

**Lebanon Maine Board of Appeals  
Workshop Minutes  
Monday, May 13, 2019 @ 6:00 pm**

**Members Present**

D. Wilson - Chairman  
L. Duell  
D. Leuchs

**Others Present**

Dana Coull

**Workshop opened at 6:12 pm.**

Pledge of Allegiance

Chairman Wilson opened the meeting. There are three (3) members present which does constitute a quorum. Member M. Parker contacted Chairman Wilson to let her know that he was not feeling well and would not be attending the meeting this evening.

The minutes of October 22, 2018 were reviewed. Member L. Duell made the motion to approve the minutes as written. Member D. Leuchs seconded the motion. The vote was taken. The motion carried. The minutes of January 14, 2019 both Site Review and the Public Hearing, February 11, 2019 which was a workshop, March 11, 2019 both Site Review and Public Hearing, March 25, 2019 both Site Review and Public Hearing still need to be reviewed and voted upon. The minutes will be emailed to the Board to review and will be voted upon at the next meeting which is scheduled for June 10, 2019.

The Board continued to review the current Appeals Board Ordinance and compare it to the York Appeals Board By-Laws/Ordinance. Discussion of that an Ordinance cannot be changed without a Town vote for it is a Town Government Ordinance. However, By-Laws/Ordinance are Board Government and do not need the approval of the Town.

At the last meeting, Chairman Wilson brought up the question if Skype can be used at a meeting in order to create a quorum for when members are out of Town for the winter months. She has seen it in other Towns. She has not received an answer as of yet.

Member D. Leuchs asked if a member does not attend a site visit are they unable to vote. Chairman Wilson mentioned that one Site Review, she was the only one in attendance. She did take pictures and described how each one was related to the case. Both Chairman Wilson and member D. Leuchs feel that the Site Review is extremely important.

Chairman Wilson brought the question of what if a Site Review was conducted a few days ahead of time and videoed and placed on Facebook for the Board to view prior to the meeting if that would be acceptable. That could be very complicated and you would still have to have a quorum.

Chairman Wilson feels that the Board needs to push the Selectboard for an Alternate member. The Board continued to review the Board of Appeals Ordinance. Member D. Leuchs feels that finding new members for the Board should be the Appeals Board's job. Chairman Wilson feels that the Selectboard should interview interested applicants. This is due to that Chairman Wilson does not feel comfortable in choosing/interviewing possible members for it may appear that she is interviewing like-minded applicants in order to sway the vote.

The Selectboard cannot overturn the Appeals Board decision in a case. They would have to go to court in order to appeal the decision. Any person or Board member who was present at the Public Hearing may Appeal a decision. Member L. Duell inquired if the Board could remove some of the criteria. Chairman Wilson stated that in order to make an appeal of a decision, there must be a reason to do so. Member D. Leuchs added that when he joined the Appeals Board, there was very little training of what the responsibilities were. Chairman Wilson informed the members that the Appeals Board currently has \$600.00 budgeted for 2019-20 training. Wilson stated that she had asked for \$1,100.00 and that Chairman Philbrick had also researched the amounts and found the cost to be \$1,100.00 to \$1,600.00, however the Board of Selectmen had not spoken to her with regard to the Appeals Board budget and Chairman did not know if her request would be honored.

Member D. Leuchs offered that he felt they are more cognizant of what needs to be done and they could help new members along. Member L. Duell feels that he is comfortable with the way things are done as far as the meetings go, however, if they had training with legal, they would be able to offer additional training which would assist them in supporting their decisions. This would also inform them if there was any updated information which would super-cede one of the Board's decisions.

Member L. Duell offered that the State feels Towns are too hard in regard to Board decisions which deters new members to join. Member Duell shared that years ago, the Town did not follow the rules at all and that the State did not want to take the time to be bothered. Member D. Leuchs mentioned that Code Enforcement Officer McDonough is enforcing the codes where past Code Enforcement Officers did not. Member D. Leuchs inquired if the town would be liable for past situations that were not enforced if a recent issue arises?

Chairman Wilson stated that this discussion was not going any further for she was cautioned not to speak specifically about any Town of Lebanon employee. Member L. Duell stated that they could discuss the law however. Member L. Duell added that life safety codes were not enforced either and no one died.

Chairman Wilson informed the Board that she had contacted the Senators office in regard to a citizen's complaint from two (2) years ago. Member L. Duell asked if the new Selectboard knew. Wilson stated that the Selectmen had directed her to contact the State if she had issues in regard to the property. So she had. Chairman Wilson stated that with a five member

Discussion of Board Members in regard to their feelings on a 5 member Selectboard. Chairman Wilson stated that she thought it would be much easier to get things done once the Board was in place. Two (2) Selectboard members can meet to discuss issues or form a subcommittee for two (2) Selectboard members would not be a quorum. Chairman Wilson added that the current Selectboard will have discussions now to talk about issues even though it is not a quorum.

The Board continued to review the current By-Laws/Ordinance. Section 2.1 States that the Board should appoint a secretary from their Board members. Member L. Duell asked what do you have to do to appoint a secretary and added that the Town is turning into a Democracy and it is a Republic.

Wilson stated again, that any changes to the Appeals Board Ordinance would have to be proceeded by a public hearing and then be placed on a warrant for the Town to vote on.

Section 1.4 Discusses once a member misses a certain amount of meetings the member may be removed from the Board. Alternate members are not required to attend meetings, however they would not be able to vote if there was not a quorum for they had not been present for the meeting(s) when the information was presented and discussed as well as not present for the Site Review.

The subject of fees was also discussed and whether or not the Board of Selectmen would be increasing the application fee or authorizing the Board of Appeals to waive the application fee for Veterans or Disability (ADA) Variances. Would there be two (2) different fees and or is there the possibility to waive any and all fees in the case of hardship? It was suggested that this question should be presented to the new Selectboard. The Board feels that an ADA Variance should not cost as much as in other cases. However, the \$150.00 fee is supposed to cover the cost of certified letters to the abutters, printing the Public Hearing notice in the newspaper as well as the covering the Land Use Clerks time for preparing the documents for the Board and communicating with the applicant and the Chairman of the Appeals Board. At this time, the \$150.00 does not cover the cost of the publication the public hearing notice in the newspaper.

The case in regard to the Emmons Lane appeal was brought up. The Board felt that if the appeal had been granted, it would have caused problems in the future if the applicant went to sell the property due to the lack of surveying in the area.

Any questions that the State has they can ask the Appeals Board directly. Member L. Duell stated that if no one complains why anyone should care. If the neighbors approve then the Appeals Board can help by granting the variance if the Board was leaning in that direction. BUT if the neighbors are against the variance, then that makes it harder for the Appeals Board to make their decision. BUT this could also cause hardships all around in the future and lawyers would most likely need to become involved.

Member L. Duell asked if every question needs to be brought before the Selectboard for approval prior to asking legal for their advice. Chairman Wilson would like to access legal on her own when an opinion is needed, however the Board of Selectmen had not granted her the power to access the legal department without their permission. Member L. Duell questioned where lawyers get their information from. Chairman Wilson did not have an answer. Member L. Duell stated that the lawyers relied on their own interpretation of the same laws and ordinances that the Appeals Board uses.

The Board ended the review of the By-Laws/Ordinance at Section five (5). All the current Board members should be in attendance at the next meeting which is scheduled for Monday, June 10<sup>th</sup>, 2019. The Board will continue to review the By-Laws/Ordinance/Ordinance at that time.

***Motion to close the meeting by Chairman Wilson. Seconded by Member L. Duell. All in Favor. Motion Carried. Meeting closed at 8:05 pm.***