



**Town of Hebron**  
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## **Zoning Board of Adjustment**

### **Meeting Minutes**

**February 3, 2009**

**These minutes may be amended at a future meeting. Any changes will be included in the minutes of that meeting.**

**Members present:** Regular members Peter Carey (Chair), Roger LaFontaine (Vice Chair), Tom Gump, and Doug McQuilkin; and alternate members Earl LaFlamme, John Brunderman, Bill Lucarelli, Ileana Saros, and Deny Riddle.

**Members absent:** Regular member Ed Gempka

**Others present:** Dan Merritt (Compliance Officer), Ron Ward, Roy McCandless (Attorney for Camp Berea), and Bob Yarrick.

**Time convened:** 7:05 p.m. **Time adjourned:** 8:25 p.m. **Next meeting:** To be announced

#### **Agenda:**

1. Minutes and other administrative matters
2. Hearing of Robert Yarrick's request for a setback variance under Hebron Zoning Ordinance Article IV, Paragraph H.1, to install solar panels, remove dormers, and reconstruct the roof on his house at 255 North Mayhew Turnpike (Map 1, Lot 5) (Case #237)
3. Review and determine whether "Camp Berea, Inc.'s Appeal of the Town of Hebron's Planning Board's Administrative Decision," dated January 2, 2009, is ripe for ZBA review (Case #238)
4. Any other business that may come before the Board

Pete Carey called the meeting to order at 7:05 p.m. Pete noted the absence of Board Clerk Jane Ramsay, who remains on "sabbatical" for medical reasons. While Jane will not be covering ZBA meetings and hearings until she is well again, she will continue to do most of the behind-the-scenes administrative work for the Board.

Pete then appointed Bill Lucarelli to replace Ed Gempka as a regular voting member of the Board for purposes of this meeting/hearing.

**Doug McQuilkin made a motion, seconded by Roger LaFontaine, to accept the minutes of November 18, 2008 as written. The motion passed with a unanimous vote.**

Pete suggested that the Board take up next the matter of Camp Berea's appeal of the Planning Board's December 3, 2008 administrative decision. The Board agreed to do so.

Pete noted that notices of tonight's meeting/hearing had been posted in three places in town and in the *Laconia Citizen*. Since the Camp Berea matter will be taken up in meeting format, abutters' notices were not required.

Pete summarized the procedural aspects of Camp Berea's appeal as follows: On January 5, 2009, he received correspondence dated January 2, 2009, from Attorney Roy S. McCandless, representing Camp Berea, Inc. Attached to the correspondence was a document styled "CAMP BERE A INC.'S APPEAL OF THE TOWN OF HEBRON'S PLANNING BOARD'S ADMINISTRATIVE DECISION." Copies of these documents, as well as copies of subsequent correspondence between Pete and Attorney McCandless and the minutes of the Hebron Planning Board's December 3, 2008, informational meeting, had been furnished to all the ZBA members prior to this meeting.

There followed a substantive discussion of Camp Berea's appeal, during which the members reached consensus that the Hebron Planning Board had not rendered any sort of administrative decision or determination, within the meaning of NH RSA 676:5, that Berea could appeal. The minutes of the Planning Board's December 3, 2008, meeting clearly indicated that the meeting was called for informational, not decisional, purposes. While the meeting was properly noticed to the public, there were no abutters' notices issued. Consistent with its informational purposes, all meeting discussion was non-binding on the parties. Clear from the minutes, too, was the fact that all parties had even agreed to schedule a site plan review hearing before the Planning Board in February 2009.

**A motion was made by Roger LaFontaine and seconded by Doug McQuilkin to dismiss Camp Berea's appeal on the ground that the Hebron Planning Board rendered no administrative decision or determination within the meaning of NH RSA 676:5 at its December 3, 2008, informational meeting that would form the basis for such appeal. The motion passed with a unanimous vote in the affirmative.**

The Board at 7:26 p.m. took up Robert Yarrick's request for a setback variance under Hebron Zoning Ordinance Article IV, Paragraph 11.1, to install solar panels, remove dormers, and reconstruct the roof on his house at 255 North Mayhew Turnpike (Map 1, Lot 5).

Pete announced that notices of the Yarrick hearing had been posted in three places in town, in the *Laconia Citizen*, and on the Town's website. All abutters were notified of the hearing by certified mail.

Mr. Yarrick presented his case to the Board, explaining that he had owned his home since 1974 and decided last year to install power-generating solar panels on both roof and side of his house. Only after he began installing the panels was he informed by Dan Merritt, the compliance officer, that both building permit and variance would be required for the project. Mr. Yarrick pointed out that his application concerns the solar panels already installed on the South side and roof of his main house as well as more panels he intends to install on the roof of his main house. Currently, he has 50 1' x 3' panels, arranged in 3-panel arrays on the South side wall of his house. He has installed eight large

solar panels on the South side of his main house roof. He has done all the installation and electrical work himself. He plans to add another array of big panels in a row above the existing ones on his main house roof, such that they would extend 5' above the peak of the roof, but no higher than 30' above ground level. No panels will be installed closer to the road (Mayhew Turnpike) than the current panels. His house is located approximately 40' from the edge of the traveled way of Mayhew Turnpike.

Addressing safety concerns, Mr. Yarrick indicated he used to do electrical work in the Air Force and plans to have a licensed electrician check his work as well. He said that he installed a 700 watt inverter and on a decent day produces 600 watts of power. He assured the Board members that his system is not capable of producing enough power so as to pose any kind of danger to power utilities workers in the area.

Mr. Yarrick added that his multiyear project also contemplates replacing his existing two dormers with a single shed or full dormer. His purpose for the dormer renovation is to eliminate long-standing ice dam and water leakage problems with the existing dormers.

There being no comments from the public, the public portion of the hearing closed at 8:05 p.m. The Board discussed the case, noting particularly the lack of any current Zoning Ordinance provisions regarding solar panels and the precedent-setting nature of this case, the first such case to come before the Board. The Board went on to consider Mr. Yarrick's application in the context of the five area variance criteria. The voting members unanimously agreed that granting a variance would not be contrary to the public interest. As the currently installed panels and the house itself are about 40' from Mayhew Turnpike and the planned future improvements would encroach no more into the road setback area, highway safety concerns do not come into play. There are no significant environmental concerns. The members also unanimously agreed that literal enforcement of the provisions of the ordinance would result in unnecessary hardship to the applicant, and granting the variance in this case would do justice, would be consistent with the spirit of the Zoning Ordinance, and would not diminish neighboring property values.

**A motion was made by Doug McQuilkin and seconded by Tom Gumpp to grant Robert Yarrick's application for a variance from Article IV, Section H.1, road setback requirements to permit his structural improvements to his house at 255 North Mayhew Turnpike (Map 1, Lot 5), to wit: existing solar arrays, installation of additional solar arrays on the roof of his main house, and replacement of his existing two dormers with a single shed dormer.**

**Roger Lafontaine moved to adjourn the meeting. The motion was seconded by Doug McQuilkin and passed with a unanimous vote in the affirmative.**

The meeting was adjourned at 8:25 p.m.



Peter N. Carey, Chairman