

**Minutes Lisbon ZBA
10/11/2017 @ Town Hall**

Present: Jan Marshall (JM), Tucker Clarke (TC), Deborah de Santos (DS), Stanley Sudol (SS), Steve Toutant (ST)

Meeting chaired and called to order by JM and following presentation made by JM:

It is 6 PM, I would like to call the meeting to order.

I will begin by introducing myself, Jan Marshall, chairperson, Tucker Clark, Deborah de Santos, Stanley Sudol and Steve Toutant. With 5 of us present, we have a quorum.

We are taping this meeting. But I would also like someone else to take notes – do I have a volunteer?
(ST volunteered)

We will start by opening a hearing on the request by Michael and Margaret McKenna to convert their 4 B&B rooms to 3 apartments. They currently have a 2 family building. With the additional 3 apartments it would be a 5 family building. Lisbon does not permit more than 2 family buildings, anywhere in town without a Special Exception, which they are seeking.

Notice was given in the Caledonian Record and by Certified Mail – review of the file.

The McKennas are unable to be here tonight and have requested that the hearing be continued. I will be taking a motion on that in a few minutes.

By way of information, in the absence of staff for the ZBA, I have asked the relevant town officers – police chief, fire chief and EMT chief to give us their opinions, on the request, with respect to the specific requirements of the zoning criteria, related to their areas of expertise. Greg Hartwell has replied for the fire department. Here is a copy of the correspondence between us for all of you and a copy for the Town Hall File Folder. I hope to have the other comments, for the next meeting, to expedite consideration.

We are also required by article 8.03 of our zoning regulations to have 2 members jointly view the subject area and note that in our records. Please understand that we cannot engage in what is called ex-parte communication with the applicant. We must restrict our discussion to the facts of where property lines are, where parking will be etc. and not discuss the merits of the case. I would like a volunteer to agree to join me at a date and time, acceptable to the McKennas. (ST and TC willing as needed) Does anyone else want me to make arrangements, for them, to drive up to the building? (NO) We do not have a need to enter the building. Two of us, at once, is the maximum number of ZBA

members, that can go together without constituting a public meeting. Public meetings require advance notice to the public.

In the absence of a staff member to organize meetings and guide an applicant, I have had to directly interact with Margaret McKenna, during the past few weeks which follows interaction this past Spring, on the same subject. I have refrained from discussing the merits of the case. I have copies of correspondence with her from this Spring and also this past few weeks with me, if anyone would like to review the copies. I have also had to engage in phone conversations, on the same basis.

I would also like to make you aware that, on the advice of an expert on planning and zoning, I spoke briefly with or left messages for 3 of the abutters of the McKenna property, to let them know, that the hearing would be continued, at the McKenna's request, rather than heard tonight. I did not enter into any discussion about the application. The purpose was simply to give them, the courtesy, of knowing that the case would not be discussed, until a later date, especially since one of the abutters lives in Rhode Island. I was unable to get a phone number for the 4th abutter. The abutters I spoke with, have been instructed, if they are interested, to check the town's website for the date at which the continued case, will be heard.

Do I have a **motion** to continue the case of Michael and Margaret McKenna's Special Exception request to October 24th at 6 PM at the Railroad Station? (DS) Do I have a second? (TC) All in favor of continuing the Michael and Margaret McKenna request for a Special Exception to October 24th at 6 PM please say, Aye. The motion passes. The Michael and Margaret McKenna Special Exception hearing is continued to October 24th at 6 PM at the Railroad Station.

We have agreed to generally hear a case one night and make a decision another night, as many NH boards are now doing, to ensure adequate consideration. Our Letter to Applicants tells them to expect that we will do that. You have all agreed to November 1 at 6 PM, if we follow that procedure and I think it is important for us to be consistent. I have reserved the Railroad Station and informed the applicant. The applicants do not need to attend deliberation sessions, as the public hearing in which they may speak, will be closed. But they have the right to attend or to listen to the tape of the session.

Returning to our agenda. All of you have received a copy of the minutes of our last meeting which was July 12th 2017. A copy has been sent to you and is in front of you. Does anyone have any changes to propose? (None) Who would like to move that we approve the minutes? (TC) Who would like to second the approval? (SS) All in favor, please say Aye. The minutes are approved.

Before beginning discussion of the Rules of Procedure I would like to encourage all of you to seek out individuals who might be willing to serve as alternates for the board. I will be traveling a lot during the next 18 months. I may be able to attend electronically, but there will be times, when I can't. There are also going to be other situations in which other members cannot attend. The Planning Board chair was approached regarding a commercial scale solar farm, proposed for Northey Road. The developer has been told that this will need to come through the ZBA, as well, for a Special Exception. We are told that the developer is hoping for approvals before year end. I don't know how realistic that is but we need to ensure that we can always have a quorum and ideally 5 members available, to hear a case. I have

suggested that the first meeting ideally be a joint meeting with the Planning Board for a presentation on the plans and to start the process of learning about the project and hearing initial public comment, if there is time for that, during the first session. Ultimately, we, as the ZBA, will need to hold our own hearing which may extend over several nights. The final configuration of how this will proceed is, to some extent, up to the applicant. They can make application first to the PB or to the ZBA. They may be able to make application to both at the same time. I am trying to find that out. I am hoping for a process that works well for both the applicant and any opposition, which might arise.

It is important, that for all cases, that we hear, that as ZBA members, we remain open minded, we do not pre-judge the case and we do not engage in discussion with others, regarding our opinions of the proposal. It is important that anyone, who we bring in as an alternate, would be joining us with the same mind set. Our decisions are to be made only after hearing all the testimony, after careful consideration and in **public** deliberation with our fellow ZBA members. I would also like to remind you that our decisions must be based solely on the criteria that the applicants must meet and in the case of a Special Exception, if the criteria have been met, we must grant the Special Exception.

I would now like to begin discussion of changes to our Rules of Procedure which we had agreed to work on back in July when we last met. A draft of the rules of procedure was given to each member and sections highlighted by JM reviewed.

Selection of vice chair and secretary for ZBA was discussed. These positions were not filled at this time giving members time to consider their availability. The need for a clerk to assist/support the ZBA was discussed. Presently, the town does not have staff available to address this need and budget approval for this position will need approval at next town meeting per selectman Scott Champagne who was present at the meeting. JM will continue discussions on this issue. Electronic participation in meetings by members unable to attend in person was then discussed. Agreed upon was wording that any member so participating could not chair the meeting or be counted toward a quorum except in an "emergency" as so defined by RSA. Extended discussion concerned whether recordings rather than written notes can be used as meeting "minutes". Precedent for this does exist by the selectboard per Mr. Champagne. Motion was made by TC and seconded by DS stipulating the ZBA use recorded rather than written minutes provided legal approval is confirmed. JM will contact Municipal Assoc. Attorneys and Ms. Susan Stark regarding legality. All records will be kept at town hall and made available to public for inspection. Discussion of Rules of Procedure will continue.

Motion for adjournment was made by DS and seconded by TC at 6:55 PM

Minutes submitted by Steve Toutant

