

ZONING BOARD OF REVIEW MEETING MINUTES – August 19, 2021

State of Rhode Island

County of Washington

In Hopkinton on the nineteenth day of August, 2021 A.D. the said meeting was called to order by Zoning Board of Review Chairman Jonathan Ure at 7:00 P.M. in the Town Hall Meeting Room with a moment of silent meditation and a salute to the Flag.

PRESENT: Jonathan Ure, Ronnie Sposato, Joe York, Dan Harrington, Daniel Baruti, Alternate Member Chip Heil

Alternate Zoning Board Clerk: Elizabeth Monty, Solicitor Per Vaage

Absent: Alternate Member Phil Scalise; Town Council Liaison Michael Geary, Building Official Anthony Santilli

Sitting as Board for Petition I: Ure, Sposato, York, Baruti, Harrington

Mr. Ure proceeded to read the first Petition:

Petition I – Determine completeness of application/consider waivers.

A Petition for a Special Use permit filed by Kelly M. Fracassa, Esq., with mailing address of 85 Beach Street, Bldg C, Unit 8, Westerly, RI 02891, on behalf of Wood River Health Services, for property owned by Wood River Health Services and located at 823 Main Street, Hope Valley, RI 02832 identified as AP 14, Lot 47A an RS Zone and filed in accordance with Sections 8C and 10 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

Applicant's representative Kelly Fracassa, Esq. was present.

Filing fees were paid and notices posted.

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Mr. Fracassa took the podium.

The Board noted a technical difficulty of feedback within the microphone system.

A moment was taken to resolve the same, as the echo from the microphones was causing difficulty for the Board to hear.

Discussion continued as to whether or not live streaming is necessary.

Mr. Ure stated that we are recording the meeting the same way we have for twenty years, with a voice recorder and minutes being taken.

Mr. Heil objected to not continuing with the live stream due to the unusual circumstances of late.

Mr. Vaage interjected to state that the Governor's order is for Boards and Commissions to come back to in-person meetings:

“The minimum requirements under the Zoning Reg.’s and the State enabling Act for Zoning are that any proceeding from which an appeal lies in front of the Zoning Board be recorded either by audio means or stenographic means whether or not you broadcast it to a larger audience is not a requirement under state law.”

Mr. Sposato asked, “So a tape recorded would suffice?”

Mr. Vaage – said – “For our purposes – Yes. Additionally this is only a pre-app, not an appeal – so you don't even need to record it, but I think you are safer recording it than not. Plus you're taking minutes.”

Mr. Ure stated that there is no regulation stating that it has to be posted on YouTube

Mr. Vaage: The only issue is that we posted this. We advertised it with a YouTube link – so for this meeting we do have to stream it.

The echo in the microphones was resolved. The meeting continued.

Mr. Ure stated that Attorney Fracassa was present for Wood River Health on a Pre-App. So you guys are planning an expansion? (to Mr. Fracassa)

Mr. Fracassa: Yes – an expansion. They are building a new building. It will be attached to the current building. It's about 5,000 square feet and it's going to have a new onsite wastewater treatment system installed in the vicinity for its use. They are going to add some parking and have come to the Zoning Board because Wood River Health operates as a pre-existing non-conforming use, and can not be expanded without a Special Use Permit. They are seeking waivers from IUD, the Letter from a Biologist. There are clearly wetlands and they have been flagged on the site plans. Also, they are seeking a waiver of the Traffic Study because the new building with additional staff and patients is expected to generate only 21 additional trips per day. By day you are talking "2-something" per hour that's timed along Route 3. For those reasons we just request those waivers.

Mr. Ure stated that they would get to the checklist in a minute and continued asking if the Planning Board had spoken to them regarding the parking spaces? Are you planning to expand parking at all?

Mr. Fracassa: Yes, we are, consistent with Zoning, maybe a little bit bigger.

Mr. Ure: You will be ready for the hearing with that.

The Board moved on to the checklist.

Member York read through the check list, as the Board noted presence of items.

CHECKLIST ITEM A:

Three copies of a site prepared by, and signed and stamped by, a professional engineer or professional land surveyor at a scale of no less than one inch = forty feet clearly showing:

- Name & address of property owner(s) (Yes)
- Date, north arrow, graphic scale, lot dimensions and area (Yes)
- Plat & lot, zoning district(s) and setbacks (Yes)

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- Existing and proposed structures, and their relationship and distances from lot boundary lines (Yes)
- Existing and proposed parking areas and walkways (Yes)
- Existing and proposed landscaping, as it relates to the request (Yes)
- Existing streets, 911 address, wells, septic system (Yes)
- List of names and addresses of all property owners within 200 feet of subject property (Yes)
- Any peculiar site conditions or features (Yes, wetlands noted)

The Board noted that all items were present.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SPOSATO TO DEEM CHECKLIST ITEM A COMPLETE.

THERE WAS NO DISCUSSION.

ALL WERE IN FAVOR.

SO MOVED

CHECKLIST ITEM B: Three copies of a separate map indicating all property owners within 200 feet of the subject property and/or all those property owners and entities which require notice under Section 45-24-53 R.I.G.L., also depicting any zoning district boundary and uses of all neighboring properties.

The Board looked through provided paperwork and booklet. Mr. Heil noted that there was a half-mile radius map. Mr. Ure asked if this was in Appendix C? Mr. Heil said Yes. The Board went through and found the abbutters' map and read through each parcel on the list:

AP 11, Lot 24 – Raymond R Andrews; AP 14, Lot 57 – Ken Mott; Map 14, Lot 99 – Loren and Susan Andrews; AP 14, Lot 47A – the Applicant, Wood River Health; AP 14, Lot 46B34 – CL, LLC; AP 14, BL 4A, Lot 46B34 is Chelsea Lynn Gerrish;

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AP 14, BL 6B 46B34 – Edith Schwaab; Map 14, Lot 47 – Albert Hawkins, Jr.; Map 14, Lot 97 – New Castle Realty; Map 14, Lot 46B – is that open space? – Woody Hills Development Co. – Map 14, Lot 47 B – New Canonchet Cliffs (Canonchet III); Map 14 BL 2A, Lot 46B34 – Carl & Casi Myllyamaki; Map 14 Lot 49 – Woodland Properties; Jeff Gilman; Map 14, Lot 98 – Benjamin; AP 14 Lot47C – Canonchet Hill Ltd (I); Map 14 BL 2B Lot 46B34; Map 14, BL 6A Lot 46B34 – Scott & Anariliz Vanaman.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SPOSATO TO DEEM CHECKLIST ITEM B IS COMPLETE. NO DISCUSSION. ALL WERE IN FAVOR. SO MOVED

Housekeeping discussion – Mr. Heil inquired – “Just to be clear, I am an Alternate this evening?”

Mr. Ure said “Yes” and encouraged him to speak if he wanted to do so. (He just would not be included in voting of the Petition.)

CHECKLIST ITEM C: A soil erosion and stormwater control plan with supporting calculations based on standards approved by the USDA Soil Conservation Services and in conformity with the R.I. Erosion and Sediment Control Handbook.

The Members looked through and noted that the paperwork contained this item.

A MOTION WAS MADE BY MEMBER YORK THAT CHECKLIST ITEM C WAS COMPLETE AND SECONDED BY MEMBER SPOSATO. THERE WAS NO DISCUSSION. ALL WERE IN FAVOR. SO MOVED.

CHECKLIST ITEM D: A letter from a biologist indicating that there are no fresh-water wetlands on or in proximity to the site such that the application is regulated by the R.I. Freshwater Wetlands Act. In those instances where the application is regulated by the R.I. Freshwater Wetlands Act, a physical alteration permit issued by the R.I. Department of the Environmental Management, and where applicable, the U.S. Army Corp of Engineers, shall be required.

Member York: “There is a request to waive that.”

Mr. Ure asked for discussion. He also stated, “They know there’s wetlands there.”

Member Sposato stated that they flagged the wetlands.

Member Heil – inquired as to an existing structure adding a second story. Does the Board think this wouldn’t have an impact on the biology?

Member Harrington – “What’s going to happen is that the checklist items contain a hydrology report; and drainage reports are going to capture anything that the building envelope would do and when they go to apply for a septic design.... if it’s a problem, that is when DEM will kick it back. Additionally, the road between - the access road – is between the development and the wetlands.”

Mr. Ure stated that the wetlands are well outside the building envelope.

Mr. Fracassa noted that the building is well outside the wetland buffer. He referred the Board to the paperwork for approvals. He stated, “This is approved.”

MEMBER HARRINGTON MADE A MOTION THAT CHECKLIST ITEM D BE WAIVED, SECONDED BY MEMBER YORK.

THERE WAS NO DISCUSSION.

ALL WERE IN FAVOR

SO MOVED

CHECKLIST ITEM E: Location of existing septic system. Where construction requires approval by R.I.D.E.M. – Division of Land Resources for an ISDS (individual sewage disposal system) or change of use permit for the proposed activity, attach a copy to the application.

The Board noted that it appears to be in order.

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER SPOSATO THAT CHECKLIST ITEM E IS COMPLETE.

ALL WERE IN FAVOR.

SO MOVED

CHECKLIST ITEM F: Traffic study addressing the potential impacts of the proposed activity.

And again – there is a waiver for that, stated Member York.

Member Harrington acknowledged the same, but said, “There are narratives in the packet. There is a traffic analysis and Kelly described what is going on there.”

Mr. Ure asked the Board to look at this at 6.2 in the packet.

Mr. Heil said “There is additional information at 6.0.”

Mr. Harrington said, “6.4 shows the conclusion.”

The Board took time to review this item.

Mr. Ure asked Mr. Fracassa if he had an interpretation of the Traffic study to which he had none.

Mr. Heil stated that the project would clearly increase traffic, but it will be one more vehicle every three minutes. If we are looking to see if they provided a Traffic study – they have met that and it’s up to us to see if it’s impactful.

Other members were ok with this item.

A peak change of 16% - per Mr. York.

Mr. Ure stated that the access road has a pretty long lead in accessing the parking area. If they had a stacking situation, they could probably fit 20-30 cars

there....there is more than enough room to handle traffic. There is not a mass exodus of the facility. It's an appointment based-flow of traffic.

Mr. Baruti said "At that particular spot of Route 3 – there is zero issue."

Mr. Sposato stated – "It couldn't be a better spot."

Mr. Ure: "Going back to Chip's point – it's a traffic analysis – it's not a full-blown study."

Mr. Sposato noted, "The way the ordinance reads – We have to approve the waiver."

Mr. Ure agreed and went on to say "We couldn't accept this because it's not an actual study, but they requested a waiver."

A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY MEMBER YORK TO GRANT THE WAIVER OF THE TRAFFIC STUDY FOR CHECKLIST ITEM F.

DISCUSSION:

The Board went on to discuss learning points about Traffic Studies in general and the differences between separate Boards of the Town.

Mr. Baruti added that he would have never imagined that they are running 101 vehicles out of that entrance per hour. In 20 years – he would have never guessed that – he thinks it's an over estimation of vehicles coming and going from that entrance.

Mr. Harrington asked if that entrance also took care of Canonchet Cliffs?

Mr. Baruti – said, "Yes – Canonchet III will use that, Canonchet One will use it."

Mr. Heil wanted to know if they should be concerned about the potential impact on the other people using the same entrance.

Mr. Ure – stated that he served on the Board at the Wood River Health for over 10 years, and he is very familiar with the amount of traffic up there. You see a car leave every 15-20 minutes. To Chip's point – you are serving an elderly care facility that also use the road.

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Mr. Baruti stated that if people have an objection, he would hope that they bring it forward.

Mr. Ure said that most people do not leave that facility. Some do come and go, but it's assisted living and many do not leave.

ALL WERE IN FAVOR.

SO MOVED

CHECKLIST ITEM G: On a separate site plan, indicate existing and proposed topography at two- foot intervals.

The Board agreed that this item was on there on several layers.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SPOSATO THAT THE REQUIREMENTS FOR CHECKLIST ITEM G IS ACCEPTED.

NO DISCUSSION

ALL WERE IN FAVOR

SO MOVED

CHECKLIST ITEM H: Provide evidence that the proposed water supply has sufficient supply to support the proposed activity and is of drinking water quality.

Discussion:

Member Harrington: Number 4 on the Site Plan, in the Narrative said they have tested the water, and they are proposing two 120-gallon pressurized well storage tanks and that should be adequate, and they actually also state that the Town of Hopkinton will not be held responsible if there is inadequate water supply.

Mr. Ure asked if that is a PUBLIC well? (The Board said yes) – So they have to be approved by the State....The RI Department of Health will oversee that, anyway.

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Mr. Harrington stated, “The Engineers have two 120-gallon tanks so that they have some reservoir.”

Mr. Heil read that the applicant notes that the existing well water system is undersized.

Mr. Ure stated – “Thus, the tanks.” And he asked – “The Dept. Health cares more about the quality than the volume...so the volume – that’s more on the Property Owner?”

Mr. Harrington – “Absolutely.”

Mr. Ure: “At some point they may need to drill a new well?”

Mr. Harrington agreed.

Mr. Sposato stated, “It would be difficult to drill another well there and meet the State’s requirement. They would probably make them modify the well they have. That should be supervised quarterly by the State and has an Operator assigned to it.”

Mr. Heil – “So that’s not something that as a Zoning Board we should care too much about?”

Mr. Sposato: “It’s regulated heavy by the Dept. of Health.”

Mr. Harrington: “They have supplied evidence that they realize they have got a little issue there, and they’ve tried to address it. So what else could they do? There’s nothing they could do.”

Mr. Ure gave history: “In general terms – not specific to this project, I am thinking of all the people that have applied – the wells have all been pre-existing – the Board looks at that it’s there and it’s working, unless there’s something odd – if you have a residential well that’s only handling a two-bedroom house and then you put a hotel on it – then we might not waive because we know the volume of the well is not going to handle it.”

Mr. Heil – discussed the size of the addition versus the new requirement of the well, and talked about it with the Board.

Mr. Fracassa noted that the addition would be Administrative offices and also to see patients.

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Mr. Sposato noted that the septic system was approved on using 72 gallons per day. Period.

Mr. Baruti noted that they would be using the existing well and have six 120-gallon tanks in total.

Mr. Heil questioned what impact would this have on the abutters.

Mr. Ure gave history of other projects and stated it's a good topic for further discussion and possibly with the Engineers.

Member Harrington stated that is correct and 72-gallons is all they anticipate going into the leech fields, and the Engineers designed it that way, it's not up to the Board to question that.

Mr. Baruti agreed.

Mr. Harrington also noted that the Planning Board and DEM would need to approve this as well.

Mr. Baruti stated that if they are having issues up there, he would hope that they would send a representative or at least put us on notice. But for purposes of the Pre-App they have met their requirement.

Mr. Ure stated that there is nothing saying that the Board can not ask for a report from a hydrologist. The Board agreed.

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER BARUTI THAT THE BOARD ACCEPTS THE REPORT AND THAT CHECKLIST ITEM H IS COMPLETE.

ALL WERE IN FAVOR.

SO MOVED

A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY MEMBER BARUTI THIS APPLICATION IS COMPLETE.

NO DISCUSSION

ALL WERE IN FAVOR

SO MOVED

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The Board discussed the date of the Public Hearing on this pre-application. After discussing schedules, the Board decided to hold the Hearing on Thursday September 23, 2021 at 7:00 p.m. at this Town Hall.

The Applicant needs to notify the abutters, returning proof of notification to the Clerk.

THE HEARING IS SET FOR THURSDAY SEPTEMBER 23, 2021 AT 7:00 P.M.

Mr. Ure asked the Board about the Bryant appeal. The Board gave him a month or two off so that he could collect his missing items.

Mr. Ure asked that someone contact Mr. Bryant and Tony to see if they should be on the Agenda for the September 23, 2021 meeting. He should have been put on this agenda, but it was an oversight.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HEIL TO ACCEPT THE MINUTES FROM THE ZONING BOARD OF REVIEW MEETING ON JUNE 24, 2021.

NO DISCUSSION

ALL WERE IN FAVOR.

SO MOVED

Mr. Ure said he would also like to discuss where they started – with the taping of the meeting. Nowhere has anyone from the Council ever made us privy to being taped other than what we have traditionally done which is audio tape, minutes and transcript. This is an aside from where we started before. The video recording of this and posting on YouTube is something that has just happened. Nobody has ever addressed this Board and told us that they were doing it. It just started and I would like an explanation as to why we're doing it or what Town ordinance or regulation as

to why they are using YouTube and why we are all being videotaped. This is an aside again from ZOOM. ZOOM was a special circumstance. The doors are open now, applicants and patrons can come in. If somebody is on YouTube all's they're doing is watching it. They're viewing the video; They are not attending the video. I am leery of that. I want everyone's opinion on this and I want to see... I've asked Per to look into where we are - We have been following State Law as far as recording. I am not saying we aren't an going to be an open government or that we are hiding anything. I don't know why we are being videotaped and this is being posted and put on YouTube. Why is it not being videotaped and just posted on the Town website as opposed to being on something that is a world-wide forum?

Mr. Sposato stated that "As a Board, we can make our own decision. We are only obligated to follow the State's laws that govern us. We do not have to listen to the Council. They have no bearing on what our decisions are at all. So really – it's kind of up to us. I don't really want to be all over YouTube myself."

Mr. Vaage began speaking: "If I can, this is something that I anticipate is going to come up with Town Council at some point. The policy the Town Council had is that they don't have an issue with their meetings being broadcast, and they want a uniform standard across all Boards & Commissions in the town. That's where the debate is going to lie. It's not a decision that we can make tonight. It's not a decision that we should make tonight. It's simply a policy question that is as yet unresolved between the Town Council and the different Commissions. And that is something that has to be addressed to Town Council."

Mr. Ure stated that that is why he asked Mr. Vaage to look into this because there are other Boards and Commissions that aren't being taped in that manner, and again, we're being thrown on YouTube. We are thrust out into the Public spotlight on an international forum. It allows people to micromanage and scrutinize reactions, conversations, if anybody speaks off the cuff accidentally. It causes a whole bunch of problems I don't want to subject any of us to. A lot of us have businesses. I don't

want people in this day and age turning around and retaliating against us because they don't like something – what we look like, what we said, and they may have missed half the conversation. They show up at one meeting, but missed the rest. They may not have read all the chapters of the book. They are starting in the middle.”

Mr. Vaage asked – “I think your point is about context.”

Mr. Ure: “Yes.”

Mr. Heil stated “I actually think transparency is a good thing. Does it mean that sometimes we have to stop and think about what we are saying? Yes. We are here being representatives of the Town. And it's hard for me. Sometimes I want to voice personal opinions. It's a struggle for me sometimes – separating personal opinions from what my task is here as a Zoning Board Member. Sometimes there's some conflict. And it's not easy. Being on this Board we are accepting (when we applied for this) that responsibility and part of that is being open and transparent to our Town. I understand what you're saying. It's tough. We are all separate from this. We have to keep our personal things separate from this, but people look at us and see the personal side. It's not an easy division. My personal feeling is if anyone wants to see what we have talked about here should see it. Maybe it doesn't need to be recorded video-wise. At a minimum, we should have audio. But in general what I thought was good about the pandemic, it gave an avenue for a lot of people in this Town to participate in local government because they had the option. I am uncomfortable about taking that option away now. That's all.

Mr. Ure: That's fine and that's a personal opinion. Regarding the transparency comment, and I don't mean this in a negative way – we are a very transparent Board. I am not implying that we're hiding anything. None of us signed up to be videotaped. No one ever made us aware that we would be videotaped and put on an international database and format that would never go away.

Mr. Sposato stated that he is good on the Town Website.

I take exception to YouTube because they censor things. Right now if I said a couple of things that would be perfectly in my right to say, not to a person, but in general terms, they would instantly shut it off, and that's wrong. It's wrong that someone outside of this room can now censor us for different things or take exception to what we are saying and then retaliate against us when we don't even know who they are. We are Town Servants. We are Volunteers. We didn't get elected. We are volunteers that have been doing a Town job for free. Several of us have been on here a long time. If I got paid for the time, I'd have a nice pension right now – working for the Town – same with these guys. We never signed up to be videotaped. This is something that has evolved, and it was thrown upon us and there is no clear reason as to why. I understand why they're doing it. It keeps a different record. We are very open and honest, and we have audio and take minutes. When there is a Hearing, we have a Transcriptionist that sits here and the whole thing is transcribed. There are courtrooms now in this country and this Town – they're not recorded and put on YouTube. Probate Court. They don't record it and put it on YouTube.

Mr. Ure asked, “We have two attorneys here – if you are in Court, is that all posted on YouTube?”

Mr. Vaage: “It is these days; most calendars are posted on YouTube and the actual hearings for different types of matters.”

Mr. Ure – “I am all for open government. I have no problem with that video being put on the Town Website. People do have to take the time to attend a meeting, to read all the chapters of the book – not watch a select part of the video because it's convenient and they can tap it on their app and watch it at lunchtime. We've had it happen over the years where people continually come in at the 9th inning and want us to circle the wagons, and go back to pre-app.”

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Mr. Heil – First of all... I know that politically I differ, but my point is in my time here, I have not heard you guys say anything that is inappropriate...

Mr. Sposato – What do you mean by politically different?

Mr. Heil – I am just saying that we have politically different views. I have not heard any of you say anything that you should be afraid of being on a YouTube video. None of us should be afraid of what is being recorded because in this room and in this context, we should not be saying anything that is so politically charged that we might get repercussions.

Mr. Ure – You are talking about politics.

Mr. Heil: I see where you are coming from . If we are all cognizant of what we are actually doing when we are here in this room, and we speak honestly and on-point with what we are being charged with doing in here, why would we be afraid of anyone watching us on YouTube?

Mr. Ure: That works when you are rational and when rational people watch it, and you are a rational person. This Board has zero politics. I don't even know what parties everyone is. I could care.... We have a job to uphold the Town's ordinances, and that's it. But, I can tell you from having a business and an open door, over the years I have had numerous applicants that have come in with either accolades because we did something good or P.O'd because they didn't like something that the Board did. Then I get stuck in conversation in my business about Town business and I am one vote among five, that's when someone is going to sit on the other end of that panel and they are going to ostracize me because they didn't agree with my objective opinion and they think I have a biased opinion when I do not.

Mr. Vaage – To Chip's point – if you sign up for this you do have to expect a certain amount of public scrutiny. Let me leave it this way. We do have a Town Council

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Liaison. I am going to reach out to him. This is something Town Council would want to hear about. The policy discussions that we are having tonight should be properly aired in front of the Town Council from all perspectives.

Mr. Sposato – here's the point – we don't have to answer to the Council. We don't care what they think. It's up to us on what we want to do.

Mr. Baruti – I disagree. A policy decision that rests with the Town Council; they need to tell us, and if it is there - there's no point in discussing it.

Mr. Sposato – They can't impose a policy on this Board.

Mr. Heil – let's use the Town Council to our advantage here...The Town Council – the Town itself should be doing something to protect the Boards and Commission – not only are we committing our time, but we are putting ourselves out there. Should it be on us to then protect ourselves? I would like to say – Town Council – protect us. Maybe that's naïve of me.

Mr. Ure – That's why I am bringing this up. I am asking the powers-that-be.

(Inaudible discussion.....all talking at once....)

Mr. Ure – When you got on this Board – did Council come in and give you directions? (To Mr. Heil) – no - they gave you the book. Dan? How about you? (No from Mr. Baruti) Thurman gave me a book (Mr. Ure). I came in on a pretty pretentious appeal, and I learned pretty quickly.

Mr. Sposato - You will see 2 ½ Councils in your term here. They do not run this Board.

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Mr. Ure – None of this is ever personal. I could be mad at you – I am not mad at you.
Ronnie and I have had some epic battles. At the end of the day... we talk.

A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY
MEMBER HARRINGTON TO ADJOURN THE MEETING AT 8:21 P.M.

NO DISCUSSION

ALL WERE IN FAVOR

SO MOVED

Respectfully Submitted,

Elizabeth Monty

Alternate Zoning Board Clerk

Next Scheduled Meeting: September 23, 2021