



**Town of Hebron**  
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**Zoning Board of Adjustment**  
**Minutes of Public Hearing**  
**Tuesday, January 31, 2017**

**Members Present:** Pete Carey (Chair), Derry Riddle (Member), Ileana Saros (Member), Alison York (Member), Phil Kriss (Alternate), and Carol Bears (Clerk)

**Members Absent:** Al DeFeo (Compliance Officer) and Bill Lucarelli (Member)

**Others Attending:** Lucille and Ronald Delisle

**Time Convened:** 7:00 PM **Time Adjourned:** 8:11 PM

**Next Meeting:** TBD

**AGENDA:**

1. Election of Board Clerk
2. To hear an appeal submitted by Ronald and Lucille Delisle for a special exception pursuant to Article IV, Section S, and Article X of the Hebron Zoning Ordinance. The applicants seek approval for a 100' long, 6'6" high fence to be erected along the eastern boundary of their property located at 153 North Share Road (Tax Map 17A, Lot 3).
3. To approve previous meeting and hearing minutes and conduct such other business as may come before the Board

**Call to Order and Election of Board Clerk:**

Pete Carey, Chair, called the meeting to order at 7:00 p.m. He appointed alternate member Phil Kriss a regular voting member of the board in the absence of Bill Lucarelli. Ileana Saros nominated Carol Bears for Board Clerk; Alison York seconded the nomination. Carol Bears was unanimously elected Board Clerk.

**Minutes and other Administrative Matters:**

The minutes of the September 27, 2016 meeting-hearing were submitted for approval. Phil Kriss moved to approve the minutes as submitted, and Derry Riddle seconded the motion. The motion was unanimously approved.

**Hearing:**

Chair Pete Carey called the public hearing to order at 7:10 pm to consider the appeal submitted by Ronald and Lucille Delisle for a special exception pursuant to Article IV, Section S, and Article X of the Hebron Zoning Ordinance. The applicants seek approval for a 100' long, 6'6" high fence to be erected along the eastern boundary of their property located at 153 North Shore Road (Tax Map 17A,

Lot 3). The Delisles' application was deemed complete; the correct fee was paid. Notices of the hearing in this matter had been posted on the town's official bulletin boards as well as in the *Plymouth Record Enterprise*, *The Newfound Landing*, and on the Town of Hebron website. All abutters to the Delisles' property had been notified of this hearing by certified mail. One of the abutters, unable to attend the hearing for health reasons, submitted a letter for the Board's consideration.

The Delisles joined the members at the table to present their application. Ron Delisle showed members an elevation drawing of the fence as well as a property map indicating where the fence would be located on their land. He then presented a series of photographs to the Board, all of which were entered into the record. He explained that he and his wife have owned their North Shore Road property since 1970—about 47 years. Their neighbors to the east, the Burnhams, bought and moved into their property in 1997. Over the years, the Burnhams have accumulated considerable lumber, mechanical equipment, old tires, and “junk,” storing much of it on the west and north sides of their property, as well as on land formerly owned by Green Acres Woodlands, Inc., that lies between the Burnhams and Delisles' property. All of this outside stored property has been and still is well within view of the Delisles and anyone else looking out of the eleven windows on the east side of their house.

As the junk and log yard grew, so did the Delisles' concerns. Mr. Burnham essentially used the 50-foot-wide, 100-foot-long strip of Green Acres land separating the two properties as his own. He piled logs within 15 feet of the Delisles' house, and there he would regularly use his chainsaw to cut up the logs for firewood as he needed it. This activity would occur randomly, any day, any time.

The Delisles also explained that Mr. Burnham is a trapper. He routinely brings dead animals of various kinds to his residence and skins them on the tailgate of his truck in front of his garage. He disposes of the animals' entrails and other discarded parts in the wetlands behind his home. This has attracted so many unwanted critters, such as coyotes and vultures, that the Delisles feel they cannot even own a dog. The stench coming from this activity has at times been unbearable. The Delisles, their children and grandchildren—all animal lovers—have had to witness this activity, and they find it extremely disturbing.

Over the years, the Delisles have repeatedly addressed their concerns about all these nuisances to Roger Burnham as well as to one of the members of the Select Board, but all to no avail. They questioned Mr. Burnham about his use of the Green Acres land, to which he replied, “It's not your land either.” Finally, in late 2016, the Delisles were offered the opportunity to buy the 50-foot-wide, 100-foot-long strip of Green Acres land separating the properties. As part of the transaction, Green Acres, in writing, directed the Burnhams to remove all their lumber and personal property from its land. The Burnhams complied. The conveyance took place. The Delisles underscored the fact that they bought the land for the sole purpose of creating a protective buffer between their land and the Burnhams' land.

Ron Delisle went on to explain that the proposed fence serves a similar purpose. Now that the Burnhams have moved and piled all their junk on their side of the newly drawn and marked boundary line, the Delisles want to establish a visual buffer. Their elevation drawing shows the fence starting six feet back from North Shore Road, starting at a height of 4'6” and running 24' to the rear of their lot before the fence height is gradually raised to 6'6” for the rest of its length.

Several members of the Board expressed concerns that locating the fence—even if it is only four and a half feet high—only six feet from North Shore Road would pose a possible traffic hazard, since it would limit line of sight for both the Burnhams and the Delisles as they drive their vehicles out of their respective driveways. The hazard would be even greater for the Delisles as the fence would partially obstruct their view of westbound traffic. The Delisles agreed that starting the fence eight feet back from North Shore Road would satisfy the safety concerns. The Delisles then amended their elevation drawing accordingly. The 4'6” high fence will run 22' before it begins its gradual increase to 6'6” in

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

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height. The total length of the fence will be 92 feet. The fence will be located one foot to the Delisles' side of the boundary line surveyed and marked by Alan Barnard. Landscaping timbers will be placed along the boundary line, and the foot-wide gap between timbers and fence will be filled with gravel. The fence boards will be six inches above ground level. The finished or "good" side of the fence will face the Burnhams, as required by the Hebron Zoning Ordinance.

Only one of the Delisles' abutters offered any comments to their application for special exception. Roger Burnham wrote that he would be unable to attend the hearing because of health issues. He raised two concerns. First, he opined that the Delisles' proposed fence is a spite fence, in violation of state law. Second, he expressed concern that the height of the fence would block his view when backing out of his driveway and could pose a serious hazard.

The Board concluded that the combination of lower fence height (4'6") and 8' setback of the fence from the road takes care of the traffic safety concerns. The Board also determined that the fence is clearly not a spite fence in violation of NH RSA 476:1 *et seq.*, since the fence is not unnecessarily high and will not be erected or maintained for the purpose of annoying the owners or occupants of the adjoining property. In no way does the Delisles' proposed fence constitute a private nuisance.

Summarizing their concerns about the Burnhams and the rationale behind their decision to erect a boundary fence, the Delisles explained that they have finally reached some peace of mind about the entire situation, even though the fence provides only a partial solution to all the problems. Given the Burnhams' indifference to their concerns and the town's apparent inability to deal with the situation, the Delisles felt that they finally needed to take matters into their own hands. Between the purchase of the Green Acres land, all the lawyers' fees, and the estimated cost of the fence, the Delisles have spent over \$10,000 dealing with their neighbors' nuisances.

The public hearing ended at 7:50 pm, after which the Board thoroughly reviewed the four special exception criteria contained in Article X. The Board members unanimously concluded that only three of the criteria were relevant to this matter and that all three criteria were satisfied in this case. Specifically, the Board found (1) that the granting of such special exception is not contrary to promoting the public interest and convenience of the citizens of Hebron; (2) that the granting of such special exception will not result in diminution of the values of surrounding properties; (3) that the granting of such special exception will not be contrary to the spirit of the Hebron Zoning Ordinance.

**Derry Riddle made a motion, seconded by Phil Kriss, to grant a special exception to allow Ronald and Lucille Delisle to construct a 92-foot-long fence along the eastern boundary of their property located at 153 North Shore Road (Tax Map 17A, Lot3). The fence will be constructed in accordance with the plan modified and submitted by the applicants, approved by the Board, and on file. The motion passed with a unanimous voice vote in the affirmative.**

Pete Carey reminded the Delisles that any interested party can appeal the decision of the Board within 30 days of the decision, and that any work done before the appeal deadline is done at their own risk.

There being no further business to come before the Board, Ileana Saros made a motion, seconded by Derry Riddle, to adjourn the meeting at 8:11 p.m. The motion carried, and the meeting was adjourned.

Respectfully submitted,

Carol Bears, Clerk