

**TOWN OF CHESTERFIELD, NH
ZONING BOARD OF ADJUSTMENT**

**MINUTES
December 9, 2014**

Present: Chairman Burt Riendeau, Renee Fales, John Perkowski, Alternates Lucky Evans, Kristin McKeon and Scott Riddlemoser

Absent: Harriet Davenport

Also in attendance was Selectmen Jon McKeon, Jim Larkin and James Corliss, Planning Board Chairman.

The Zoning Board of Adjustment met at the Chesterfield Town Office on December 9, 2014. Riendeau opened the meeting at 7:30 p.m. and explained the process of the meeting.

1. **Pro Signs** requests a variance from Article IV Section 401 of the zoning ordinance to permit Irving Oil gas station canopy icons and rope light. The property is located at 85 Route 9, West Chesterfield, NH 03466 (Map 14A Lot A2) Commercial/Industrial

Present: Pierre Saba, Owner, Attorney Michael Bentley and Ken Kolabria, Irving representative. Voting on this application will be Evans, Fales, McKeon, Perkowski and Riendeau.

Bentley stated that the application is to allow icons and rope light on two sides of the canopy, which has already been installed. The intent is to have the canopy identical to the Irving station in Spofford and being consistent with another gas station in town that is already in place. The canopy will protect the customers from the weather and the signs will identify the gas station. Bentley felt that the lighting would enhance the property values in the area and added that the lighting is what the general public is expecting to see traveling along Route 9. The two signs on the canopy would be in addition to the already 64 square feet that is allowed.

Kolabria noted that the Irving signs and red bar are illuminated that circles the canopy, which identifies the site as an Irving site. The Irving name is on the Irving price by the street. Kolabria stated that the request would be an addition 60 square feet in signage for two signs. Saba noted that there will be no other additional signs on trailers or telephone poles. Kolabria stated that the entire canopy has roof lighting around it. He added that there will LED lighting and no flashing lights or strobes.

Bentley stated that “Irving” is the only wording on the additional sign.

Perkowski moved to close the public portion. McKeon seconded the motion, which passed unanimously.

Fales asked how many signs are on the Shell station canopy. Riendeau stated that the Shell station was in compliance when it was built.

Evans made a motion to reopen the public portion. Perkowski seconded the motion, which passed unanimously.

Evans asked what sides of the kiosk will the signs be on. Bentley responded that one is located on the west side and one parallel with Route 9.

Perkowski moved to close the public portion. Fales seconded the motion, which passed unanimously.

The board determined that each additional sign would be approximately 30 square feet. Riendeau stated that any additional signage would fall under code enforcement and looking at his prior history at his hotel site, he has good history. Perkowski stated that the signage is just on the mezzanine and nothing else.

McKeon moves to allow Pro Signs to put up the Irving logo on the south side of the canopy, on the south side and it will only say "IRVING".

Criteria for approval:

1. The variance is not contrary to the public interest. **Yes, it is simply a logo that people are familiar with and similar to other service stations in town.**
2. The variance will not be contrary to the spirit and intent of the ordinance. **Yes, they will not triple the square footage allowed. They are simply putting their logo on the south side where most people will see it.**
3. Substantial justice is will not be done. **Yes, there is no harm to the general public, in fact, there are benefits to the general public. So the benefit to the applicant does not outweighed harm to the general public.**
4. The variance will not diminish the values of surrounding properties. **Yes, it is very similar to other businesses there and the signage is not much different, therefore, it will not change the value of surrounding properties.**
5. Literal enforcement of the ordinance would result in unnecessary hardship.

(A) Because of the special conditions of the property that distinguish it from other properties in the area:

(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. **Yes**

And

(b) The proposed use is a reasonable one. **Yes, because their situation, being so close to other gas service stations that have been grandfathered giving them the south side to be more competitive, yet does not overdue extra signage and is less intrusive of pre-standing signs.**

Perkowski seconded the motion, which passed unanimously.

2. **David Bergeron/Brickstone Land Use Consultants LLC** requests a variance from Article II Section 203.6b of the zoning ordinance to permit construction of a porch and roof overhang within a side setback with no expansion to the nonconforming volume of

the building. The property is located at 170 North Shore Road, Spofford, NH 03462 (Map 5D Lot B34) Spofford Lake District.

David Bergeron, of Brickstone Land Use, is representing George and Elizabeth McKinnon. A map of the existing condition of the property was reviewed by the board members, where Bergeron indicated the nonconformities of the property, with 21% existing lot coverage, where 20% is permitted. Bergeron added that the McKinnon's plan is to tear down the existing three bedroom house and build a new two bedroom home on the lot in approximately the same location of the existing house, which will be more conforming to the setback requirements. The house will be in conformance with the house, with the exception of a corner of the porch, which nips a corner of the setback approximately one to two feet. The total nonconforming area is being reduced from 1180 sq. ft. to 223 sq. ft. The total nonconforming volume is being reduced from 2880 cu. ft. to 1360 cu. ft. with the volume being reduced is open porch. The new building will consist of a one story home with a loft on the second floor.

Bergeron stated that there is a strip of land, approximately 8-10 feet wide, abutting the property that belongs to a house on the opposite side of the road, which gives that property owner access to the lake. Bergeron added that another abutter is North Shore Beach, owned by the Town of Chesterfield. The porch on the new building will be more conforming to the setback toward the North Shore Beach. Bergeron added that the garage is not going to be changed. There will be a new septic system installed when the house is built and will be designed by Forest Designs. The new home will have the ability to be a year round home. The new home will consist of 2,700 sq. ft., including the garage. The stone patio is approximately 365 sq. ft.

Bergeron stated that a portion of the driveway will be eliminated and reduced the amount of gravel coverage. He added that there is a stone patio on the property next to the water with no structure on it, which is included in the square footage calculations.

Perkowski moved to close the public portion. Kristin seconded the motion, which passed unanimously.

Riendeau stated that when zoning is involved, bringing the property to be more into compliance is desired, which is what the applicant is attempting to do. The total nonconforming area is being reduced to 957 sq. ft. and brings the property much more in line with the zoning ordinance. Fales stated that some of the driveway is being taken away, reducing some of the side setback. Perkowski stated that he feels the ZBA should note that nothing can be added to the stone patio, which has been built partially off the property.

Fales moved to approve the variance by using the five points that the applicant has provided, with the stipulation that no structure will be built on top of the existing nonconforming stone patio on the north side of the lake. Perkowski seconded the motion, which passed unanimously.

Facts supporting this request:

- 1. The variance is not contrary to the public interest because:** It is in the public interest to allow improvements to a property which will make it more conforming to the ordinance. The existing home is partially within the side setback on the west side of the lot with a nonconforming area of 420 sf containing a volume of 2880 cf within the side setback. On the east side the gravel driveway encroaches 760 sf into the side setback. This proposal will reduce the nonconforming area on the west to 33 sf with a nonconforming volume of 40 cf. On the east side the gravel will be reduced and the new building and remaining driveway will encroach 448 sf with a nonconforming volume of 1136 cf. The proposed nonconforming areas are open porch and roof overhang resulting in the total nonconforming volume being reduced from 2880 cf to 1136 cf. If approved, this will allow a significant improvement to property value. This will result in higher property taxes paid to the community without adding to the occupancy at the lakeside cottage and without adding to traffic or lot coverage.
- 2. The variance will not be contrary to the spirit and intent of the ordinance because:** The spirit of the ordinance in this case, is to prevent overcrowding and to prevent the expansion of nonconforming buildings which would result in increasing occupancy on small nonconforming lots and the potential problems associated with it. This proposal will increase the separation from the building on the lot to the west and reduce the appearance of overcrowding. It will not increase the number of bedrooms in the residence and will not result in an increase in occupancy. It will not increase traffic, septic loading, or lot coverage. It will not will not affect views of the lake from surrounding properties. This proposal is not contrary to the spirit of the ordinance.
- 3. Substantial justice is done because:** Granting the variance will allow the owner to improve his property value and his quality of life at this residence with no increase to occupancy, to septic loading, or to lot coverage. This proposal meets the spirit of the ordinance without negative impacts to the public or to adjacent properties.
- 4. The variance will not diminish the values of surrounding properties because:** Granting the variance will have no negative impact to surrounding property values. It will not affect views to the lake; it will not add occupancy; it will not result in increased traffic; it will not result in increased runoff; and it will not increase septic loading on the property. It will improve the value of this property and will help to maintain and enhance property values of the nearby properties.

5. Literal enforcement of the ordinance would result in unnecessary hardship.
(A) Because of the special conditions of the property that distinguish it from other properties in the area:

(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of the provision to the property.

The purpose of the ordinance provision is to prevent overcrowding and to limit the expansion of nonconforming buildings which would result in increasing occupancy on nonconforming lots and the potential problems it could create. This proposal meets the spirit of the ordinance and will not increase occupancy, lot coverage, traffic or septic loading. This proposal will result in the property becoming more conforming to the existing ordinances by increasing setbacks and removing existing nonconforming structures. The shape of the lot and the location of the existing two gar garage on the lot makes it impossible to build as proposed without a variance. There is no public purpose or benefit to deny this proposal.

And

(b) The proposed use is a reasonable one. The proposed use for the property is the same as the existing use of the property. It is fair and reasonable to approve the variance to allow the property to become more conforming to the ordinances without increasing the intensity of the use.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, owing to the special conditions of the property that distinguish it from other properties in the area, 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.

The size and shape of the existing lot and the location of the existing two car garage make it impossible to construct the new building without slight encroachments in to the side setbacks. This creates a unique condition which can only be corrected by a variance. The resulting conditions on the property will be more conforming to zoning and will allow reasonable use of the property with no negative impact to abutters or to the community.

- 3. Robert J. Kasper, Jr., Attorney for Beach Revocable Trust** requests an appeal from an Administrative Decision of the Zoning Board of Adjustment of two previous decisions rendered on December 14, 2004 and April 12, 2005 to stay the issuance of a

driveway permit. The property is located at Forest Avenue, Spofford 03462 (Map 8 Lot A4) Rural/Agricultural District.

Present: Attorney Robert J. Kasper, Jr., David Mann, Land Surveyor and Bruce Beach, property owner.

Voting on this application will be Evans, Fales, McKeon, Perkowski and Riendeau. Evans will be voting in the absence of Cay.

Kasper stated that the application is an existing access and it has always had been a driveway prior to 1956. The applicant currently has only one access off Route 9 for four lots. Kasper added that under the current zoning, in order to have a shared driveway, only two lots are allowed and that is the purpose of this request to allow a shared driveway off Forest Ave. for two of the lots with the existing Route 9 driveway to be shared by the other two lots to bring the four lots into conforming with the zoning.

Kasper stated that the argument of the road agent was that the applicant had to have four hundred feet of road frontage onto Forest Ave. The lots being referred to do have adequate frontage, that being on current Route 9 and those lots can access Route 9 because the zoning ordinance requires that there be a 50 ft. setback from Route 9. Kasper added that Route 9 is a limited access highway and the State of New Hampshire won't allow a driveway from current Route 9 into this lot. There is an existing driveway on old Route 9 that comes onto Forest Ave. Kasper stated that, in the past, there used to be a Glebe Road extension that went out to Route 9, which was also discontinued back in the 1980's, in which this lot got cut off and the only access that it currently has is on Forest Ave. which had been an access since 1956. The applicant is asking that the ZBA approve the use of the existing access as a common driveway for the two lots in question, which may or may not include deed restrictions for Lots #4 and #6 for a maintenance agreement for the road. Kasper stated that the lots are not corner lots and no right angle intersection between the two roads.

Riendeau stated that the board was looking at whether it was a legal access point in a previous decision. Mann replied that the board was looking at whether the information was complete and determined that it wasn't complete but didn't look at whether it was a legal access.

Riendeau asked the question as to how this application was different from the 2005 application. Kasper replied that a proper survey has been done which verifies that the property line is abutting to Forest Ave. and that the driveway runs up to Forest Ave. for the pre-existing driveway. Riendeau responded that that's the hurdle that the ZBA needs to get over. He added that in 2005 the ZBA didn't know where the lot lines were but that the frontage that the frontage was on Forest Ave. Riendeau acknowledged that the survey has been done and the lot lines are noted. Kasper added that Forest Ave. is old Route 9 and ends at the applicant's property. Mann added that this application has to do with the Route 9 project in 1956. Riendeau felt that a determination needs to be made as to whether that access has been used and how it was being used as an access. Mann said that it is a change of use in that the applicant is going to use it for residential purposes. Mann added that the access used to be gated when the farmer used it, in that he acknowledged this since 1972 and he added that it used to be paved before it was washed out in 2005, leaving it now as gravel. He also added that there has always been a culvert under the

road and it was never grown over. Mann felt that the road agent should have determined as whether it is a safe access point in and out off as a proper site distance and that it has been a pre-existing access since 1956, and before that, it was the main highway. Kasper added that the applicant can use the two lots for a common access per the ordinance and the applicant is asking approval to bring the two lots into conformance with the ordinance 207.4c. It was acknowledged that the Glebe Road extension connected with Route 9 until 1984 when it was discontinued.

Mann stated that the applicant has 66 feet frontage on Forest Ave., which is the end of the right of way for the road, with a little tab on one side which would make it about 72 feet in total frontage on Forest Ave. Riendeau's example of the spirit and intent of the ordinance to allow to cross a side setback was the Joslyn property on North Shore Road, where he owned both lots and made his driveway on one lot and crossed the side setback to where his house was built and a side setback relief was given. Mann replied that there is not side setback relief needed and the ordinance permits it. Riendeau's response was that the ordinance has been changed. Mann stated that the driveway would come off one lot and go into the next one. Riendeau replied that not the conforming part of the front setback of the lot. Riendeau stated that he is not saying that the access was not always there, but the spirit and use of that access was not for driveway permitting use for residential use but was used as agricultural use for crossing into the field. Kasper replied that when the access was given to the four lots, Glebe Road extension was still in existence until approximately 1986 and had more than adequate frontage to Glebe Road extension to use the Forest Ave. extension as a driveway into it, therefore, by the State taking away the Glebe Road extension that now has created this mess for the applicant, but the applicant now has only one access for all four lots. Kasper added that the applicant is trying to create a safer situation.

Jon McKeon stated that he sat on the Planning Board when the shared driveway ordinance was created and the intent in that writing was to enter the front setback and cross one of the adjoining properties to enter into the second property. The intent wasn't to enter into either properties by the side setback and then cross another side setback.

Kristin McKeon stated that it appears that Parcel #4 only has access to Route 9 is because the State took out the Glebe Road/Forest Ave. and before that all their frontage was on Glebe Road and not on Route 9 frontage. She added that she felt that if Forest Ave. or Glebe Road was 400 feet long, then Lot 4 would have the frontage that is needed. Perkowski added that the Glebe Road extension was discontinued in 1984. Kasper stated that the argument in 2005 that if the road is abandoned, unless the town notifies the abutters of the fact and puts out a formal notice and the frontage is not lost.

James Corliss asked if whether the front setback would be considered be coincident with frontage and does frontage and front setback have to be the same boundary of the property. Riendeau answered that the ordinance says that you are allowed to cross the front setback and can't go along the front setback. Corliss added that the Planning Board considers frontage along the road and that is where the front setback is and that's where the driveway crosses.

Mann stated that, in 1956 when the original Route 9 was put in, that portion of Route 9 was closed, which went through this property. The State annexed that piece back to the property owners, from this property and beyond. At that point of time, the Glebe Road extension was

built, up to Class V standards. That lot accesses from the current end of Glebe Road had 400 feet of road frontage on the Glebe Road extension and the portion of Glebe Road that was there. Then in 1983, when Route 9 was made a controlled access highway, they took away the access to the then current Route 9 and they closed the Glebe Road extension, up to the point of where this access point went into the property. If they had wanted to closed this access and would have discontinued that road that much further to exclude them from using it. They did not do that. They left their access point to that property and they discontinued up to Forest Ave. Mann added that, prior to this discontinuance of Glebe Road extension, this was a corner lot and the legal frontage at that point in time was this Glebe Road/Forest Ave. side of the property because it was the less traveled road. The driveway had to come up at that side. When they closed that Glebe Road portion, this access was left into the property. The only practical access into this property is this one. Kasper added that when discontinuance occurs, such as this one, without the owner's written consent, which has never been given, the owner cannot be deprived of access over the highway and with the only access to Lot 4 is Forest Ave. where old Route 9 joins it, per RSA 231.3. Riendeau stated that it was his understanding that when limited access was given in 1986, the access to those lots was given off to that one access onto Route 9 and it was the applicant's job to prove to the ZBA that the owner's written consent was never done. Mann stated that when Glebe Road extension was given up, the property owner still had his access onto old Route 9.

Perkowski moved to close the public portion. Evans seconded the motion which passed unanimously.

McKeon stated that if a permit is given for this application and two accesses are removed from Route 9, whether it's called a driveway or not a driveway with the only difference between an access and a driveway would be gravel or pavement, it would make the highway safer and given the applicant better access to their property.

Riendeau stated that he is not sure that the access was, for this intensity, used. He could not determine if a variance would need to be granted for the frontage that is needed on Forest Ave. to grant this application or would it be for just Lot 4 and not Lot 6 or what the legalities are for this particular situation. He added that the decision needs to be a legal decision so it needs to be clear in what is done is right. This rural agricultural area has a lot of gateway accesses to a lot of properties have more than one access to their agricultural properties and if this application is unique because of the change in road situation. He would like to get some counsel before making a decision at this time. The ZBA needs to make the determination as to whether the road agent made the right decision, with this being an appeal of an Administrative Decision.

Fales made a motion to seek legal counsel on this case and to continue the case until next month and to determine if the applicant needs to apply for a variance. Perkowski seconded the motion, which passed unanimously.

Perkowski stated that more information on history as to when frontage was lost, when the property owner had access to those lots and did those lots exist the way they are today back then.

The vote: (Perkowski – Yes; Fales – Yes; McKeon – No, Fales – Yes; Riendeau – Yes
The motion passed by majority vote: 4-Yes; 1-No

Kasper asked for the name of legal counsel that will be used by the ZBA so that he could get the information to them. Kasper feels that this is an appeal from an incorrect decision and the road agent's decision was based on materials that were submitted to the ZBA.

- 4. Elizabeth H. Blake** requests a variance from Article II 203.4 to keep the upstairs rental unit. The property is located at 422 Pond Brook Road, West Chesterfield, NH 03466 (Map 13C Lot B9) Residential District.

Blake stated that she and her husband purchased the house in 1992 as a single family home. Within six months they rented rooms to three different people upstairs, which included bathroom. They added a stove and refrigerator without obtaining a permit from the code enforcement officer. Approximately four years ago Blake added a kitchen upstairs without obtaining a building permit from the code enforcement officer, giving the upstairs apartment two bedrooms. Blake stated that there currently is an older lady renting the upstairs apartment and no downstairs unit is empty, which consists of a family room, a kitchen, dining room, office space, two other rooms and a bathroom. The upstairs tenant enters the house through a downstairs doorway and it has a rope ladder outside the window. McKeon noted that the window not legal size to egress. Blake stated that a fire marshal made an inspection of the house approximately four years ago but she did not have any documentation of the inspection nor did she know who that person was. Jon McKeon stated that such an inspection would have been performed by the Steve Dumont, Deputy Code Enforcement Officer, who has been in position for approximately five years.

Blake stated that she received a letter from the Code Enforcement Officer Greenwood informing her that she was not in compliance with the rules and that five acres is required to have a two family. Riendeau stated that 300 feet of road frontage is also required. Blake has no information about her septic design for the home. Riendeau stated that this application cannot be grandfathered. He added that in-law apartments were removed from the ordinances approximately in 1986.

Blake stated that she is not living at the 422 Pond Brook Road property so the downstairs unit is currently empty.

Fales moved to close the public portion. Perkowski seconded the motion, which passed unanimously.

Riendeau noted that the application was requested a variance and not an administrative appeal. It was brought to her attention that she was out of conformance. Riendeau stated that there can't be two dwellings which lacks the acreage and is not in compliance. Perkowski stated that one person is occupying a single family residence that is renting from the owner and the breach is the two kitchens. Perkowski noted that there are other single family homes that there are two kitchens in town but there is no intent to rent or be a two family. McKeon noted that the kitchen was added to the upstairs with the express purpose of renting. Perkowski stated that the appliances in the upstairs needs to be discontinued. Riendeau stated that something has to be removed to make it a single family home and it can't be allowed to let it be a two family

dwelling. He added that it is up to the code enforcement officer to make the house compliant making it a single family house. Riendeau stated that the board is denying this variance requested for a multi family in a single family home that doesn't meet the criteria for a multi family home.

Evans moved to deny the application and not allow this dwelling to be used for a multi family purpose of the application for Variance 203.4. The denial is based on lack of frontage and lack of lot size and to refer it back to a single family dwelling. The conversion would be referred over to the code enforcement officer.

Criteria for approval:

1. The variance is not contrary to the public interest. **No. It fails because the current dwelling does not have the required acreage and lacks the frontage for a multi family dwelling and it does not satisfy any requirements for granting a variance.**
2. The variance will not be contrary to the spirit and intent of the ordinance. **No. It is against the spirit and intent of the ordinance by not being under the essential character of the neighborhood of single family houses on small lots.**
3. Substantial justice is done. **No**
4. The variance will not diminish the values of surrounding properties. **No**
5. Literal enforcement of the ordinance would result in unnecessary hardship.

(A) Because of the special conditions of the property that distinguish it from other properties in the area:

(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. **No**

(b) The proposed use is a reasonable one. **No**

The motion was seconded by Perkowski and passed unanimously.

Review October 14, 2014 Meeting Minutes

Perkowski moved to accept the meeting minutes of the October 14, 2014 public portion. The motion was seconded by Fales which passed unanimously.

Voting was by Evans, Perkowski, Fales and Riendeau

Fales moved to accept the nonpublic meeting minutes of October 14, 2014. The motion was seconded by Evans, which passed unanimously.

Voting was by Evans, Fales and Riendeau

Other Business

Riendeau announced that Scott Riddlemoser was appointed as alternate to ZBA and has recently been sworn in. The board welcomed Riddlemoser. Riendeau informed Riddlemoser that there are requirements for training of ZBA procedures.

Riendeau announced that Andy Cay has moved out of town, as of the end of November, and his resignation was received today and wishes the ZBA well for continued service to the town. The

board noted that Cay will be missed. Riendeau noted that a permanent replacement will be appointed by the Selectboard.

Riendeau also announced that his and Davenport's terms will expire on December 31, and as of this meeting, they have not been reappointed. He added that there is some opposition of the selectboard of reappointing their positions. The selectboard have been discussing proposing electing versus selectboard appointing board positions for the ZBA and Planning Board. The town will determine which process will be made in the future at the town meeting in March. Riendeau stated that he has attended the selectboard meetings when the process was being discussed and has voiced his opinion with them.

Jon McKeon stated that there are two ways this change can happen. The selectboard can bring forth to the town for election or it can be done by petition from anyone in town with 25 signatures of registered voters. The two different options is that if it is passed, there would be elections every year with two people's terms going up for those to seats being open for election and it could be that the whole board is up in the first round of elections, so there would be two seats for one year terms, two seats for two year terms and two seats for three year terms for permanent seats and the alternates would still be appointed. If someone resigned from the elected board, the board would appoint someone to that position until the next election. Riendeau stated that he doesn't feel that there is any benefit in the election process.

Riendeau announced that the town administrator is researching the legal issues for the ZBA.

Riendeau stated that there has not been a lot happening on the court case. Attorney Hoppock has filed Answers to the original petition and is still in the court's hands. Riendeau stated that the board has a copy to the Answers and they are public record.

Riendeau reported that there was an attempt from Jon McKeon to have Andy Cay and Riendeau removed from the board for malfeasance case. The selectboard, as a group, voted not to pursue that, thus all the selectboard in attendance at this meeting. When Perkowski asked if this was about the Nine A case, Riendeau answered some of it is and some of it is that Cay and Riendeau conducted illegal actions on this board. Riendeau confronted the selectboard and those meetings reflect in the selectboard minutes. Riendeau felt that this discussion should have taken place in nonpublic. Riendeau stated that 673 should have come into play. Riendeau added that if any ZBA members feel that he has conducted any illegal actions intently maliciously, to let the selectboard know that and if contrary to that, let them know that as well. Perkowski replied that he feels that Riendeau has acted in what is the best interest in the town.

Jon McKeon asked if there was an affirmative vote by the majority of the board for the board chair to talk with Attorney Hoppock about anything other than Nine A LLC. McKeon explained that it is a question asked that if a vote by this board, in the affirmative, that this board would provide authority to the board chair, to talk with Attorney Hoppock for anything other than questions on Nine A LLC. Evans stated that the board has asked for legal clarification on certain matters but the board didn't say to whom. He added that there was nothing specific of what the topic would be about. Perkowski asked would attorney should be used by the ZBA and McKeon stated that the selectboard have been using Attorney Bernie Waugh for general issues and he

recommends using this attorney for the road issues presented at this meeting. If there is a special issue, then the selectboard would seek out an attorney that fits the issue. McKeon stated that Attorney Waugh bills by the hour. Jim Larkin stated that it doesn't involve Nine A so there should be a conflict.

Perkowski stated that he feels that a fifth permanent board member should be appointed before voting on the vice chair position to replace Cay.

Riendeau asked the board how and who they want an attorney to be contacted and what specifics need to be discussed. Kristin McKeon stated that she would like attorney responses on issues in writing and Perkowski also wanted to have discussion in writing. Perkowski added that the ZBA needs legal advice on the Beach driveway application.

Perkowski moved to have Riendeau get information from an attorney regarding the Beach case and bring it back to the ZBA. McKeon seconded the motion.

Jon McKeon stated that he has no problem in having the attorney fees on this issue to come out of the general operating budget.

McKeon made a motion to amend the motion to have the discussion with the attorney in writing.

The motion passed unanimously to the first motion.

Evans seconded the amendment to the motion to get a response in writing to the ZBA board.

The motion passed unanimously

Adjourn: Perkowski made a motion to adjourn the meeting. Fales seconded the motion, which carried unanimously. The meeting adjourned at 11:37 p.m.

Respectfully submitted,
Patricia Grace
Secretary

Approved

Burt Riendeau
Chairman, Zoning Board of Adjustment

Date_____