

Town of Bartlett
Zoning Board of Adjustment
Public Meeting - February 28, 2015

Members present: Chairman Richard Plusch; Jonathan Hebert; Julia King; Helen Crowell; Alternate Norman Head. **Members absent:** Peter Pelletier

The board met briefly at 9:00 am to consider a Motion for Rehearing which had been received from Paul Pagliarulo, dba Northern NH Nursery. The rehearing request was in response to a decision made by the ZBA on January 13, 2015 relevant to an Appeal from Administrative Decision, where the board upheld the selectmen's decision regarding Mr. Pagliarulo's proposed agricultural activity on property located at 1226 Route 302 in Bartlett Village.

Mr. Pagliarulo's motion stated the meeting was unlawful and or unreasonable. He additionally stated:

- I was not notified in writing of the date and time of the hearing; I was notified via a phone call two hours prior to the meeting.
- Some members and alternates of the ZBA were not appointed properly.
- The ZBA and applicants stated reason for Appeal from Administrative Decision was misstated and differ greatly.
- Witnesses/abutters at the appeal hearing were not property owners and had no standing.
- The submitted evidence was not considered.

The board discussed each item listed in order, as follows:

- 1) The secretary was asked to respond to Mr. Pagliarulo's first item. She explained how she had been tasked to assist in abutter notification for Mr. Pagliarulo due to his difficulty in obtaining the correct abutter information for his first hearing which had resulted in several abutters not receiving their certified letters. As a result of this, the hearing had to be cancelled at the last minute. While mailing the notices, unforeseen circumstances made it necessary for the secretary to mail Mr. Pagliarulo's abutter letter by first-class mail. All abutters were notified by certified mail. Mr. Pagliarulo's claim that he was only notified of the hearing two hours prior was disputed by the secretary, who had made a phone call to Mr. Pagliarulo weeks before the meeting to confirm the date was acceptable to him; made another phone call to him to discuss the abutter letters to ensure the postage would be reimbursed, as well as the reminder courtesy call prior to the meeting. During this call, Mr. Pagliarulo acknowledged he was aware of the meeting and would be present. While submitting his Motion for Rehearing to the secretary, Mr. Pagliarulo also acknowledged having received the first-class letter. However, because it was not sent by certified mail where no mailing receipt was returned, it was not possible to disprove Mr. Pagliarulo's later claim that he had not received this letter.
- 2) The board reviewed RSA 673:5 and found Item 2 to be invalid because board members whose term is up can stay in place until a replacement is found, with no time limit attached.
- 3) The board felt the applicant had not clearly stated his reasons in this item. The Chairman read Mr. Pagliarulo's wording on the application form, and found it was the same as the wording on the abutter notice, except the notice had been expounded upon to make the intent of the hearing clear.
- 4) The board reviewed RSA 672:3 which states that for purposes of taking testimony, any person who can demonstrate that they will be directly affected by the proposal under consideration may speak at a public hearing. The board felt since the proposed activity in this instance bordered on a river, anybody whose property was near the river could be affected.

- 5) The board felt they had adequately reviewed the material submitted. Additionally, most of the evidence contained in the documents was referenced verbally during testimony.

Jon Hebert made a motion that based upon a request for a rehearing from Paul Pagliarulo, that a rehearing be granted, specifically after the findings of fact, Items 1 through 5, specifically Item 1, that the applicant was not properly notified by certified mail. Motion seconded by Helen Crowell. Vote: All in favor.

Motion to adjourn made by Jon Hebert; seconded by Julia King. Vote: All in favor. Meeting was adjourned at 9:45 am.

Respectfully submitted,
Barbara Bush
Recording Secretary