

# NELSON ZONING BOARD OF ADJUSTMENT

## Minutes

September 23, 2013

Nelson Town Office

**Board Members Present:** Richard Popovic, Chairman, Michelle Lange, Dennis Dellagrega. John Cucchi recused himself. Meeting called to order by RP at 7:05.

**Petitioners present:** Wendy Stankevich & Karen Castelli

**Public present:** Bob Lennox, Philip Castelli and Alex Lange *(There was another fellow there but I don't know who he was, do you?)*

**Old Business:** The minutes from the August 28, 2013 meeting were read, approved and signed.

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

Since a full ZBA board was not present, Rich Popovic presented the options to the petitioners, who then left the room to discuss what action they should take. Upon returning they told the Board that they were willing to proceed with a quorum of three Board members. The "Quorum Agreement was then signed by W. Stankevich and K. Castelli. J. Cucchi stated his opinion concerning this case.

The clerk did a roll call and gave the Clerk report: Notices were posted on the three Town Boards and on the town web site. It was not necessary to post the legal notices since the announcement for this hearing continuation was put in the previous ZBA meeting. Richard P. read the rules for this hearing. Wendy Stankevich was asked if she had anything to add to the previous hearings. She re-stated her request to hook up the septic system which the state has approved and is already in place to their cabin. She also stated that another property owner, Sharon Landfair was allowed to add on 2 apartments to her place which is across from the lake. She then proceeded to read out loud a letter written by her husband, Jim Stankevich which gave an overview of this case. Karen Castelli stated that there was nothing in the ordinance which should prevent them for going through with with plans. Bob Lennox, an abutter was present. Bob gave an historical background of this situation from his point of view. Both Bob and his wife have no opposition. They feel that it is a reasonable request and that these property owners have been deprived of their rights to use their property long enough. RP opened up the discussion to the public. John Cucchi adamantly stated that "justice should be done".

RP asked the petitioners what they hoped to achieve? WS: To be able to use their beach cottage for recreational purposes but also to reside there on occasion during the winter. She'd also like to see the paperwork at the Registrar of Deeds corrected.

B Lennox commented that the driveways to the Stankevitch's and Castelli's are very steep and that they would be hard to either drive or walk up in the winter months.

The letter from the Select Board requesting that the ZBA grant this variance was passed around the room.

Old minutes from the case were reviewed.

WS stated that the five criteria questions were confusing and hoped that they would be stated more clearly this time.

Since no other questions were forthcoming, the public part of the meeting was closed and the Board went into deliberative session.

RP had no concerns about how the term "habitation" relates to this case. Dennis Dellagrecia felt that it wasn't fair what happened in the past to these petitioners. He also feels that we aren't bound by the previous minutes.

The intent of the previous Select Board was discussed. The fact that the DES permitted a septic tank close to the lake was briefly discussed.

M Lange felt that Jim Stankevitch's letter clarified a great deal for her and that putting in a septic tank is a solution not a problem.

RP asked the Board if we were "back dooring", that possibly the status of the occupants of this beach house will change and that it could in the future be sold as a "house on the lake". DD felt that this does not apply in this case.

The board then took some time to review the 5 criteria, as far as the spirit and framework of the owner's intent while also considering the Board's role as interpreters of the regulations. ML stated that since it's been awhile since the septic tank was installed that the owners would be required to make sure it is in good working shape.

RP proposed that the board vote on the 5 criteria:

1) **Public interest:** Would granting the variance not be contrary to public interest? Vote was unanimous.

2) **Values of surrounding properties:** Would granting the variance not diminish the value of the surrounding properties? Vote was unanimous.

3) **Unnecessary Hardship:** By granting this variance there would not be any unnecessary hardship? Vote was unanimous.

4) **Substantial justice:** By granting this variance would justice to private gain not outweigh public gain? Vote was unanimous.

5) **Spirit of the ordinance:** Would granting this variance not violate the ordinance's basic zoning objectives? Vote was unanimous.

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

A motion was made to adjourn the meeting by RP at 8:35 pm and seconded by ML.

A future meeting will be scheduled for October to discuss the topic of ZBA Rules & Regulations.

Respectfully submitted,

Julia Lennon, Clerk

Date signed: \_\_\_\_\_

Richard Popovic\_\_\_\_\_

Michelle Lange\_\_\_\_\_

Dennis Dellagrec\_\_\_\_\_

