behalf of the Pratt Pond Association and present information that has been given by various sources. It was difficult to listen to untrue statements." Mr. Bielagus objects stating all statements were true.

Please see attached document for Mr. White's full statement.

David Lage asks if the applicant would be willing to flip the driveway so that the driveway would meet the setback requirements from the Pratt Pond Association boundary line. All that Pratt Pond Association requests is to not have a driveway on their property and to meet the wetland setbacks. Mr. Pacheco stated he would like to speak to a surveyor/engineer before committing to abandoning the driveway (which is over the road) but he is open to this.

Daniel Blanchette – 113 Lower Pratt Pond Road

"I've been there my entire life. Both of my parents lived on that property. I want to go on record stating there was never a driveway there. The opening that was there was natural. I don't remember seeing anyone using the opening as access to the property. The driveway that is now paved never had any vehicles parked there."

Thomas Moran – 140 Lower Pratt Pond Road

“I am the nephew of Hazel and David Cotzin. I used to be over that house all the time. Friends and relatives used what is paved now as a backup area. There was never a driveway there. My Uncle Dave was the one who put a fence up there many years ago. I helped my Aunt move stuff out of her house when Mr. Pacheco bought the property. Even at that time, I do not recall a driveway being there.”

Dwayne White

“His Uncle Dave served on the ZBA from 1995-2012. He would have known better if a driveway could be there or not because he knew all the rules and regulations. He was also a real estate agent.”

Chair opens floor for rebuttal from applicants. There was no rebuttal from the applicant.

David Lage motions to continue the Appeal of Administrative Decision from Dean Pacheco to June 6, 2024 at 7:00P. Jeff Muhonen seconds. The motion passed unanimously.

5. Application Review

Case ZBA-2024-5: Application for an appeal of administrative decision of the Board of Selectmen to be reviewed from Dean Pacheco, Map 3 Lot 92-2, 110 Lower Pratt Pond Road, requested from Article XII, Section A of the Zoning Ordinance in question to appeal cease and desist letter.

All documents submitted with application were approved.

David Lage motions to accept the application for an Appeal of Administrative Decision to the Selectmen’s letter dated February 6, 2024 upon payment of fees. Jeff Muhonen seconds. The motions passed unanimously.

The public hearing is scheduled for June 6, 2024 at 7:30P. Per applicant’s request to coincide with case ZBA-2024-2 public hearing continuance.

6. Approval of Minutes

Dwayne White and Lou Alvarez return as affirmative members.

Approval of meeting minutes from February 1, 2024.

Danielle Sikkila motions to approve and accept the February 1, 2024, meeting minutes as amended. Lou Alvarez seconds. The motion passed unanimously.

David Lage did want to address that in his opinion the meeting minutes were becoming too detailed, lengthy and in some instances duplicative of the decision letters. Concern is that since much of the text is being ‘cut and paste’ between documents, errors are bound to happen which could create problems when compiling record documents. He feels that the minutes should highlight the key issues that are discussed, motions proposed or voted on, and activities to be undertaken.

6. Adjournment

There being no further business to come before the Zoning Board of Adjustments, David Lage motioned to adjourn the meeting at 8:54PM. Danielle Sikkila seconded the motion. The motion passed unanimously.

Respectfully Submitted, *Jennifer Worth - Land Use Clerk*