

June 3, 2021

Dear Parsonsfield Zoning Board of Appeals,

Pursuant to **30-A MRS Section 2691 (3)(F) and Article VI (Appeals) Section F, Reconsideration**, this is my request that the Board reconsider its decision made at its May 27th, 2021 ZBA meeting to dismiss the appeals that I filed on **Watson Woods Lots 1 and 2**.

Parsonsfield Land Use and Development Ordinance Revised September 8, 2018 (Ordinance) - Page 118
Article VI. Appeals
Section F. Reconsideration

In accordance with Title 30-A, M.R.S.A. Section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

The steps for taking an appeal to this Board are spelled out in the Ordinance. I followed those steps and therefore this Board erred in dismissing my appeals filed on the CEO's decision to issue permits to Watson Woods Lots 1 and 2 due to not meeting the guidelines of the Ordinance.

Here are the steps:

Parsonsfield Land Use Ordinance – Page 117
Article VI. Appeals
Section 3. Appeal Procedure
A. Making an Appeal

*An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 2.A above. **Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from.***

By email, I filed my appeals directly with the ZBA on April 27, 2021 as required by the Ordinance. According to the Town Clerk (David Bower), he himself changed the appeal application in December 2019 by removing the words "Code Enforcement Officer" leaving it to say applications must be sent to the Town Clerk. His actions violate the Parsonsfield Land Use Ordinance. Just because David Bower is directing citizens to violate the Ordinance by requiring appeals be sent to only him, it does not make it a legal process. The ZBA did not reject any of mine or the Goulds prior eight (8) appeals/reconsiderations filed because they were not sent to the Town Clerk on the illegally amended appeals application. These eight (8) appeals can be referenced in the ZBA's records.

Here is how the current appeals before the ZBA were sent with the respective appeals attached: (for the record: planning@parsonsfield.org is the contact email for Appeals Board Administrative Assistant, Desirae Lyle, who publicly acknowledged the ZBA's receipt of my appeals sent on lots 1 and 2 sent on April 27, 2021 at the May 27, 2021 ZBA meeting)

LOT 1

From: Gerard Clifford <gmandaisy@icloud.com>
Date: April 27, 2021 at 8:05:05 PM EDT
To: jwinters@parsonsfield.org
Cc: Planning@Parsonsfield.org
Subject: Appeal

LOT 2

From: Gerard Clifford <gmandaisy@icloud.com>
Date: April 27, 2021 at 8:06:05 PM EDT
To: jwinters@parsonsfield.org
Cc: Planning@Parsonsfield.org
Subject: Appeal

The CEO issued the permits being appealed on March 29, 2021. Thirty days from that date is April 28, 2021. **Both appeals on Watson Woods Lots 1 and 2 were timely filed.**

I sent these two appeals to both CEO Jesse Winters and ZBA Administrative Assistant Desirae Lyle who is the person who receives information on behalf of this Board including applications and filings. Town Clerk David Bower stated that I should have sent these Appeals to him. That is not what the Ordinance requires.

The Parsonsfield Land Use Ordinance says my appeal applications from the CEO's issuance of a permit are to be filed "*with the Board of Appeals.*"

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Article VI. Appeals

B. Written Notice

*Applications for appeals shall be made **by filing with the Board of Appeals** a written notice of appeal which includes:*

- 1. A concise written statement indicating what relief is requested and why it the administrative appeal or variance should be granted.*
- 2. A sketch drawn to scale showing lot lines, location of existing buildings and structures, and other physical features of the lot pertinent to the relief sought.*

Nowhere in the Parsonsfield Land Use Ordinance does it say the application must be filed with the Town Clerk. Regardless of what may be stated on a form, the form does not trump the Ordinance which was voted on by the citizens of Parsonsfield. Unless and until amended to say otherwise, this Board is required to follow the current Ordinance. It clearly says the applications are to be filed with the Board of Appeals which is precisely what I did.

Mr. Bower, as the Town Clerk, has no business under the Ordinance to give you any advice on whether my application was timely and complete. He is not a lawyer and to the extent he, as the Town Clerk, is giving the Board legal advice, he is acting outside the scope of what he is allowed to do (raising due process issues). The ZBA can ask the Maine Municipal Association on that and should.

Mr. Bower's suggestions to you made outside the confines of a public hearing (that raises significant due process issues) that my application was incomplete for lacking a sketch is also in error. Any person who has concerns or issues can be heard by the Board at a public hearing. And it is highly suspect for David Bower in his private capacity (his letter to you is from his home address) to tell you what he thinks in that letter as the Town Clerk. There is an obvious conflict of interest on his part. He is not some disinterested town official.

I am not requesting a variance so there is no need for me to show a sketch showing relief from any dimensional requirements as David Bower stated. The Board has not required this in the past eight (8) appeals/reconsiderations submitted since December of 2019 because the Code Enforcement Officer (Jessie Winters) "must transmit all of the papers constituting the record of the decision being appealed from".

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Article VI. Appeals

C. Record of Case

Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision being appealed from."

The record before the ZBA, on which the CEO made his decision, contains the plans for Watson Woods Lots 1 and 2. These must be transmitted to the ZBA as part of the record by the CEO (Jesse Winters).

Finally, the Board will hear these appeals de novo.

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Article VI. Appeals

Section 2. Powers and Duties

The Parsonsfield Land Use Ordinance says: "When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law and reaching its own decision." The Board only takes in evidence and testimony at the public hearing on the appeals.

In sum, Clerk Bower's impermissible intrusion here is not called for by the Ordinance. The Board should ignore his erroneous legal advice and improper attempt to thwart my rights.

Please do the right thing and vote to reconsider your decision dismissing my appeals on Lots 1 and 2 as both were timely based on the guidelines of the Ordinance. Then hold the required public hearing and apply the Parsonsfield Land Use Ordinance.

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Article VI Appeals

Section 3 Appeal Procedure

D. Public Hearing

The **Board of Appeals shall hold a public hearing on an administrative appeal** or a request for a variance within thirty-five (35) days of a meeting at which it finds an application to be complete, unless this time period is extended by the parties. Interested parties and the public must be given an opportunity to be heard at the public hearing.

Mr. Bower, if he elects, will have a full opportunity to be heard and so will others, including me. Then you can decide whether the permits should have been issued to Nathan Wadsworth (Nate Sells Real Estate LLC). That is the legal process identified in the Parsonsfield Land Use Ordinance which must be adhered to by this Board.

Thank you.

Gerard Clifford