

**CANDIA ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF October 24th, 2023
APPROVED MINUTES**

PB Members Present: Judith Szot, Chair; Boyd Chivers, Vice-Chair; Ron Howe; Tony Steinmetz; Bill Keena, Alt.

PB Members Absent:

Mark Raumikaitis, (excused); Gale Pellegrino, Alt. (excused)

*Judith Szot, Chair called the ZBA meeting to order at approximately 7:00PM, followed immediately by the Pledge of Allegiance

New Business:

- **Case #23-004:**

Applicant: Paul and Sarah Brassard, 266 Donovan Road, Candia, NH 03034; Owner(s): Paul and Sarah Brassard, 266 Donovan Rd., Candia, NH 03034; Property Location: 266 Donovan Rd., Candia, NH 03034; Map 411 Lot 40.

Intent: *To request a 15-foot variance waiving terms as stated in Article VI, Section 2, to construct a 30x30 barn/garage.*

J. Szot: Mr. & Mrs. Brassard, you are entitled to being heard by a full board. There is not a full board for tonight. Both of our alternates are gone, and Mark is gone. So, you can come back at another time, or you can have this board hear this case.

S. Brassard: I guess it makes sense...

B. Chivers: Can you speak up a little bit?

S. Brassard: I suppose it makes sense for everybody to probably be present for it.

P. Brassard: She is saying we prefer a full board.

J. Szot: Okay, so then we can...we would have to then continue this until next month. What's our time on this? This is a new one, so we have...this was his new request.

Bill Keena arrives.

J. Szot: Bill is here. Now we have a full board. Our first case is Mr. & Mrs. Brassard, and I received a letter today and you have a copy of it in your folders. I received a letter from Mr. & Mrs. Brassard asking me to recuse myself from this hearing and several other things. I have read their comments and I feel that I know what the requirements are to recuse yourself. I don't feel that I have violated any of the rules of our board by asking questions. And so, the decision to recuse is up to me and I will not recuse myself. It is State Law that it is the member's decision, solely, to recuse themselves and there are very specific reasons why someone should recuse themselves and I don't feel that I have met the standard for any of those reasons and so for that reason, I will not recuse myself.

P. Brassard: I guess we are not asking you to recuse, we are asking the Selectmen to review your conduct.

J. Szot: That doesn't happen here. That doesn't happen at this board.

P. Brassard: If we are thinking that you did a bad action towards us, how are you the one to decide? We reached out to the Select Board, per Andria. We found out what the process was for code of ethics and code of conduct. Everybody, every town is entitled to have that process. She said, you send us a letter, it goes to the Selectmen, the Selectmen figure it out. So, for you to tell us you're figuring it out.

J. Szot: The Selectmen have no jurisdiction. We have spoken to our legal counsel; the Selectmen have no jurisdiction about whether or not I recuse myself from any case. It is a personal decision made by the person on the board. If you are seeking to remove me from the board, that's a whole different issue and that you would take up with the Selectmen and present your evidence to the Board of Selectmen.

P. Brassard: I think the acute thing is to have you abstain from this vote due to the ethical considerations and what we are saying occurred to us. The chronic solution, course of action for us would be to have you removed as the chairman and to have you removed from the board as I have suggested to the Selectmen based off your actions. So, I am not asking you to recuse yourself, I have asked the Selectmen to look into your behavior.

J. Szot: Again, that has nothing to do with this meeting tonight. That letter came in today, the Selectmen had no opportunity.

P. Brassard: That's fine, so I guess, can we let the process do its due diligence and continue this to November, once the Selectmen have met?

J. Szot: There is no reason to. They are two different issues, Mr. Brassard. Those are two different issues. One has nothing to do with the other.

B. Chivers: Once person at a time.

P. Brassard: This is completely related to the issue. I don't know you, other than this board. Other than you coming on my property and being here. So, I have requested from the town administrator, her processes that she stated to me, that I need to send a letter to the Selectboard. Yesterday, we asked the same question. We were told we need to send a letter in a drafted email to the town administrator, who will then present it to the Selectmen. We couldn't do that until we had a finding last night from the Selectmen and we gave our time, presented our letter today to the town

administrator. We need that process in order for us to get what we feel, is a fair shake here at the ZBA. We need to make sure that that has had its due diligence, until the end of November. And if they haven't found due diligence by the end of November, a continuance then. I am appalled to what my two boys have experienced and for me to be the proper role model. They are asking me why is the woman at the meeting wanna beat you up dada? Why is she saying swears that Nana says? This is their impression. So I am here defending the integrity of my family.

J. Szot: None of that is appropriate for this meeting tonight. This meeting tonight is to hear your request, the request that you filed for a variance. That is what this meeting is about. You don't seem to understand, there are two different issues here, Mr. Brassard. One issue is you wish to have me removed from the board. That's separate. That takes place someplace else. The issue tonight is to discuss your application for a variance. Do you wish to continue with that application tonight, Mr. Brassard?

P. Brassard: I am seeking further discussion.

J. Szot: From whom?

P. Brassard: What you are telling me is there is no correlation to what occurred and what I am requesting to today's meeting?

B. Chivers: Mr. Brassard, Amy asked our town counsel.

P. Brassard: We got that same email.

B. Chivers: The last paragraph says: "Nevertheless, this is ultimately Judith's decision to recuse and not other ZBA members or Selectmen."

P. Brassard: So recuse, that is my course of action for the Selectmen. The Selectmen need to decide if her behavior was unprofessional and unbecoming of a member and the chair of the ZBA.

S. Brassard: Yeah, so hold on. On both behalfs, what he just said, we got as an email, I don't believe we did. You're referencing the response from your attorney, correct?

J. Szot: The point is, you asked for me to recuse. The letter that I received.

S. Brassard: I want to confirm what you got now.

J. Szot: I got a letter that was sent to Andria Hansen and I assume that this is the letter that you sent to the Board of Selectmen where you made several allegations. That letter. You're asking, you want me to be recused, for me to recuse myself from this meeting. According to state law, I am the only...you want me removed, that's a separate issue. You don't seem to understand that there are two things here. Your request for a variance and your request to have me removed from this board, which is done at the Board of Selectmen. If they find just cause, then the Board of Selectmen will remove me from this board.

S. Brassard: Correct

J. Szot: That has nothing to do with your request for a variance tonight.

S. Brassard: So let me ask you a question. Do you feel what's stated in the information we gave you as conduct is unrelated to you sitting tonight making a decision.

J. Szot: Absolutely.

S. Brassard: Absolutely unrelated?

J. Szot: Absolutely.

P. Brassard: You don't think the two are related at all?

J. Szot: No

P. Brassard: Okay.

S. Brassard: So, your conduct unrelated to how you will...

P. Brassard: Telling me I can't cut trees on my own land and telling me I am breaking the law and implying I am a criminal.

J. Szot: No, I didn't imply that. You inferred that sir. I did not imply that. I was reading to you what the state law says. You implied; you inferred that I was...this is not a discussion for this. I will not recuse myself. We are here to hear your case.

P. Brassard: I had Bob call me and tell me I can't cut trees until April of 2024 on my own property.

B. Chivers: Where did he come up with that?

S. Brassard: That's what we were asking.

B. Chivers: Bob, did you call him and tell him that?

J. Szot: I will tell you, I listened to the minutes of the meeting before I came here, and you said that was in the meeting. That was not in the meeting. That was never mentioned. You mentioned in your letter that we discussed this at the previous meeting. It was not in there. Nothing was said there about April of 2024.

P. Brassard: You quoted an RSA and I think Rudy told you you can't tell me I can't cut trees on my own property. It's actually recorded. And then after that meeting, I got called by Bob to come down to the Land Use Office.

J. Szot: Mr. Brassard, do you wish to go forward with this meeting tonight or not?

P. Brassard: I would like a continuance to November so the due diligence of the process can be completely vetted so I have a fair shake at this whole process.

J. Szot: And if the due process does not achieve what you wish to achieve, then what do you wish...

P. Brassard: I'm not looking to achieve anything. I just want...

J. Szot: If I'm on the board sitting here in November.

P. Brassard: That's fine. Then if the Selectmen deem that you're worthy enough to sit on this board based off your conduct, then by all means, yeah. Then we'll have to go in November.

B. Chivers: Mr. Brassard. I've sat on the Board of Selectmen for quite a while. I think what you're asking would be a precedent in this town.

P Brassard: Absolutely.

B. Chivers: First of all, we don't have a code of conduct, standards that we can judge Mrs. Szot's behavior by. There is a state law that says we have to adhere to the jurors standard and says we haven't made up our mind about the case before it's heard, we can't contact the party involved, and all that. We can't have a financial interest in it. And those are all the reasons for which she's obligated to recuse herself. Now if she refuses to recuse herself and the Selectmen can't do anything for you because they don't have a standard by which to judge her performance and order her dismissal, which I don't think the Selectmen have the authority.

Too many people speaking at once...

B. Keena: Can I just comment here? I don't think this is an appropriate discussion at all.

This is not a Zoning Board...this is a Zoning Board. The discussion is not about the Selectmen's authority or lack thereof. You guys have filed something, you're doing your thing, do you wish to continue with the request for this variance or are you withdrawing it?

. Brassard: I would like to continue with the request for the variance.

B. Keena: Then it is up to the Chairman to decide whether we will address it tonight or not.

J. Szot: The point is, what is the reason to continue?

P. Brassard: We have made an obvious reach out to the Selectmen to say this needs to be addressed before we will feel that we did have an appropriate shake.

B. Keena: Then perhaps you will want to decide to withdraw the request.

P. Brassard: I have another two months, right sir?

J. Szot: Amy, when was the application filed?

Amy Spencer: 10.11.23

B. Keena: Or he could withdraw it like he did last time. If they would like to continue and do not wish to withdraw, then it may be considered on the agenda tonight. So, just trying to listen to what you are asking for and without getting into a debate about the Selectmen. I understand the connection you are making. I also get the point you are making, which is, this is not the venue for that discussion.

P. Brassard: So, everyone's completely clear that we are asking for a continuance, and you are telling me I can't do that. You are telling me I can either withdraw or it gets voted on.

J. Szot: That is not what we said.

Motion: B. Chivers: I **move** that we continue this hearing at Mr. Brassards request, until the November meeting. **Second:** R. Howe. 4 agreeing. 1 abstaining. **Motion passed.**

B. Chivers: **Motion** to accept the meeting minutes of 9.26.23 as presented. B. Keena: **Second.** All in favor. **Motion passed.**

B. Keena: Motions that the minutes of August 22nd be approved as presented. R. Howe: **Second.** All were in favor. **Motion passed.**

The NHMA Conference was completely filled. Discussion about having Steve Buckley to come and do training here at the town hall. They have blocked all of November. ZBA Decision Making. We thought it was appropriate for all of us to hear the same thing in the same place. We have the money in our budget. We have money that we put in for training every year. Amy will reach out with the selected dates and confirm.

Discussion about moving the meeting time to 6:30.

B. Chivers: **Motion** to change our meeting time from 7:00 to 6:30. **Second:** Bill Keena.
All were in favor. **Motion passed.**

Discussion about the meeting on December 26th. Currently left undecided.

Motion to adjourn: W. Keena. B. Chivers **Second**. All were in favor. **Motion passed.**

Respectfully submitted,

Amy M. Spencer

Land Use Coordinator

cc: file