

# *Town of Weare*

ZONING BOARD OF ADJUSTMENT  
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## ZONING BOARD OF ADJUSTMENT MINUTES Tuesday January 4, 2011 \*\*FINAL COPY\*\*

**PRESENT:** Jack Dearborn, Chairman; Forrest Esenwine, Member; June Purington, Member; Neal Kurk, Alternate; Malcolm Wright, Alternate, Chip Meany, Code Enforcement Officer; Sheila Savaria, Recording Secretary.

**GUESTS:** Ginger Esenwine, Reggie Houle, Robin Houle, Jason Houle

### **I. INTRODUCTION:**

Chairman Jack Dearborn called this meeting to order at 7:31 PM and asked the board members present to introduce themselves.

### **II. ADMINISTRATIVE ITEMS:**

Chip Meany discussed an application for appeal with the Board, who needed to decide if they are going to accept the application, and if it is a timely appeal. Mr. Meany explained that applicants are required to file an appeal within 30 days and the ZBA does not have the right to waive the filing period. If the rules are on file, which they are, in the Town Clerk's office, and an applicant does not avail themselves of those rules and file within the 30 days, then proper procedure was not followed. Mr. Meany recommended that the Board have him inform Mr. Mueller, the Attorney for the Graves', that he has not filed in a timely manner. Chairman Jack Dearborn recused himself from this matter because he spoke against the case at previous meetings; Forrest Esenwine officiated the vote. Neal Kurk also recused himself because he was on the Planning Board during the time the original decision was made that is being contested. Chip said Mr. Mueller is contesting that the Planning Board allowed bark mulch piles to serve as sound buffers, instead of the permanent attenuating buffers that the ZBA required before the Planning Board made their decision. They feel the Planning Board's decision is not appropriate because it was granted without using the stipulations the ZBA had made with their decision. Mr. Esenwine pointed out that had this request come in a timely manner, he would have been in favor of a re-hearing.

Malcolm Wright moved to grant the rehearing on the appeal filed by Douglas and Mary Graves in regards to 21 B&B Lane, Special Exception for a mulch business; June Purington seconded. June Purington, Forrest Esenwine, and Malcolm Wright were opposed. Jack Dearborn and Neal Kurk had recused themselves.

### **III. PUBLIC HEARINGS:**

Case #1210 (Continued) Robin Houle  
Special Exception Article 19, Section 1.8  
The applicant is requesting a Special Exception to operate a day care center in excess of four children at 1111 South Stark Highway, aka Dimitri's Plaza  
Tax Map 108-33

This case was continued from last month's meeting so the applicant could bring forth additional information for the Board to consider. The hours of operation are proposed to be 6:30 am - 6:00 pm

Monday through Friday. Phase II for the center will be done when enough children are enrolled, and the applicant has applied to the Planning Board for a site plan review. There are a total of 52 parking spots in the plaza, including 4 handicap spots. The entire facility will have to be State approved and they hope to open the daycare in February.

Neal Kurk moved to grant the special exception as requested by the applicant under section 19.1.8, that the special exception apply to both Phase I, for up to 15 children, and Phase II, for up to 14 children, and that the hours of operation be from 6:30 am - 6:00 pm 5 days a week; June Purington seconded the motion. Discussion: Forrest Esenwine asked whether the play area was separated from the facility, and Ms. Houle replied that it was about 120 feet away and the children would be walked out the front door to the play area, and that is okay with the State. All members voted in favor. Chip Meany signed a form provided by the Houle's saying that the ZBA allowed permission for the special exception so they can proceed with getting their State license.

**IV. OTHER BUSINESS:**

Minutes: Forrest Esenwine moved to accept the December 7, 2010 minutes, as distributed; June Purington seconded, all voted in favor.

The Board agreed to change the July 5 meeting to July 12.

**V. ADJOURNMENT:** As there was no other business to come before the board, Forrest Esenwine moved to adjourn at 8:10 pm; Neal Kurk seconded, all voted in favor.

Respectfully Submitted,

Sheila Savaria  
Recording Secretary