

## Selectmen's minutes of meeting March 25, 2019

Members present: Mark Newman, Brian O'Rourke, George Riley, Fred Ventresco  
Dolores Harasyko, Admin. Asst.

Called to order at 7:00 p.m.

Mark opened the Special Permit Hearing for Karen and Jed Garfield on their application to construct a two car garage with storage in the same location as the preexisting nonconforming structure. Mark stated that he asked Brian O'Rourke to obtain a legal opinion from Town Counsel on the process of this hearing. Brian contacted KP-Law and received a 6 page document stating facts and case law. Brian read aloud the A. Facts, B. Legal Analysis: 1. Timeliness, 2. Standing, 3. Need for a Special Permit, and 4. Standard for Issuance of a Special Permit. Based on the information provided no special permit hearing is needed.

Facts: On October 20, 2018 the Building Inspector issued a building permit to the Garfield's to replace a preexisting nonconforming structure. On Dec. 10, 2018 Alex Bowman contacted the building inspector in writing complaining that he believed the building permit was wrongly issued. On Dec. 31, 2018 Alex Bowman sent the same letter of complaint "appeal" to the Zoning Board of Appeals.

### Legal Analysis

1. Timeliness. It is the opinion of legal counsel that the complaints raised by Mr. Bowman are untimely, that any appeal from a building permit must be filed within thirty days of the issuance of the permit.
2. Standing: Standing refers to the right of an "aggrieved person" to challenge the Building Inspector's issuance of a building permit. Abutters, abutters to abutters within 300 feet and the owners of property directly across the street are presumed to be "aggrieved" of which Mr. Bowman is not. A party cannot claim standing to appeal simply because one is offended by issuance of a building permit or believes that the Zoning Bylaws are not being properly enforced.
3. Need for a Special Permit: Aside from the procedural issues of timeliness and standing, it is the legal opinion that the Building Inspector properly issued the building permit for reconstruction of the preexisting garage.
4. Standard for Issuance of a Special Permit: A Special Permit is not needed since the new garage is not substantially more detrimental to the neighborhood.

Alex Bowman does not agree, he feels the info provided to counsel is incorrect. Dolores reviewed the dates of the documents provided by Mr. Bowman. George explained that there are 4 Facts provided by town counsel. Fact is that Mr. Bowman was too late in filing a complaint or appeal. Mr. Bowman responded that he is an officer of the town as a Zoning Board member. George reread the legal statements. Brian reviewed the entire timeline again starting with emails. Brian

explained that formal complaints are to be made in writing and the first written complaint was not until Dec. 10, 2018. Mr. Bowman does not agree with the footprint. Abutters Jeff Bye and Pam Brignolo present applauded Mr. Garfield for the beautiful building. They both responded that the work Mr. Garfield has done on his property has enhanced the beauty of their neighborhood. Discussion on what constitutes a single family property. The garage is on a single family residential property.

Chairman Mark Newman closed the public hearing at 7:15 p.m. A copy of the legal opinion will be on file with the minutes.

Reviewed and signed minutes of meeting.

School Business Manager Eric Jesner and School Committee member Nick DellaGiustina in the discuss the school budget. George reviewed that there was an agreement in 1992 when the regional school district was form that stated the formula to be used to calculate the cost to each town. The Selectmen are not supporting the current school budget because they are using the state formula not the formula agreed upon in 1992. Mr. Jesner said this is a school committee issue, he feels the school committee is supposed to vote each year on whether to use an alternate formula than the state formula. Nick stated that the school committee was not aware of the original formula. If the school used the 1992 agreed upon formula it would have saved the town \$28,000 this year. Nick said they will look into it. George stated going forward with any discussion the 1992 formula will be called "the original formula" and the alternate formula will be called "the state statutory formula". Nick agrees that is the original formula is in the contract from 1992 we should have been following it all along. He will ask former School Administrator Jane Gleason for history on when formulas were changed. The school committee meets next Monday, April 1 and they will discuss this with the entire school committee. Brian stated that he would like to make sure that all the Sandisfield school committee members are present for the discussion. They need to represent the town.

Discussed the Public Safety Officer position. Ralph and Mike Morrison present. Ralph presented supporting articles from the Berkshire Record and documents with more budget information. The budgeting for this position is as follows: Salary \$51,290.00, benefits \$5,094.56, training \$1,000, health insurance \$15,000 for a total of \$72,384.56. The cost will be offset by \$30,000 from the town of Tolland (pending successful passage at their town meeting), \$5,000 from the nursing home, the police dept. will reduce their budget by \$9,000 and the fire dept. will reduce their budget by \$4,500. The hourly rate is \$23.00 per hour. Brian asked if there was any wiggle room for the hourly rate, Mike responded that we are already on the lower end of the pay scale. Paul Gaudette pointed out that once the Short Term Rental laws are in place there will be a lot of properties needing fire inspections, this will require time and bring in revenues. Dolores reviewed the wording for the article. We will raise \$37,384.56 and transfer \$35,000 from free cash. The reason for the transfer from free cash is that the funding from Tolland and the nursing home will go into free cash. Brian said that eventually we will move away from needing a Fire Chief and a Police Chief, we would only need the Public Safety Officer. George said we need to be up front about the new position, that we are the first town in the state to try this. Motion by

Mark, second by Brian, passed unanimously to place the Public Safety Officer position on the warrant.

Fred presented 2 versions of the False Alarm bylaw. There is still some confusion on the contact information. Fred will revise it by next Monday.

Motion by Brian, second by George, passed unanimously to re appoint Kim Spring as the Inspector of Animals.

Reviewed and signed the dog nuisance letter.

Motion by Brian, second by George, passed unanimously to accept the letter of resignation from Theresa Spohnholz from the Cultural Council.

Discussed the request from Paul Gaudette to be appointed to the Yanner Park Committee. Brian asked Paul if there would be any issues with him being on the Planning Board, Zoning Board and Conservation Commission. Paul stated that he has been using his own equipment to help out and would like to continue by being on their committee. Motion by Mark, second by Brian, passed unanimously to appoint Paul to the Yanner Park Committee.

Table item 10, the Yanner Park Committee not present

Assessor Bethany Perry and Assistant Assessor Jackie Bitso in to discuss the assessors clerks position. The current clerk is taking a leave until probably September. Mark asked the assessors to contact the clerk and ask for something in writing that shows a firm date of return. Bethany discussed the history of the previous clerk. The selectmen agreed to advertise for a temporary clerk once they get something in writing from the current clerk.

Selectmen's update:

They have been working with the road superintendent on New Hartford Road, continue to work on budgets and setting up for the MVP meetings on April 3 and 10.

Town Administrator update:

Fred has been working on RFD's for mowing, signs and bike racks. Continues to work on budgets.

Future agenda items:

False Alarm bylaw

Assessors Clerks position

Vote on the final draft of the FY2020 warrant

Reviewed mail

Reviewed and signed warrants

Kathy Burrows would like lines painted on the roads. Mark responded that they had a great work session with the road superintendent and this is on his list of things to do but not a top priority.

Brenda Larson would like the lines around Prock Hill Road defined.

Meeting adjourned at 8:40 p.m.

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Mark Newman

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Brian O'Rourke

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George Riley