

NELSON ZONING BOARD OF ADJUSTMENT

Minutes

Date & Time meeting Convened: Jan 3, 2013 7:03 PM

Location: Nelson Town Office

Board Members Present: Richard Popovic, Chairman, Michelle Lange, Jason Walter and Peter Smith, Alternate. John Cucchi recused himself. Meeting called to order by RP at 7:03.

Petitioners present: Wendy Stankevich & Karen Castelli

Old Business: The minutes from the Nov 27, 2012 meeting were read, approved and signed

New Business:

Hearing - ZBA Case Z12-05 – Wendy & James Stankevich & Karen Castelli

Clerk report was read by Julia Lennon. Phone calls were made to the listed abutters informing them of this re-scheduled hearing. Notices were posted on the 3 Town Boards and legal notices were published in the Keene Sentinel on 12/20, 21 & 24/2012 and the Shoppers News on 12/26/2012 and 1/2/13. Richard P. read the rules for this hearing. Wendy Stankevich was asked if she had anything to add to the previous hearing. She re-stated her request to hook up the septic system which is already in place to their cabin and that other property owners in the area have made similar adjustments. She also reiterated that the state has approved the septic plans and the well. Both owners, the Stankevich's and Karen Castelli, plan on occasionally using the cabin year round. There were no abutters present. RP opened up the discussion to the public. John Cucchi sees no problem with this request. Mike Blandschun asked for some clarification about the history of this property. JC and WS responded. RP informed the group of his conversations with the LGC (Local Government Center). MB questioned the zoning policies in regards to septic systems. He is also concerned about this process. A discussion followed about previous cases. Dennis Dellagrecia is in favor of this petition. RP spoke about the lack of a good working definition for the word "habitation". The public part of the meeting was closed.

The Board continued the discussion about parameters around the term "habitation". One board member (ML) decided to abstain from voting since we do not have a definition of "habitation" in the Zoning Ordinance. It was stated that the Planning Board needs to define "habitation" to be presented to the voters at town meeting and subsequently added to the

Zoning Ordinance. JW stated that he was o.k. with granting this petition but he also felt that we need a clear definition of habitation. PS stated that he feels that we need to be cautious in making a judgment that could affect other decisions. RP stated that he does not feel it is possible to have someone adhere to a standard that is not defined anywhere in the ordinance.....

RP proposed that the board vote on the 5 criteria:

- 1) Property value: Does granting this variance not diminish the value of surrounding properties? 3 affirmative votes and 1 abstention
- 2) Public interest: Would granting the variance not be contrary to public interest? 2 affirmative votes, 1 negative vote and 1 abstention.
- 3) Unnecessary Hardship: By granting this variance there would not be any unnecessary hardship? 3 affirmative votes and 1 abstention.
- 4) Substantial justice: By granting this variance would justice to private gain not outweigh public gain? 3 affirmative votes and 1 abstention.
- 5) Spirit of the ordinance: Would granting this variance not violate the ordinance's basic zoning objectives? 3 affirmative votes and 1 abstention.

It was decided, after some discussion and a review of the correct voting procedure, that since the board did not have 3 concurrent affirmative votes to each criteria that this application for a Use Variance was denied.

A Notice of Decision will be sent to the petitioners by the clerk.

A motion was made to adjourn the meeting by RP at 8:10 pm and seconded by PS.

No future meetings have been scheduled.

Respectfully submitted,

Julia Lennon, Clerk

Date signed: _____
