

**City of Berlin, NH
Zoning Board of Adjustment
Meeting Minutes
October 24, 2022**

Members Present: Chair Dana Hoyt, Tiffany Hale Mark Evans and Scott Losier

Members Excused: Gregg Marrer

Members Absent: David J. Lavallee Sr.

Others Present: Michel Salek, Building Inspector/Zoning Officer; Jennifer Ouellet, Administrator Assistant, Morgan Pennington contractor for applicant and Nick Roy, partner of Mr. Pennington.

The meeting was called to order at 6:30 pm.

A Roll Call was taken:

Dana Hoyt – present

Gregg Marrer- absent

Tiffany Hale – present

Mark Evans-present

Scott Losier-present

Approval of June 2022 Minutes:

Scott Losier made a motion to approve the minutes as presented. Motion was seconded by Mrs. Hale. Mr. Evans asked to amend minutes reflecting the Deliberation to state each member voted in favor on each of the five criteria. Tiffany Hale made a motion to approve the amended minutes. Motion was seconded by Mr. Evans. A vote was taken of each member by Mr. Hoyt, chair of the board and all members voted in favor, the motion to approve the June 2022 minutes passed. Mr. Evans was discussing the differences between Special Exceptions and Variances with Chair Hoyt. Mr. Salek mentioned this might be discussed at the “Other Business” part of our agenda.

Case 04-22, Sandra Pelletier, 377 Sweden Street, Tax Map 126, Lot 37 Special Exception

Jennifer Ouellet presented the updated agenda to the board due to a misprint of the Article.

Mrs. Hale read the request into the record.

Request: Case #04-22. The request for a Special Exception for 377 Sweden Street,

Map 126, Lot 37 if approved, would allow the rebuilding and expansion of an existing front porch a minimum of 6' away from the side property line in the Residential Single-Family Zone. This request comes under Article VI, Section 17-64, uses by Special Exceptions of the City of Berlin Zoning Ordinance.

Chair Hoyt then moved to the Reading of Zoning Board of Adjustment Rules:

The Building Inspector and/or Zoning Officer is required to follow the strict letter of the Ordinance while the Board of Adjustment is required to follow the intent and spirit of the Ordinance. Our function is to hear both sides, use judgment within the Ordinance, and render a decision in writing, within a reasonable time. The main purpose of the public hearing is to allow property owners and anyone concerned with the case to testify how the proposed variance (or special exception) will affect them and their property. The reason for these hearings is not to gauge the sentiment of the public or to hear personal reasons why individuals are for or against the appeal. While the evidence may be in the form of an opinion rather than an established fact; it should support the grounds which the board must consider when making a determination. During the hearing, all persons wishing to speak will raise their hands, be recognized, give their names, address and interest in the case, then be sworn. If you wish, it is your right to be represented by counsel.

Please address all your questions and statements to the Board and not to any individual in this room. In order to give everyone a chance, no one will be allowed to speak a second time until all persons have been given a chance to speak for the first time...and the petitioner will be given the last word. If you feel any member of this board is prejudiced for or against your case, please let me know and if the facts warrant it, they will abstain from participating or voting in your case. I want you to know that although the board is to be impartial, it must abide by the intent and spirit of the ordinance and cannot rewrite the ordinance to please any particular individual.

Chair Hoyt asked who was here to present the case. Morgan Pennington, contractor for Sandra Pelletier property owner of 377 Sweden Street, Tax Map 126, Lot 37 was present to state the case.

Morgan Pennington of 41 Jasper Street, contractor for applicant Sandra Pelletier was sworn in by Chair Hoyt. Chair Hoyt stated to Mr. Pennington that the board was short one member and he could come back to the board at another time to present case. Mr. Pennington asked to continue with the meeting.

Mr. Pennington explained to the board that the applicants existing 9 x 7 porch would be demoed and then rebuilt to 9 x 17 within 8 feet of property line. The other side of lot has unusable land. The front set back met requirements for lot size.

Chair Hoyt asked if anyone had any questions. Mrs. Hale asked Mr. Pennington if the new porch would be flush to house. Mr. Pennington answered yes to the question.

Mr. Evans asked about the 25-foot front set back? Mr. Salek explained that the Special Exception request was for the side property line and the front set back was fine.

Chair Hoyt again asked if anyone had other questions or wished to speak in favor.

Chair Hoyt asked if anyone was present to speak in favor of the application, no one spoke.

Chair Hoyt asked if anyone was present who wished to speak in opposition to the application, no one spoke.

Chair Hoyt asked Mr. Pennington if he had any final words. Chair Hoyt then summarized the case which was a request for a Special Exception for applicant Sandra Pelletier of 377 Sweden Street which would allow the rebuilding and expansion of an existing front porch a minimum of 6' away from the side property line in the Residential Single-Family Zone. Per Article VI, Section 17-64, uses by Special Exceptions of the City of Berlin Zoning Ordinance.

Chair Hoyt asked if anyone disputed the accuracy of the case summary. Ms. Hale stated it was accurate.

Public Hearing Closed. Chair Hoyt closed the public hearing at 6:45 pm and advised Mr. Pennington that a decision would be made that evening and a letter of decision would be sent. He was also welcome to wait and be present to hear the Board's deliberations and decision. He was informed that if anyone chose to appeal the decision, the appeal must be filed within thirty days.

Case #04-22 Deliberation

Chair Hoyt did a review of the criteria for the granting of a special exception as laid out in the Zoning Ordinance and ran through the checklist with the board. He asked for the board to speak up if they disagreed with any of the criteria noting that the property is an appropriate site; it would not impact property values; there would be no nuisances to neighbors; no impacts to traffic; no material effects on views; no impact to the general public or general welfare; the board agreed that there were no issues in the checklist.

Chair Hoyt asked the board if they felt there needed to be any conditions and went over that checklist as well, none of the board members felt it would be necessary.

Mrs. Hale summarized by stating the new porch would be flush to house and not encroaching.

Chair Hoyt didn't see any problems or issues and believes granting the case follows

the 17-24 bylaws.

Mr. Evans would like to have more ZBA meetings to receive more practice.

Chair Hoyt asked for final comments or for someone to make a motion.

Case #04-22 Decision

Mrs. Hale made a motion to grant a Special Exception in Case #04-22 for 377 Sweden Street, Tax Map 126, Lot 37 which will allow the rebuilding and expansion of an existing front porch a minimum of 6' away from the side property line in the Residential Single-Family Zone. Per Article VI, Section 17-64, uses by Special Exception of the City of Berlin Zoning Ordinance. Mr. Evans seconded the motion, the Board took a roll call vote of each member, and all members present voted unanimously in favor of the motion, motion passed 4-0.

Member Comments: Chair Hoyt asked Mr. Salek if there was any change in the criteria for the ZBA. Mr. Salek stated it was the same.

Other Business: none

Mr. Evans made a motion to adjourn. Motion was seconded by Mrs. Hale. The meeting adjourned at 6:50 pm.

Respectfully submitted, Jennifer Ouellet

** Note: These minutes are unofficial until they have been accepted by the Zoning Board of Adjustment by motion.*