

Beacon Falls Zoning Board of Appeals
10 Maple Avenue
Beacon Falls, CT 06403



BEACON FALLS ZONING BOARD OF APPEALS
Monthly Meeting
January 14, 2021
MINUTES
(Subject to Revision)

1. Call to Order/Pledge of Alliance

BM called the Monthly Meeting to order at 7:33 P.M.

Members Present: Bill Mis (BM), Benjamin Smith (BS), Mary Ellen Fernandes (MF), Nancy King (NK)

Members Not Present: Tony Smith (TS), Brian Horgan (BH)

Others Present: First Selectman Smith (GS), Susan McDuffie (SD), Barbara Schellenberg, Esq. (BSB) & 7 members of the public

2. Approval of Minutes

MF for discussion – recommend revising the monthly meeting minutes under section 4. It seems like only part of what Tony Smith said about missing the meeting is in here. I do not think it is even close to exact. He said two different things and what is written is a combination of the two. He missed what the applicant was saying, and I think it should be corrected. I know meeting minutes are not word for word, but it is misleading, and I am concerned. It should be changed. BM – changed to what? MF - changed to what he said. Clerk asked Chair to listen to the audio again and recommend revisions needed. MF – fair enough.

Motion to approve the minutes from the Public Hearing held on December 10, 2020 and the Monthly Meeting held on December 10, 2020, with the pending revisions to the monthly meeting minutes once the chair relistens to the audio MF/BS, all ayes.

3. Correspondence – BM – Eva Newell has resigned as an alternate and she felt it was not her best interest to continue as an alternate. I did ask her to consider running for an official position during the next election.

4. New Business - none

5. Old Business

- a.** Application No. 020-01; 12 Timber Ridge Lane – Discussion & Action – BM – we did get a request for the applicant of the last meeting to address the Board. SM – Susan McDuffie, 344 Bethany Road. - After the last meeting I had some concerns the way everything played out. I sent a letter in and I am surprised it is not being brought up here seeing as thought it was presented for the boards purpose as a request to be reheard. Is that typical Bill? BM – the Board has it. SM – what is the process if someone asks for this? Is this something that is discussed among the Board and determined whether a new hearing can be had, or the decision is just made by a lawyer? BM – according to the State Zoning Laws, once you have had a hearing and a ruling was made, you have a 6 month wait period before you can have another hearing. You had 15 days from the date of legal notice, to appear the ruling. Legally, those are your two options. BSB – land use council and to clarify I do work with Vin Marino and I am aware of his prior opinion. I have reviewed this matter and sent a letter to Ms. McDuffie telling her that I had reviewed the matter

and that I do not see any bases for a rehearing, I do agree with what the Chairman said, and I think that the Board properly denied the variance here. Ms. McDuffie was seeking a variance to have animals on her property due to her business need and that is not a bases for a variance. I do not see any bases for a rehearing. The Chair is correct regarding the appeal process. SM – I take real issue with this. I am not a lawyer, I do not sit on Boards, I am not real clear on how these things go but this was an incredibly unfair process and I clearly stated why I thought that. If anyone listened back on the tape, and anyone could between when I sent the letter out and now. We can go with what Tony Smith said and he clearly seconded a motion when he clearly did not hear what I have to say. I did put that in my note, and the simple statement of me needing to milk goats, solidified the fact that he did not hear me. BM – I will not speak from a legal opinion but what I will go on record to say is that Section 146c, which was brought up at our meeting after the hearing, clearly states that financial gain is not a reason to allow a variance. SM – to speak to that, I have no issue with putting that these are my pet goats used for my business and why I thought there was hardship for each of them. For the livestock issue, I have lived here for 20 years and there are people who keep various animals. There is no reason for me to believe that I would be singled out, that this behavior which has been consistent for all these years, I am going to be held to a different standard. I have explained the difference between livestock and therapy goats. This process is confusing. The first meeting I was told we would address them as a personal nature, then the next meeting pings over to my job. You never asked me to speak about my job. So, when you say it is for profitability, they are not used for that. I use them as a tool. I do not advertise with them or pull in new clients. I do not call myself an animal therapeutic facility. I am a therapist and will do my job at my home as I always have. First and foremost, they are my pets and I use them as a tool. The hardship is why am I being singled out, regarding the language when there is evidence in town that there are many different people in town with these animals on their property. Why am I being treated differently? BM – you are not being treated differently. BS – Mr. Chairman if I could speak, I just want to say that to speak to other people operating in a certain manner, this hearing was based on an application brought to our Board. Those other people operating how they are operating is a separate issue and if people have knowledge of something that they view is outside of the zoning laws, it should be brought to the ZEO and handled on a case-by-case basis 100% separate from this issue. This application was brought to the Board. We had a hearing and a vote, and this seems to be turning into a reapplication and I feel we should follow the proper guidelines and if this is going to be brought back before the Board it should be done through the proper channels and waiting period. MF – as to the appeal procedures, from what I understand, an appeal can be done in two ways. She had 15 days to appeal the ruling. How does one in the public know they have to appeal to the superior court and not the Board? MF – when did she send the letter that she was not happy? Can I know that? I think this Board had an obligation, when the applicant is denied that they should provide the means of how to appeal? BSB- it is not the Boards obligation to tell an applicant what their appeal rights are. People are responsible to know the law and if they want legal advice they can consult with an attorney. MF – its common courtesy. BM – common courtesy and our obligation are two different things. MF – I have served on other Boards and clerked P&Z for many years and if a person got denied, we took the courtesy to tell them these are your options after this. BM – I am going to defer to BSB at this point. MF – I just want to know what the procedure is if someone gets denied. BM – like everyone else, we have access to the internet and can complete research. SM – no one asked me the role of the goats. BSB – I want to be clear on

this so there is no misconception. Frankly, it does not matter what you were using the goats for, a legal hardship is not the same as what you may consider personally to be a hardship. I understand and emphasize that you see it that way, but from a legal perspective, when a variance application is filed with the ZBA the ZBA must adhere to State laws and can only grant a variance for something that is not permitted by the zoning regulations if there is a peculiar characteristic of property. A variance deals with characteristics of property or land. Your situation does not fall in the purview of any kind of circumstance by which this board would have the authority to grant you a variance. BS – I think that this has taken a side avenue and this issue has been addressed in a previous hearing and meeting and I think we are circling back, and I would make a motion to move on from this issue on this agenda. MF -I disagree because it says that application number, discussion, and action so it is appropriate. BS – that is why I made a motion to move on. NK, second, MF, nay, all others aye, Board votes 3-1. Clerk noted to Chair that applicant removed herself from the meeting and that MF left the meeting as well.

6. Adjournment

BM – we do not have a quorum at this point. BS – just in case one is needed, I will make a motion to adjourn at 7:55PM, seconded by NK, all ayes.

Respectfully submitted,

*Kerry McAndrew
Clerk, Zoning Board of Appeals*