



Zoning Board of Appeal Meeting Minutes

June 26, 2023, at 6:00 PM

Wescustogo Hall & Community Center

Call to order (1:01:35 - 1:03:42) Acting Chair Kevin Robinson called the meeting to order at 6:00pm and began the pledge of allegiance.

Board Member Kevin Robinson, Board Member Norman Smith, Board Member Jim Briggs, and Alternated Board Member Mike Mallory were present at the meeting.

Town Attorney James Katsiaficas was present at the meeting.

Board Chair Paul Naplitano and Board Member Thaddeus Day were absent from the meeting.

Alternate Board Member Mike Mallory became a regular voting member for the meeting.

Meeting Minutes (1:03:46 - 1:04:10) Board Member Jim Briggs, seconded by Board Member Mike Mallory, motioned to approve the March 22, 2023, minutes as written. Vote 4 yes/0 no.

Appeals Hearing (1:04:24 – 3:10:44) Acting Chair Kevin Robinson read the opening statement.

Sol Dostilio, 15 Parsonage Rd, asked a question about the process for public hearing and introduced his appeal.

Town Attorney Katsiaficas went over the rules for the appeal hearing.

Sol Dostilio gave more details about his appeal.

Attorney Kristin Collins introduced Mark Cenci and gave her interpretation of the meeting.

Attorney Collins presented their argument.

Board Member Norman Smith, seconded by Acting Chair Kevin Robinson, motioned to not accept the document that Attorney Collins handed out as it was not submitted 7 days prior to the meeting. Vote 4 yes/0 no.

Attorney Collins continued their argument.

Mark Cenci, 93 Mill Rd, introduced himself as a licensed geologist. He discussed his method of testing. He spoke to Sol Dostilio's question of high water on the job site and the test pits.

Board Member Jim Briggs asked Mark Cenci about the perching found in the pits.

Mark Cenci responded by saying that he does not do any analysis for stormwater and that for waste water purposes they only deal with the first four feet. He gave an explanation for what the perching would affect.

Board Member Jim Briggs asked about the peer review process.

Mark Cenci said that he welcomes it.

Attorney Collins said that a peer review was requested but that the Planning Board had already discussed this at length and decided that a peer review was not needed.

Acting Chair Kevin Robinson asked if the appellant asking for a peer review would necessitate a peer review.

Attorney Collins responded that the Planning Board had already discussed it.

Board Member Mike Mallory asked what would have happened if the previous plan had not been challenged and what was gained by flipping the system.

Mark Cenci said they gained protection of the water overlay and gave an explanation for why the system was redesigned.

Attorney Collins asked that the portion of the appeal regarding the trees be dismissed.

Acting Chair Kevin Robinson opened up the public hearing.

Judy Potter, Walnut Hill Rd, spoke in opposition of the project.

Sol Dostilio, 15 Parsonage Rd, gave his rebuttal.

Attorney Collins gave her response and noted that the system would be maintained on a yearly basis.

Sol Dostilio said that the data needs to be included for people to review it.

Acting Chair Kevin Robinson closed the public hearing.

Board Members discussed that a peer review would have been helpful.

Board Member Norman Smith said that he felt that the review by the state and Yarmouth Water District was sufficient and would be better than a normal peer review. He did not feel that there was a need for a peer review.

Acting Chair Kevin Robinson expressed some of the concerns that he had.

Mark Cenci responded to the concerns expressed by Acting Chair Kevin Robinson.

Town Attorney Katsiaficas asked if the correspondence between Mark Cenci and Alex Pugh was brought to the Planning Board. He also said that the correspondence was separate from the approval.

Town Attorney Katsiaficas said that the ZBA was not supposed to decide if they would elect for a peer review but to determine if the Planning Board made an error.

Town Attorney Katsiaficas discussed the Planning Board's findings and conclusions.

Acting Chair Kevin Robinson said that when he looked at the finding, he did not see an error. Board Member Jim Briggs agreed.

Town Attorney Katsiaficas gave clarification on the standard and on the findings of the Planning Board.

Board Members discussed.

Sol Dostilio spoke in opposition to the project.

Board Member Mike Mallory asked Mark Cenci how much would be too much for the soil.

Mark Cenci responded and mentioned that the system has a nitrogen removing element.

Board Member Norman Smith, seconded by Acting Chair Kevin Robinson, motioned to affirm the Planning Board's decision regarding groundwater. Vote 3 yes/1 abstain.

Town Attorney Katsiaficas advised that the ZBA deny the appeals regarding section 10.34 C 2 4 and section 10.14 B 2 b as they were not remanded back to the Planning Board.

Board Members and Town Attorney Katsiaficas discussed.

Town Attorney Katsiaficas said that the ZBA had already approved this.

Attorney Collins read the findings of fact.

Board Member Norman Smith mentioned that they should base their decision on what the plan shows.

Sol Dostilio said that it was not the same issue because the findings of fact changed.

Town Attorney Katsiaficas said that removal of the trees was known to the ZBA at the last meeting and that they decided that the Planning Board's decision was sufficient and did not remand the issue back.

Sol Dostilio said that because the findings of fact changed, then it was a new appeal.

Attorney Collins said that nothing has changed. Town Attorney Katsiaficas agreed.

Board Member Norman Smith, seconded by Board Member Mike Mallory, motioned to deny the appeal regarding section 10.34 and section 10.14. Vote 1 yes/2 no, 1 abstain.

Board Member Jim Briggs mentioned that he found conflicting information regarding stormwater runoff.

Attorney Collins objected to this as it was not part of the appeal.

Town Attorney Katsiaficas stated that the board would need to restate the motion as a positive motion.

Code Enforcement Officer, Ben Scipione, read from the signed ZBA decision.

Board Chair Kevin Robinson, seconded by Board Member Jim Briggs, motioned to reconsider the previous motion. Vote 4 yes/0 no.

Acting Chair Kevin Robinson, seconded by Board Member Jim Briggs, motioned to grant the appeal for section 10.14 and section 10.34. Vote 2 yes/1 no, 1 abstain.

Town Attorney Katsiaficas said that this meant that they are denying the appeal.

Board Members discussed the next meeting.

Next meeting was scheduled for July 13th at 6pm.

Board Member Norman Smith, seconded by Board Member Jim Briggs, motioned to continue the meeting on July 13th, 2023, at 6pm. Vote 4 yes/0 no.

Adjournment (3:10:44) Meeting adjourned at 8:11pm.

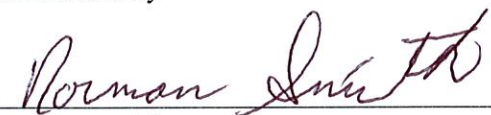
Recorded by Cassandra Bacon, Administrative Assistant to Code Enforcement Officer.

ZBA Members



Kevin Robinson, Acting Chair

Thaddeus Day



Norman Smith



Jim Briggs



Mike Mallory