



## Zoning Board of Appeal Meeting Minutes

July 13, 2023, at 6:00 PM

Wescustogo Hall & Community Center

**Call to order (27:16 – 27:55)** Acting Chair Kevin Robinson called the meeting to order at 6:11 pm and began the Pledge of Allegiance.

Acting Chair Kevin Robinson, Board Member Thaddeus Day, Board Member Norman Smith, Board Member Jim Briggs, and Alternate Board Member Mike Mallory were all in attendance.

Town Attorney James Katsiaficas was present at the meeting.

**Officer Nominations (27:55 – 28:31)** Acting Chair Kevin Robinson, seconded by Board Member Jim Briggs, nominated Board Member Thaddeus Day as Board Chair.

Board Member Jim Briggs, seconded by Board Member Norman Smith, nominated Board Member Kevin Robinson as Board Secretary.

Vote 5 yes/0 no.

**Meeting Minutes (28:40 – 29:23)** Board Member Norman Smith, seconded by Board Secretary Kevin Robinson, motioned to approve the June 26th meeting minutes as written. Vote 4 yes/0 no.

**Appeals Hearing (29:30 – 2:54:47)** Town Attorney James Katsiaficas gave an overview of the purpose of the meeting and read the Notice of Decision and Findings of Fact and Conclusions of Law.

Board Secretary Kevin Robinson stated that Alternate Member Mike Mallory would be a regular voting member for the meeting.

Board Chair Thaddeus Day asked questions about the wording in the decision.

Town Attorney James Katsiaficas clarified.

Board Members and Town Attorney James Katsiaficas discussed the tree clearing.

Board Member Norman Smith mentioned that the trees were not shown on the initial plan and should not be considered.

Board Members discussed.

Laurie Bachelder, owner of the Deacon Hayes Project, objected to the discussion as the trees had already been discussed.

Board Chair Thaddeus Day said that the Zoning Board of Appeals had not made a decision on the second and third part of the appeal.

Board Members discussed.

Town Attorney James Katsiaticas recommended not taking the issue up again.

Town Attorney James Katsiaticas showed Board Chair Thaddeus Day the April 26th decision.

Town Attorney James Katsiaticas read from the Findings of Fact and Conclusions of Law from September 13 2022.

Town Attorney James Katsiaticas and Board Chair Thaddeus Day discussed if this would be an enforcement issue.

Town Attorney James Katsiaticas gave clarification on previous approvals regarding screening and buffering.

Board Chair Thaddeus Day said that the ZBA gave approval based on the Planning Boards decision and felt that there was merit for appeal.

Board Chair Thaddeus Day asked if the approval from May supersedes the previous approval.

Town Attorney James Katsiaticas said that the issue was not remanded back.

Board Secretary Kevin Robinson said that he would conclude the same thing as Board Chair Thaddeus Day and that the language being removed bothered him.

Board Member Norman Smith repeated that the trees were not shown on the plan and were therefore irrelevant.

Board Member Jim Briggs spoke to concerns about the parking lot and the screening.

Board Members discussed.

Board Chair Thaddeus Day asked the board if they wanted to hear input from Sol Dostilio.

Board Members discussed.

Laurie Bachelder spoke on behalf of Attorney Kristin Collins objecting to the conversation and asking for a continuation of the meeting so that Attorney Kristin Collins would be able to attend and to address the issues.

Board Chair Thaddeus Day asked for a motion to recognize Laurie Bachelder's request. No one motioned.

Town Attorney James Katsiaficas asked what they would do if the issue was sent back to the Planning Board.

Board Members discussed.

Board Member Jim Briggs re-introduced the previous motion to grant the appeal and overturn the Planning Board's decision.

Board Chair Thaddeus Day stated that he agreed with Town Attorney James Katsiaficas that a decision needed to be made.

Board Member Jim Briggs, seconded by Board Secretary Kevin Robinson, motioned to grant the appeal and overturn the Planning Board's decision regarding sections 10.34 and 10.14. Board Members discussed.

Board Chair Thaddeus Day believed that the ZBA had already voted on this and it was not remanded back. Since it was not remanded back, the appellants did not have grounds to appeal.

Board Member Norman Smith mentioned that the ZBA knew that the trees had already been cut and that they were not shown on the plan. Board Chair Thaddeus Day agreed.

Board Member Kevin Robinson mentioned that the ZBA was not allowed to consider the trees in the first appeal because they were cut after the filing of the first appeal.

Town Attorney James Katsiaficas and Board Members discussed.

Town Attorney James Katsiaficas stated that the Planning Board found the screening to be adequate and gave clarification on what the ZBA needs to do.

Town Attorney James Katsiaficas asked for clarification on the motion.

Board Member Jim Briggs, seconded by Board Secretary Kevin Robinson, motioned to grant the appeal and overturn the Planning Board's decision regarding sections 10.34 and 10.14 because there were questions as to changes in the Utilization of the Site Findings of Fact.

Laurie Bachelder spoke on behalf of Attorney Kristin Collins and asked if Board Chair Thaddeus Day would be voting.



Town Attorney James Katsiaficas said that the Planning Board made a decision on September 13, 2022, that sections 10.34 and 10.14 were met and that the ZBA then affirmed the decision and did not remand it. He said that an appeal on these sections was not before the ZBA.

Board Members discussed.

Town Attorney James Katsiaficas said that the motion would be to deny the appeal from the Planning Board's decision on buffering, screening, and landscaping under sections 10.34 and 10.14 of the Land Use Ordinance because the issues were not remanded to the Planning Board.

Board Member Jim Briggs withdrew his previous motion.

Board Member Jim Briggs, seconded by Board Secretary Kevin Robinson, motioned to deny the appeal from the Planning Board's decision on buffering, screening, and landscaping under sections 10.34 and 10.14 of the Land Use Ordinance because the issues were not remanded to the Planning Board. Vote 2 yes/3 no.

Board Member Jim Briggs felt that it was not appropriate to hear from Sol Dostilio. Board Member Mike Mallory agreed.

Board Member Jim Briggs motioned to grant the appeal from the Planning Board's decision on buffering, screening, and landscaping under sections 10.34 and 10.14 of the Land Use Ordinance because of the change in the Finding of Fact. Board Members discussed.

Town Attorney James Katsiaficas said that the motion would be to grant the appeal on the issues of buffering, screening, and landscaping under sections 10.34 and 10.14 of the Land Use Ordinance because of new information relating to the Planning Board omission of the sentence "tree clearing on the site will be minimal and limited to those trees that line Parsonage Rd" from Site Plan Review Findings of Fact number 1 Utilization of the Site.

Board Members discussed.

Board Member Jim Briggs wanted for the Planning Board to revisit the screening, landscaping, and buffering issues.

Laurie Bacheldor spoke on behalf of Attorney Kristin Collins objecting to the point of the order and asked for clarification on the ZBA's request.

Board Chair Thaddeus Day motioned to remand the decision by the Planning Board made in April related to the findings of fact under paragraph one about an entire sentence being omitted regarding the tree clearing on Parsonage Rd.

Town Attorney James Katsiaficas asked the ZBA what they were asking of the Planning Board.

Board Chair Thaddeus Day, seconded by Board Member Jim Briggs, motioned to remand the April 26, 2023, Planning Board decision to the Planning Board for further Finding of Fact to

explain the basis for omission of the sentence, “tree clearing will be minimal and limited to the trees that line Parsonage Rd,” from Site Plan Review Finding of Fact 1 and the impact of this omission on screening, buffering, and landscaping under sections 10.34 C 2 4 and 10.14 B 2 b of the Land Use Ordinance. Vote 5 yes/0 no.

Board Members and Town Attorney James Katsiaticas discussed.

Board Member Jim Briggs, seconded by Board Secretary Kevin Robinson, motioned that all other parts of this appeal related to landscaping, buffering, and screening under sections 10.34 C 2 4 and 10.14 B 2 b of the Land Use Ordinance were not appropriately before the ZBA because it was not remanded by the ZBA previously in its February 1, 2023 decision. Vote 5 yes/0 no.


Board Chair Thaddeus Day stated that there would need to be another meeting to adopt a written decision.

The next meeting was scheduled for July 26th at 6pm.

**Adjournment (2:55:15)** Board Chair Thaddeus Day adjourned the meeting at 8:39pm.

Recorded by Cassandra Bacon, Administrative Assistant to Code Enforcement Officer.

**ZBA Members**



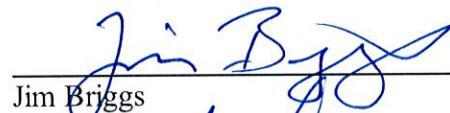
Thaddeus Day, Chair



Kevin Robinson, Secretary



Norman Smith



Jim Briggs



Mike Mallory