

**SOMERSWORTH ZONING BOARD OF ADJUSTMENT**  
**MINUTES OF MEETING**  
**NOVEMBER 1, 2017**

**MEMBERS PRESENT:** Paul Maskwa, Chair, Matt Keiser, Vice Chair, Donald Routhier, Richard Brooks and Roland Dumont.

**MEMBERS ABSENT:** None.

**STAFF PRESENT:** Shanna Saunders, Director of Planning and Community Development and Christien DuBois, Assessing/Code Clerk.

The meeting was called to order at 7:00pm.

**1) APPROVAL OF THE MINUTES OF THE MEETING OF SEPTEMBER 6, 2017.**

**Motion:** Keiser moved to approve the minutes of the meeting of September 6, 2017. The motion was seconded by Dumont and the motion passed unanimously 5-0.

**2) OLD BUSINESS**

A) Any old business that may come before the Board.

None

**3) NEW BUSINESS**

A) ASZ Management Services, LLC is seeking a variance from Section 3.A.1-3 of Chapter 11A the Dumpster Ordinance regarding the placement and screening of a dumpster on property located at 36 Midway Park, in the Residential Commercial (RC) District, Assessor's Map 42, Lot 05, ZBA #14-2017.

Saunders stated that this property's dumpster was discovered by Code Enforcement for not being in compliance with the dumpster ordinance. The violation notice offers the possibility for appeal to the Zoning Board. This is an administrative appeal rather than a variance. An administration appeal does not require the 5 criteria to be followed, but this was a question of interpretation of the ordinance.

Maskwa asked Saunders if the applicant feels that they have been incorrectly given a letter.

Saunders stated that was correct.

Maskwa opened the public hearing at 7:03pm.

Saunders read in an email from an abutter into the public record.

Routhier asked Saunders if this dumpster could be placed anywhere on the property and if the dumpster has to be on a hard surface.

Saunders answered that applicants have to come to the Planning Department for administrative approval, which is also reviewed by the Fire Department so there are

some limitations as to where dumpsters can be placed. Saunders stated that the dumpster does have to be on a hard surface.

Andrew Zipkin, the property owner stated that the dumpster has been there for approximately 6 months now. Zipkin stated that he was not aware that he was violating a City Ordinance. Zipkin said his biggest concern to fencing in the dumpster is the elimination of parking spots and the problems related to snow removal. Zipkin said that unlike restaurants, there is no smelly garbage. The contents are light construction debris.

Keiser confirmed that the dumpster is not screened in presently and asked what the cost of screening would be.

Zipkin answered that the dumpster is not screened in and screening it would eliminate a parking spot.

Routhier asked why he couldn't place the dumpster on the grass.

Zipkin answered because he would have to place a slab and snow is cleared into the grassy area. There is also a job site trailer that is frequently parked there.

Saunders passed photos around of the trailer.

Maskwa asked if the dumpster would be permanent.

Zipkin answered that he would like it to be a permanent asset of the business.

Maskwa asked what the size of the dumpster would be.

Zipkin answered that it is the second smallest size dumpster offered.

Maskwa asked how many public ways the business is exposed to.

Zipkin answered three public ways that face the property.

Maskwa asked at what time the dumpsters are emptied.

Zipkin answered that the dumpster gets emptied before 7:30am.

Routhier asked what the dumpster is used for.

Zipkin answered that the dumpster is used for remodeling debris such as cabinets or sheetrock from other work areas.

Maskwa asked if he had the dumpster onsite last winter.

Zipkin answered that he did not.

Maskwa asked about parking on the lot and along Midway Park and any prohibiting ordinances.

Saunders stated that she would do research and get back to the Board.

Maskwa asked about the zoning of the location.

Saunders stated that the property is located in a combination of residential and commercial districts.

Maskwa closed the public hearing at 7:22pm and began deliberations on the appeal.

Keiser asked if the violation was written for Section 3A of the Dumpster Ordinance or Section 3B of the Dumpster Ordinance.

Saunders stated that it would be 3A.

Keiser stated that he believed that the City was correct in writing that violation because the property currently did not meet what the ordinance stated.

Dumont and Brooks both stated that they agreed.

Routhier stated that this is not a variance but an administrative decision and they can only decide whether or not the violation was properly issued. Routhier continued that he believed that the violation had been properly issued.

Maskwa stated that the City's legal counsel advised to look at whether the violation was properly written.

Dumont asked whether or not the applicant could apply for a variance as opposed to an administrative appeal.

Saunders stated that there is a specific dumpster ordinance so a variance would not be possible.

Maskwa asked if a permit was required for the dumpster install.

Saunders stated that there should have been but there wasn't.

Routhier asked why a permit would be required if it was not placed on a concrete slab.

Saunders stated that it would be a site plan amendment and dumpsters would need to be shown. Any changes to a commercial site would require a site plan amendment.

Keiser motioned for the administrative appeal to be denied, seconded by Brooks. Motion passed 5-0.

B) Any other new business that may come before the Board.

None

Keiser moved to adjourn the meeting.

Seconded by Dumont, motion passed 5-0.

Meeting adjourned at 7:29pm.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read 'Christien Dubois', written in black ink.

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Christien Dubois, Assessing/Code Clerk  
Somersworth Zoning Board of Adjustment