



ZONING BOARD of ADJUSTMENT
Town of Hollis
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Minutes of June 22, 2023

The Zoning Board of Adjustment meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Brian Major at 7:05 pm.

MEMBERS OF ZONING BOARD OF ADJUSTMENT PRESENT: Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Members – Cindy Robbins-Tsao and Drew Mason; Alternate Members – Kat McGhee, Bill Moseley, Meredith West.

MEMBERS ABSENT: Regular Member – Rick MacMillan; Alternate Member – Stan Swerchesky.

STAFF PRESENT: Kevin Anderson, Town Planner & Environmental Coordinator; Donna Setaro, Building and Land Use Coordinator.

J. Belanger led the Pledge of Allegiance.

B. Major explained the policies and procedures.

B. Major stated that the voting members at this meeting will be J. Belanger, C. Robbins-Tsao, D. Mason, K. McGhee, and B. Moseley.

Determination of Regional Impact

By unanimous vote, the Zoning Board of Adjustment (ZBA) found no regional impact for case ZBA2023-003.

ZBA2023-003

The application of Eric & Amanda Reid, property owners for a Variance to Section X.G; paragraph 5.d, Minimum Side Yard Depth, of the Zoning Ordinance, to construct a 14'x 20' garage seven feet (7') from the side property line (required 35 ft) located at 191 Rideout Rd., (Map 009, Lot 042) in the Residential/Agricultural District.

Applicant: Eric and Amanda Reid, 191 Rideout Road. Stated that they would like a second garage, as an area for a second car. E. Reid stated that he knows that previous owners did apply for a two-car garage, which was denied. They understand why it was denied – there was no access to the back yard, to the leach field, and so on. With that in mind, as well as keeping in mind the discussions they've had with their neighbors and not wanting to change the character of the neighborhood, they did their best to come up with a plan that would have minimal effect on the character as well as provide what they feel they would need. To do this, they planned to set the new garage back on the property, and make it as small as possible. It would be basically the size of a shed, with a garage door. They also designed it to have a smaller pitch, so that any sight lines were potentially not an objection.

B. Major asked the Applicants to discuss the hardship portion of the application, the layout of the property, why they need to put the garage in the requested location, what they considered for an alternate placement which would comply with the ordinance. E. Reid responded that they would love to comply with the 35 foot setback requirement, but 35 feet is the middle of their property, the middle of their back yard – that wouldn't work for them. The reason they want to put the structure in the proposed location is so that service vehicles can access the well and septic areas in the back yard.

B. Major asked why they couldn't put the proposed new structure in line with the existing garage, to preserve more of the setback. E. Reid replied that they did take that into consideration, but they already have a small pool in that area. He stated that not changing the character of their personal back yard is something that they hold near and dear as well.

B. Major asked what special conditions the Applicants' property might have that make it different from other properties in the area.

K. Anderson stated that he looked at the original subdivision of this property, dating back to 1956; these lots were created 100 feet wide and 300 feet deep. Today's 35-foot side yard setbacks obviously leave no buildable area in the center. If there was a hardship, it would have to do with the irregular shape of the lot. Per a question from B. Major, K. Anderson confirmed that all the lots in this area were designed to be 100 feet wide. A couple of the neighbors have merged lots, so that they are 200 feet wide. Per a question from C. Robbins-Tsao, K. Anderson confirmed that the lots that are 100 feet wide are 0.7 acres. Current requirements are for lots to have a minimum of 200 feet of frontage, on two acres.

B. Major asked what the degree of conformity to the side yard setbacks is, in this development. K. Anderson stated that he would say that all of the lots that have not been merged have an encroachment into the side yard setback. It's the neighborhood; it's the way it was designed, in 1956.

Owing to the special conditions identified above, B. Major asked the Applicants to describe how the property can't be reasonably used in conformity to the ordinance. He pointed out that they do already have a garage; no one needs a second garage. E. Reid agreed that it is a want, not a need.

B. Major pointed out that the Board needs to be consistent in their rulings. He asked the Applicants to tell the Board how their property can't be used in strict conformity with the ordinance, and why they need a variance because of that. E. Reid replied that that bounces back to the last issue, in that there really is no other space to do it. B. Major asked the Applicants to tell them why. Is the pool an in-ground pool? E. Reid stated that no, it's a "wine pool", basically a wading pool.

K. McGhee pointed out that there is a 19-foot space on the side of the existing garage, which the Applicants would have to use in order to drive a car back to the area of the proposed new structure. That space would have to be paved, and it wouldn't make sense to put the new structure where the pool is, in line with the existing garage, as they'd have to pave across their property. E. Reid concurred that having that straight shot back to the proposed location would be much more convenient for them. B. Moseley asked if they were in fact planning on paving it; E. Reid said that no, it would probably be more of a crushed-stone situation. The proposed garage would be to store a second car, pool supplies, etc. This is a last-ditch effort to figure out if it's something they can do so that they don't have to put an ugly, seasonal structure in the back yard.

M. West stated that the narrowness of the lot means that they don't have room to put the structure elsewhere. K. McGhee stated that that narrowness is a hardship of the lot. C. Robbins-Tsao stated that they wouldn't have a back yard if they were to put the proposed new structure elsewhere on the property.

B. Major stated that it would be more logical, and an easier case, if they were proposing the structure 16 feet from the line because they've already got 16 feet.

J. Belanger pointed out that the existing garage is 22 feet wide and 25 feet deep, and that there had been a variance for that garage as it is 19 feet from the property line. He asked why the Applicants couldn't add on to the back of that existing garage. E. Reid answered that the well is right behind that garage. J. Belanger further asked why they couldn't put the proposed new garage 19 feet from the property line; E. Reid replied that it would then be in the middle of the yard.

B. Major asked if a reasonable condition on this application would be to maintain a vegetated buffer of trees, so that it could not be seen from the abutting neighbor's house. E. Reid stated that they just put in 6 foot high fencing on both sides; prior to that the proposed structure might have been visible, but now it wouldn't be. B. Major asked if another reasonable condition might be that the access to the proposed new structure not be paved; the Applicants were in agreement.

Considering that the Applicants would need to park a car in the proposed structure, B. Major asked if there was any way that they could make it a 250 square foot building. Why couldn't they bring it down to 250 square feet? That would make it an accessory, which would only require a 10 foot setback. That would be about a 14' by 15' structure, however, which would not be long enough for a car.

M. West asked how far from the setback the previous owners' shed, which was removed, had been. E. Reid answered that it was less than seven feet. It was right up against the fence.

K. Anderson pointed out that a regular parking spot is 8' by 20' or 8' by 18'; that is the limit, with barely being able to open the car doors. E. Reid stated that they designed it so that a person could barely do a lap around a vehicle. B. Moseley stated that 14' by 20' is pretty standard for a single car. J. Belanger stated that 12.5' by 20' is 250 square feet. That means that the proposed structure would have to be a foot and a half narrower.

B. Moseley pointed out that 280 square feet is only 12% bigger than 250 square feet.

B. Major asked how far the proposed structure would be from the rear property line; E. Reid answered that it would be over 200 feet from that line. B. Major then asked if they could set the proposed garage closer to the rear property line; the Applicants answered that they could not, as that area is all trees. E. Reid also stated that the 100 foot width of the property diminishes, the further back into the property one goes.

B. Moseley asked whether the gardens depicted on the plan are active. The Applicants confirmed that yes, they are active gardens. A. Reid mentioned that there is a big, red, 14' by 22' shed in the back yard that is not shown on the plan. She stated that it is behind the leach field, kind-of right in the middle of the far back of the yard.

B. Moseley asked if the septic system is fully functional; the Applicants confirmed that yes it is, and that they have had zero issues with it. It was fairly new when they bought the house three years ago.

B. Major questioned why they couldn't put the new proposed garage within the 19 foot setback for which there was already a variance. It was shown that there is a big tree that would be in the way.

Letters received in favor of the application:

Submitted with the application were three (3) letters in favor of the application from;

1. Michael and Kathleen Gregory, 190 Rideout Rd.
2. Paul Doran, 189 Rideout Rd. with a note that the applicant should check with zoning on the setback requirements from a fence.
3. Richard and Harriet Frank, 193 Rideout Rd.

No one spoke against the application.

No further questions from the Board and none from the floor. The hearing portion of the case was closed.

DELIBERATIONS AND DECISION

ZBA2023-003

The discussion of the application of Eric & Amanda Reid, property owners for a Variance to Section X.G; paragraph 5.d, Minimum Side Yard Depth, of the Zoning Ordinance, to construct a 14'x 20' garage seven feet (7') from the side property line (required 35 ft) located at 191 Rideout Rd., (Map 009, Lot 042) in the Residential/Agricultural District.

J. Belanger stated that when he first looked at this application, and considered the five questions for a variance, his answer was "No" on three of them. As the Applicants presented their case and discussion progressed, it was pointed out that the width of the lot is 100 feet – a 35 foot setback means that nothing can be built on it. Everything there now is noncompliant. It is too bad that our ordinance doesn't allow for lots that are legal but not two acres and 200 feet wide. Therefore, he thinks that the hardship in this case is the size of the lot and the dimensions therein. He was hoping that the Applicants would be able to build a 12.5' by 22' garage, which would make it 250 square feet; however, that would still need a variance. Based on the hardships that exist with this lot, he is probably going to vote differently than he first thought.

C. Robbins-Tsao stated that with the size of the lot, there is just no room.

D. Mason stated that he is having trouble with how close the setback is. A construction of this sort would still not be typical of lots in that area. B. Major asked whether D. Mason thought they could construct the garage with more conformity; D. Mason answered that he does think it's possible, but it's not a need – it's a want. He's not sure that the hardship is sufficient.

K. McGhee stated that she differs on that; she does think that the hardship is sufficient. She understands that it's a want, but every new homeowner will look at their property in terms of how they are going to use it or improve it. She does not think that this is an unreasonable request. She does think that having such a narrow property presents a hardship for them, in terms of being able to use it in a way that meets their lifestyle.

B. Major asked how to overcome the argument that they already have a garage, and in fact also already have another shed. K. McGhee responded that in the application, the Applicants mentioned being able to access another vehicle without having to shovel it out in the winter. She added that many households have two cars, for two adults who live there. The way people live now may be different from how they lived in the 1950s, when these lots were fashioned. The hardship is being able to expand appropriately, so that the property can even be used by the next homeowner. It's not a requirement. People live without garages. But it's not unusual in Hollis for people to have garages for various uses.

B. Major asked if the condition of the lot is a reason to give a variance. Is the condition of the lot a limiting factor in how the lot can be used? In other words, can you reach a point at which you say that a lot is too small to sustain a second garage?

K. McGhee stated that it's almost like a grandfathered issue; the lot is the lot, and the house is there. M. West added that they knocked down an old shed, and now they're putting up a new shed. They do need a variance, but this is basically the same area.

B. Moseley stated that he is torn. When the Board talked about the garage on this lot back in 2015, of their major points was that it is a small lot that pre-dated our zoning ordinances. On the flip side is where do you draw the line? What if someone comes back, and they want to put another garage in there? He can see the Applicants' side; it is typical in Hollis to have two vehicles – but where do you draw the line?

M. West stated that when she walked into this meeting she was of the same opinion as stated above by J. Belanger.

She has been struggling with it. Are they entitled to it? No. But there was already something there. D. Mason and B. Moseley pointed out, however, that the previous shed had in fact been required to be removed as part of the 2015 case and apparently had not been. It shouldn't have been there.

M. West stated that the width of the lot is 100 feet. If the Applicants comply with zoning, they'd be putting the new structure in the middle of a garden and taking down trees. K. McGhee concurred – that would be less in accordance with rural character than what is proposed. M. West asked if that is what we want to have happen in Hollis? Do we want to make him park in the middle of his back yard? Do we want to make him take out all the trees?

B. Major stated that, as he was reading the application, he kept saying that we can't grant this. We can't grant this because we have an ordinance that does require side yard setbacks, and we have got to be consistent in applying rulings lot to lot.

K. McGhee pointed out that the setback came into play when the requirement was set for 200 feet of frontage on a lot – it doesn't work with a 100-foot lot.

B. Major pointed out that the requirements are cut in half on a PDU. Logically, they could apply that to this application.

J. Belanger stated that, in looking at the findings-of-fact on the 2015 case, it's pretty self-explanatory.

B. Major stated that he understands the argument that this is a lot which the Town approved; the Town approved the subdivision plan; the Town made the lot. Any property owner is stuck with the size of the lot. J. Belanger added that these lots pre-date the zoning. B. Major concurred. B. Major stated that the question then becomes whether that means that there are no standards on this. B. Moseley agreed – where do you draw the line? B. Major stated that he's not sure moving a garden would be a good reason for a variance, but maybe taking down a tree is. He stated that, at the end of the day, he does not think anyone is going to notice this proposed garage back there. He doesn't think it's going to affect anything. B. Moseley concurred; we'd never see it.

B. Major does think that the Board should require that it not be paved, because pea stone is less intrusive than tarmac.

K. Anderson asked how the Board interprets the 100 foot wetland setback, which was created in 1997. B. Major answered that people must apply and get a variance for that. B. Major stated that wetlands are also a public health and safety issue, which gets around grandfathering, in his opinion.

B. Major doesn't see this as harming anything. Everything except the hardship on the application is clear, but the hardship is still difficult to see.

K. Anderson read from the zoning ordinance in regard to wetlands – for existing lots, the ordinance “shall not prohibit the construction of principal and accessory structures on an unimproved lot or the expansion of a legally pre-existing use on a lot that legally existed before March 11, 1997.” He stated that he is trying to compare a lot created before 1997 to this lot, created in 1956. There are provisions to allow accessory structures to be built within the 100 foot setback. He pointed out that the ordinance goes on to say that such construction or expansion is to be permitted upon determination by Planning Staff – not even going through a special exception, or a zoning variance.

B. Major pointed out, however, that the danger of precedents on this is real. There are a lot of lots in Town that are smaller even than 0.7 acres. We don't want an application to come in from every parcel around Silver Lake, for example. B. Moseley stated that we have had this situation on Silver Lake, and the Board has denied it.

K. McGhee pointed out that every variance is a different, individual case. If it doesn't make sense, the Board doesn't grant it.

B. Major stated, though, that they have to logically be able to explain the difference, through findings and through deliberation. The Board has to logically be able to explain why this is different than a theoretical house on Silver Lake. If more such requests for variances come in, and are granted, very soon there would be lots that are over-built. He mentioned that at some point you're going to run into a density argument, as well.

K. McGhee stated that it's interesting that each Board member has said that on all counts other than hardship they haven't had a problem with this application. The neighbors are ok with it, it's back on the lot, it's not changing the character of the neighborhood. We are saying that the hardship is the shape of the lot, because the width of the lot is so narrow. She supposes that there are other findings the Board can have to be particular to this, but on the 2015 case that was the primary issue and it's still the primary issue. There just isn't enough space, width-wise, to do anything on the lot.

J. Belanger pointed out that if the Board votes to pass the request, then they can go to the conditions and findings-of-fact afterward; if they don't pass it, there's no need.

B. Major stated that the biggest mitigating factor against this application is that there is already a garage there, and there is already a second outbuilding which is nearly the size of the proposed garage. He is on the fence. One would like to grant the variance because it wouldn't hurt anything – you wouldn't even see it.

D. Mason stated that he is having trouble with the part of the application regarding observing the spirit of the ordinance, as well. B. Moseley agreed that that and the hardship are his issues.

M. West stated that she doesn't think it's just the width; it's a long, skinny lot, and that is the hardship.

B. Major stated that if they have findings, they should have a finding on the frontage. M. West agreed, and stated that they should also have a finding on the depth. B. Moseley pointed out that that is what they said about the first garage, back in 2015.

J. Belanger asked whether any further discussion was going to change any Board member's mind. The Board was in general agreement that further discussion was not necessary.

Questions – Variance

- Question 1. The variance will not be contrary to the public interest.
- Question 2. The spirit of the ordinance is observed.
- Question 3. Substantial justice is done.
- Question 4. The values of surrounding properties are not diminished.
- Question 5a(1). No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.
- Question 5a(2). The proposed use is a reasonable one.
- Question 5b. The property cannot be reasonably used in strict conformance with the ordinance, and a variance is, therefore, necessary to enable a reasonable use of it.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a (1)	Question # 5a (2)	Total Yes	Total No
J. Belanger	Yes	Yes	Yes	Yes	Yes	Yes	6	0
C. Robbins-Tsao	Yes	No	Yes	Yes	No	Yes	4	2
D. Mason	Yes	No	Yes	Yes	No	Yes	4	2

K. McGhee	Yes	Yes	Yes	Yes	Yes	Yes	6	0
B. Moseley	Yes	No	Yes	Yes	Yes	Yes	5	1

J. Belanger moved to re-open the discussion for case ZBA2023-003.

Seconded by M. West.

Motion unanimously approved.

K. McGhee pointed out that Question 2 asks about the ordinance, but the lot pre-existed the ordinance. It's a non-compliant lot.

D. Mason stated that it's a new use on an existing non-compliant lot, and that is why the Board can say no.

J. Belanger disagreed; the ordinance was developed after this lot was in place – the spirit of the ordinance is for new lots, not non-conforming lots.

K. McGhee concurred – the spirit of the ordinance post-dates the lot.

B. Moseley pointed out that the spirit of the ordinance still gets into maintaining setbacks, and so on. Again, where do you draw the line with lots in Town? There are many lots on which you'd never be able to do something reasonably. K. McGhee stated that that is what variances are for.

D. Mason stated that if the Applicants brought forward a 19 foot setback, he would not have a problem with it. B. Moseley agreed, and added even a 17.5 foot setback. D. Mason further stated that for a small enough structure, a 15 foot setback wouldn't even need a variance. But seven feet is too much.

B. Moseley stated that he goes back to the example of HOSPD designs, in which the setbacks are cut in half; those are small lots. That's how the ordinance deals with it. It does take into consideration small lots.

B. Major pointed out that you can't say you've got a non-conforming lot, so you've got a non-ordinance. There still has to be some basis for it.

C. Robbins-Tsao stated that this lot has half the frontage of a regular lot, so half the setback would be reasonable.

K. Anderson stated that it could be pertinent to review the section of the ordinance on nonconforming uses of structures and lots, as that might change this application to a special exception. B. Major pointed out that the ordinance also states that any new construction has to comply with setbacks.

Per a question from M. West, it was shown that in the 2015 case regarding this lot, it was agreed in discussion that the then-existing shed would be taken down; it was not a condition. B. Major stated that the problem is (1) that the new structure would be bigger, and (2) when you take something down, you're still in the same place. M. West stated that the Board has moved buildings in the past – they had all agreed that the new placement was better, and that's why it mattered. B. Major stated that he thinks that if they did that in this instance, they would create a bad precedent.

D. Mason stated that he didn't follow how setbacks passed by the voters don't apply to prior non-conforming lots. J. Belanger replied that it's not that they don't apply, it's that the spirit of the ordinance was established after these lots were made. He interprets that to indicate that it is for future lots, future developments. That is what the rules are for. He doesn't think it applies to pre-existing lots.

B. Moseley disagreed, stating that that is going down a scary road. It's a slippery slope.

D. Mason asked, concerning J. Belanger's point, how you would then prevent the lots on Silver Lake Road from going to a two foot setback. J. Belanger answered that maybe you don't. D. Mason pointed out that the Board did turn down such an application.

M. West pointed out that density of the lot and overcrowding are also factors that the Board takes into consideration.

J. Belanger pointed out that Question 2 is about the spirit of the ordinance, not the exact wording of the ordinance.

B. Major stated that spirit is a broad concept. What did the voters intend, when they enacted the ordinance? They wanted to preserve rural character, they wanted to prevent massing in density, they wanted to prevent intrusion into a neighbor's peace and ownership of their own property. K. McGhee pointed out that none of that applies to this application. M. West concurred with K. McGhee, and stated that that is the difference between this lot and lots at Silver Lake.

The Board was in agreement that they did not want to change their votes on the questions, and that a re-vote was not in order.

M. West asked if the Board would consider tabling the case, to allow the Applicants to come back with a proposal that would be more in line with what the Board had indicated in discussion might be considered more favorably, with a much smaller variance. D. Mason responded that it would be a substantially different application, as the new structure would then be an accessory unit.

B. Major stated that his preference would be to vote the case, come up with the findings, and if there was a motion for re-hearing the file, they could deal with it that way. B. Moseley concurred; that is the procedure that the Board has followed in the past.

B. Moseley moved to adopt the following 3 findings-of-fact;

- 1. The Board finds that the lot is in a development that pre-dates the Hollis Zoning Ordinance.*
- 2. The Board finds that the lot is approximately 100' x 300' with 100' of frontage on Rideout Rd.*
- 3. The Board finds that the existing garage has a 19' setback, and the proposed structure has a setback less than half of that.*

Seconded by C. Robbins-Tsao.

Motion unanimously approved.

THEREFORE, THE VARIANCE WAS DENIED WITH THE FOLLOWING FINDINGS-OF-FACT;

- 1. The Board finds that the lot is in a development that pre-dates the Hollis Zoning Ordinance.**
- 2. The Board finds that the lot is approximately 100' x 300' with 100' of frontage on Rideout Rd.**
- 3. The Board finds that the existing garage has a 19' setback, and the proposed structure has a setback less than half of that.**

Review of Minutes

J. Belanger moved to approve the minutes of May 25, 2023.

Seconded by B. Moseley.

Motion unanimously approved.

Other Business

Discussion on the process of appointment of an Alternate Member to the ZBA.

J. Belanger stated that his interpretation of the Select Board discussion on the matter determined that the Chair of

the ZBA needs to ask the Select Board to fill a vacancy. The Select Board will then interview candidates, and choose one.

K. McGhee asked whether the ZBA's public interviews, which they had been asked to do, counted for anything. J. Belanger replied that the ZBA did recommend a candidate after that process, and the Select Board tabled the matter without taking any action. At the Select Board's meeting on June 19, the Chair of the Select Board stated that they need the Chair of the ZBA to ask the Select Board to fill the vacancy – which was done two years ago.

B. Major asked whether he should attend the next Select Board meeting to get clarification on the issue.

D. Mason suggested that the ZBA vote to ask the Select Board to fill the vacancy, and select a candidate. The ZBA already did that, but if the Select Board is requiring it the ZBA should do it again.

B. Moseley suggested that B. Major get on the agenda for the next Select Board meeting. B. Major asked Select Board member Joe Garruba, who was in attendance, if that made sense; J. Garruba stated that he'd just like to see the matter move forward.

B. Major stated that the ZBA very much wants to move forward, too, and are desperate to maintain the spirit of cooperation that members of the ZBA have demonstrated at this meeting. The ZBA is comprised of very different people, and they have a good sense of what they need to do to keep the continuity of the Board. It's important to have a balance. He will attend the Select Board meeting, but the ZBA did send a recommendation to them. The ZBA interviewed three candidates, publicly, and deliberated on them – so the ZBA feels that they did their job. They did what they had been doing for the past 20 years to find a new member, then held public interviews, and sent the recommendation along to the Select Board.

B. Moseley added that the ZBA's selection has been a pocket veto ever since; the Select Board has never brought it up.

B. Major concurred that it's been lost in the storm since then. He hates doing interviews – but the ZBA did it. The whole Board had discussion and participation in the interviews and the selection of a candidate, they sent a recommendation to the Select Board, and the recommendation was never acted upon. Meanwhile, his biggest problem with this is that it seems that the ZBA has now basically jerked-around a member of the public who came forward and volunteered, because the procedure's changed. He personally feels terrible about this.

B. Moseley pointed out that the procedure changed after the ZBA sent their nomination to the Select Board.

B. Major feels personally responsible for this, it has caused him anguish, and he does not need that anguish.

J. Garruba concurred that the rules for appointing a new member changed on the ZBA at least two times during this process. He does not think that anything the ZBA did in their process was incorrect, as the procedure for appointments changed twice. He stated that the role of an Alternate member is that it's a place for someone to learn. It takes a long time to get used to how a Board works, and there is a lot to learn. Leaving that position unfilled means losing the opportunity for someone to come up to speed. His point is to get the position filled. The new process is that the Select Board will do the interviews. He doesn't know whether they will go back to the round of public interviews conducted by the ZBA, or conduct another set of public interviews, but the new process is public interviews.

B. Major asked if J. Garruba understands the position in which these changes put the ZBA, in terms of how the Board looks in the community. J. Garruba stated that he did not change the policies previously, but his understanding is that there is a State statute regarding interviewing candidates in public which drove some of the change.

B. Major stated that the ZBA still needs a recommendation. They did what was asked of them, and came up as a Board with a recommendation. With all due respect, he thinks that the ZBA has done a very good job over many, many years in keeping the Town out of trouble – and they have done that by having a balanced Board. The ZBA members listen to each other, and respect each other. The Board has a balance, and they know what they need. They need someone coming on as an Alternate who can do this. In his opinion, they need someone who is younger – he is the second-youngest member of the Board, and he is 62 years old. He thinks that they know what they need on the Board, if their job is to keep the Town out of trouble in the courts, to be fair with people, and to conduct these cases with respect. The Board treats everyone who comes before them with respect, and gives them all the time needed. If this work becomes too much of a pain for the members of the ZBA, they will walk away from it and the Town will lose 100/120 years of experience on this Board.

J. Belanger pointed out that B. Major makes it sound as if he's arguing with J. Garruba, who is in fact in agreement with him.

J. Garruba stated that a take he has on the issue is that the appointments to this Board are important; the voters elect the Selectmen to make those decisions, and the Selectmen face the voters when they make those decisions. Appointed Board members may not answer as much to the voters. He believes that it's important that the Select Board choose candidates who will, as B. Major pointed out, be respectful and take care of the Town's interest.

B. Major responded that the ZBA has a sense of that, themselves. Additionally, they each serve at the pleasure of the Select Board.

D. Mason stated that he is moderately annoyed about this issue, and he knows that the ZBA's recommendee is more than angry about this treatment – but would it help if B. Major could walk into the Select Board meeting with a new recommendation from the ZBA as to who we want to nominate?

J. Garruba responded that his understanding of the statute is that the Select Board makes the appointments. The ZBA can make a recommendation.

The Board in general disagreed – B. Moseley and K. McGhee pointed out that the ZBA has always made nominations. A nominee to the Board is chosen by the Board, and then goes to the Select Board, and gets sworn in. The ZBA's recommendations were not dismissed, before.

J. Garruba stated that he doesn't think the ZBA's recommendation was dismissed, but a recommendation is not a guarantee.

C. Robbins-Tsao stated that this sounds as if the Select Board is going to make their decision, bring in their own people to the ZBA, and not take a recommendation.

J. Garruba stated that he thinks the ZBA's recommendation will be taken into consideration, but it's not a guarantee. If you read the ordinance, it says that the Select Board makes that appointment.

D. Mason stated that yes, the Select Board makes the appointment, but the ZBA made a recommendation, and the Select Board has done nothing. Maybe a new recommendation by the ZBA would get the Select Board to do something.

J. Garruba stated that that is his hope; he is trying to move the process along.

D. Mason moved that the ZBA recommend, as an Alternate Member, Maureen Maisttison.

B. Major seconded.

Motion unanimously approved.

B. Moseley stated that the Select Board needs to take action.

J. Belanger stated that it almost seems as if the Select Board wanted the ZBA to interview four people, rank them in order of choice, and let the Select Board pick. However, the ZBA did not do that, and he doesn't know that it's a good plan. B. Major stated that he will not do that.

J. Garruba stated that he doesn't think that's what the new policy says. He thinks the new policy says that the interviews are at the Select Board.

J. Belanger stated, however, that the Chair of the Board that wants an appointment filled needs to recommend somebody. J. Garruba stated that he thinks that's correct. This is following the policy, to move things on.

J. Belanger stated that the Select Board can accept the recommendation or, if they don't, they can interview their own.

B. Major stated that the ZBA has now recommended Maureen Maisttison. If the Select Board wants to act on that recommendation, and have him come in with M. Maisttison, he will be happy to do that. What he will not do is interview four or five people What the ZBA has been doing in the past, basically, is, for instance, with S. Swerchesky, J. Belanger knew S. Swerchesky, and S. Swerchesky wanted to serve. The Board members had a discussion at the meeting, J. Belanger said that he thought S. Swerchesky would make a good Board member. M. West was just before that – K. McGhee had happened to know that M. West was a zoning attorney, and that's how she came to the Board. Prior to that, J. Belanger recommended K. McGhee. In each case, B. Major phoned the recommended individual, talked with them for quite a bit of time, invited them to a Board meeting which they attended and sat through, had a discussion with the individual after the meeting, and came up with a consensus as to whether this was someone the ZBA wanted to recommend or not. The recommendations then went to the Select Board, and the appointments were filled. He is not going to interview four people, to bring four people to the Select Board to be interviewed.

J. Garruba stated that his understanding of the new process is that any interviewing is done by the Select Board.

B. Major asked whether that means that the Select Board does not want the ZBA to screen anything, whether they don't want the ZBA to come up with people who might be a good fit for this Board.

J. Belanger stated that at this point, he thinks the Select Board wants the ZBA to recommend somebody, they will interview that person, and decide whether to appoint them or not. M. West asked J. Garruba if that was the case.

J. Garruba responded that he assumed that the public interview that was conducted by the ZBA was a similar process to what was expected at the Select Board. He hasn't read the policy since back then.

B. Major summarized that the Select Board wants to interview potentially four or five people at a Select Board meeting. J. Belanger stated that they didn't say that. B. Major says that he is trying to figure this out.

J. Belanger stated that they want the Chairman of the Board to recommend a candidate, and they will take the interviews, and either appoint or not appoint.

J. Garruba stated that he doesn't think that's the understanding he has. He wasn't going to change the policy. The policy was adopted in November, and whatever that is, was – .

K. McGhee stated that it sounds as if the ZBA should get some clarification, to help them with this.

D. Mason asked why we're getting clarification. He doesn't understand what is unclear.

B. Major stated that the ZBA has recommended appointing M. Maisttison. He suggests that J. Garruba bring up at the Select Board meeting that the ZBA has requested that she be appointed. He would be happy to show up with her for a formal interview if they want to do a formal interview – but he is not going to interview four people, and he doesn't think that this Board is going to interview four people, and make ranked recommendations, because that is a ridiculous waste of everybody's time.

J. Garruba stated that he doesn't think any more interviewing is intended to occur, here.

J. Belanger suggested that the ZBA members review the video of the Select Board's recent meeting – they will see that the only request that was made was that they want to hear from the Chairman that the ZBA wants the vacancy filled.

B. Major stated that the Chair of this Board doesn't do anything alone; it's always a vote. We have had a Board vote asking that the position be filled, and asking that M. Maisttison be appointed to fill the vacant position as an Alternate Member.

J. Garruba stated that that is good; that's what he is looking for to move things along.

D. Mason stated that the policy says that the Select Board will accept written recommendations for appointments from the Chairperson. D. Setaro stated that she will re-send the same memo she sent previously, with B. Major's name on it.

M. West stated that she thinks it's a good idea to show up in person. B. Major stated that he will show up at the Select Board meeting.

J. Garruba stated that he doesn't think this item is on the agenda for the next Select Board meeting.

B. Major asked D. Setaro to communicate with the Select Board to find out when they can put the ZBA on the agenda.

B. Major stated that they want to make this thing work. This Board has no interest in getting involved in anything that's embarrassing to the Town. We just want this to work. This Board works well together.

J. Garruba stated that he thinks this is the next step.

Meeting Adjourned

The ZBA meeting adjourned at 8:45 pm.

Respectfully submitted by:

Donna Lee Setaro, Building and Land Use Coordinator,
and Aurelia Perry, Recording Secretary.