

**Town of Cornish, New Hampshire
Zoning Board of Adjustment
March 21, 2022**

The Cornish Zoning Board of Adjustment met on Monday, March 21, 2022, 6:30 PM, at the Cornish Town Offices. Present were Jason Bourne, Acting Chair, Bill Balch, Michael Fuerst, and Caroline Storrs. Karim Chichakly and Kate Freeland attended remotely due to the Covid-19 situation. Stuart Hodgeman was out of town and attended remotely.

Also in attendance were Al Rossow, Sandy Carpentier, petitioners; Marie DeRusha, Jeremy Eggleton (via Zoom), Bill Gallagher, Heather Gallagher, Gwyn Gallagher, Tom Hildreth (via Zoom), Kathryn Patterson, and Zeb Watkins.

Jason Bourne called the meeting to order at 6:30 PM. Mr. Bourne explained that tonight's meeting was a continuation of the February 16, 2022, meeting, which Caroline Storrs had been unable to attend. Mr. Bourne returned the chair to Caroline Storrs. Gwyn Gallagher made a point of order and was recognized by the chair. Mr. Gallagher cited the Zoning Board's rules of procedure, which states that officers shall be elected in the month of April. Karim Chichakly concurred.

Reorganization

The Board passed over the agenda item.

Approval of Minutes

Stuart Hodgeman made a motion to approve the minutes as presented. Jason Bourne seconded the motion, and the vote of the Board was in the affirmative.

Motion for Rehearing

voting: members: Caroline Storrs, Chair, Bill Balch, Jason Bourne, Karim Chichakly, and Stuart Hodgeman.

Heidi Jaarsma made a point of order and was recognized by the chair. She informed the chair that all votes must be taken by roll call since some members are attending electronically.

Ms. Storrs read from the ZBA handbook: "It is recommended that the meeting to consider a Motion for Rehearing not be a public hearing and that no testimony is taken. It is a public meeting and anyone has the right to attend but all the board is acting on is the motion in front of them (what has been submitted) and should not involve comments by the applicant, petitioners or abutters. If the board believes that there are sufficient grounds to reconsider their original decision, the motion should be granted; if not, the motion should be denied." (*The Zoning Board of Adjustment in New Hampshire, Updated 2021*) Ms. Storrs explained to the public that because the Board had denied the January 11, 2022, appeal, any interested party had the right to ask for a rehearing of that decision. Ms. Storrs stated that the discussion would be narrow and limited to whether the January 11, 2022, decision was unreasonable or unlawful.

Ms. Storrs stated that she had received an objection from Jeremy Eggleton, of the law firm Orr and Reno, with the request that the objection be distributed to the Board. Karim Chichakly stated that the Board was not allowed to take evidence at a motion to rehearing. Ms. Storrs asked Mr. Chichakly if he was suggesting that the objection just be put in the minutes. Mr. Chichakly replied that it should only be added to the record and moved that the objections submitted by Mr. Eggleton be added to the record and not be referred to at this meeting. Stuart Hodgeman seconded the motion, and the vote, by roll call, was in the affirmative, 5-0.

Ms. Storrs asked if there was any discussion about sections one and two of the motion, background of the motion submitted. There was no comment.

Ms. Storrs asked if the Board would like to make comment on section 3, the argument of the motion. Jason Bourne said that section 3.3 of the argument that related to revenue currently generated by Gallagher Tree Service and did not take into account that there would be an expansion of agricultural use. Mr. Bourne said that he did not see the logic of the argument that there is no revenue on a farm that has not yet been established at the site. Karim Chichakly added that Gallagher Tree Service employees do work on the farm, so it would be hard to quantify what revenue came from that. Jason Bourne said that he was having difficulty in general with the idea that revenue is required. The intent of the Gallaghers is that they will be raising saplings, sugaring, etc., all of which could generate revenue in the future. Karim Chichakly said that he did not believe that Board made an error in law. Caroline Storrs and the other members concurred.

Mr. Chichakly said that the Board had found that the decision was not unlawful in its review of section 3 and suggested that the Board turn to considering whether the decision was unreasonable. Stuart Hodgeman said that he did not find that section 4 of the motion showed the decision to be unreasonable. Karim Chichakly and Caroline Storrs agreed. Jason Bourne concurred that there was nothing unreasonable in the decision relative to section 4.

Stuart Hodgeman made a motion to deny the rehearing. Karim Chichakly seconded the motion, with Bill Balch, Jason Bourne, Karim Chichakly, Stuart Hodgeman, and Caroline Storrs voting in the affirmative. Ms. Storrs asked each member to discuss their vote. Jason Bourne said that he did not find anything unlawful with regard to the argument that revenue generated offsite is the definition of lack of an agricultural use on the farm. Mr. Bourne felt that there was a flaw in the logic and that the Board had done nothing illegal or unlawful in its decision. Karim Chichakly said that he did not believe the Board had done anything unlawful or unreasonable. Stuart Hodgeman agreed with the analysis and added that nothing different had been brought up in the motion. Bill Balch stated that the decision had been neither unlawful nor unreasonable. Caroline Storrs concurred.

Ms. Storrs announced that the motion for rehearing had been denied. Jason Bourne made a motion to adjourn. Karim Chichakly seconded the motion, and the vote of the Board was in the affirmative.

Respectfully submitted,
Heidi M. Jaarsma