

DUNBARTON ZONING BOARD OF ADJUSTMENT
Monday, April 10, 2023 ~ 7:00 p.m. ~ Town Office

MINUTES OF MEETING

Chair John Trottier called the meeting to order at 7:00 p.m.

Attendance: Vice Chair Jim Soucy, Secretary Alison Vallieres, Dan Dal Pra, Chair John Trottier, Matthew Delude, and Alternate Derrick Labranche

It was verified that the meeting was posted in two places and in the Concord Monitor.

Election of Officers:

Dan Dal Pra nominated John Trottier as Chair; motion seconded by Jim Soucy. Majority in favor; John Trottier abstained.

Dan Dal Pra nominated Jim Soucy as Vice Chair; motion seconded by Matthew Delude. Majority in favor; Jim Soucy abstained.

Dan Dal Pra nominated Alison Vallieres as Secretary; motion seconded by Matthew Delude. Majority in favor; Alison Vallieres abstained.

Approval of previous meeting minutes: Matt Delude said the minutes refer to a letter being attached, but he did not see a letter with his copy. Donna explained that the letter submitted by the Baileys was attached to the official office copy of the minutes. **Matt Delude made a motion to approve the minutes of the October 17, 2022 meeting as written with the letter attached; Dan Dal Pra seconded the motion.** There was no additional discussion. **Majority were in favor; Derrick Labranche and John Trottier abstained as they were not present for that meeting.**

Application #2023-ZBA-001, Wheeler Family Trust of 1993 by Paul W Bruzga – (D6-04-06, Low-Density Residential District) Appeal of Administrative Decision of the Dunbarton Building Inspector, Notice of Violation for violations of the Dunbarton Zoning Ordinance, regarding the unpermitted construction of a four-unit apartment building.

Paul Bruzga said he would like the entire building department file and plans considered by this Board. He reported that he has removed the stoves from the lower units. He said he would still like the reference from the Town as he has found nothing in the zoning rules that restricts having multiple stoves. Mr. Bruzga said an affidavit was given to Concord District Court a month ago to get a warrant to inspect the building. He said he previously met with Mike Cumings, former building inspector, who said he wanted Mr. Bruzga to unlock the doors so he could go in and take pictures. Mr. Bruzga said he told Mr. Cumings that the tenants have some privacy rights, and Mr. Cumings needed to talk to the people in the building to get permission to take photos. He said he did not feel he had the right to authorize that. He noted that the affidavit said he refused entry.

Mr. Bruzga stated that he ended up getting a Notice of Violation (NOV). He referred to the last paragraph on page one of the NOV that reads “*After completing construction of two dwelling units, on February 15, 2019, you were issued a certificate of occupancy for a three-level duplex, with “three bedrooms, one kitchen each half of the dwelling on a 7.17-acre lot in the LDR district”.*” Mr. Bruzga said that is basically accurate. He then referred to the first paragraph on page two of the NOV that reads: “*After your certificate of occupancy was issued, you improperly, and without approval, constructed two additional dwelling units in the basement level of both apartments. This entailed the construction of a full second kitchen and a bedroom in each*

basement dwelling unit.” Mr. Bruzga said he looks at that as categorically false, noting that the entire building was built at once, top to bottom. He said he went to the building inspector in 2017 with plans, showed what he wanted to build, feeling that was the most appropriate thing to build, being a larger residence that would facilitate elderly parents or a handicapped person or some other member of the household with basically roll-in access to the basement. He said that is what was said many times, and it was built exactly as the plans showed. He said there was a statement that he deviated from the plans and did other things. Mr. Bruzga said not one square inch has changed, other than relabeling the names of rooms and a few other things. He said he hand-wrote changes on the plans, then had the plans reprinted. He said nothing changed except some verbiage.

Mr. Bruzga said he submitted a letter back to the Board relative to his answer, adding that he is unfamiliar with the process but has tried to show best faith and explain the situation. He said he went to the Board of Selectmen shortly after the inspection was done and told them what happened. He explained to the BOS that the plans were there from the beginning, it was built exactly as the plans show, and they were still not able to give him any guidance relative to the second stoves. He was told the process would play out and that is why he is here.

John Trottier asked if the building permit was for a duplex. Mr. Bruzga said it was. Mr. Trottier asked how many bedrooms are in each duplex. Mr. Bruzga said there were three. Mr. Trottier asked how many bedrooms are in the duplex today. Mr. Bruzga said there are three on each side. Mr. Trottier said he understands the issue would be the kitchen areas in the basement, and from what has been observed, this is a duplex with additional apartments in the basement. He confirmed that there are kitchens and bedrooms in the basement, creating the third and fourth apartments. Donna White said that was correct. The department has plans showing the purpose of each room and notes of there to be no kitchens in the lower units. Brian Arsenault introduced himself as the Building Inspector who triggered this appeal. He said the Board has heard testimony that the plans have not changed. Mr. Arsenault said the structure on the outside has not changed, however, internally they have changed. He said the basement now is two separate units. He said they have heard testimony that it was built for in-laws, handicapped people, etc. yet it is not set up that way. There were no special provisions such as handicap toilets, cabinets, or access. He said the Board heard testimony that two stoves were removed. Mr. Arsenault asked the chair to ask why that was done. Mr. Trottier asked Mr. Bruzga why the two stoves were removed. Mr. Bruzga said he was asked to remove them, saying he believes it was right in the NOV. He said that was the only thing that changed. Mr. Bruzga said, around the time of the CO being issued, Mr. Cumings had him sign an agreement that he could not put electric stoves in the lower units. He said the kitchen was already built and initially he did not put stoves in, then things changed. Mr. Bruzga stated that there was a mother, three kids, and a grandmother renting an entire side. He said he decided it was a safety issue and would be safer to have a heavy stove in place rather than a hot plate on the counter.

Matt Delude asked if there are four different families at the house now. Mr. Bruzga said no. He said his understanding of a household is one or two main occupants and up to three adults renting rooms. He said that is his understanding of a residence in NH. Mr. Delude asked how many tenants there are and how many are unrelated. Mr. Bruzga said there are three tenants in the building. They are not related. Mr. Delude asked if there are two on one side and one on the other side and if any are related. Mr. Bruzga said the couple is not married but there is no requirement to be married. Matt Delude said the issue is if there are more than two families living in this place. Brian Arsenault said he did not get an answer as to why the two stoves were removed. The chair said it was his understanding they were removed because the letter said to remove them. Mr. Arsenault stated there was no request to remove stoves. He said a home can have as many stoves, sinks or refrigerators as they want, citing man-caves and game rooms as examples. Mr. Arsenault said the previous building inspector gave that information. He reminded the Board that we are here tonight for an appeal of administrative decision. He said we have heard testimony when board member Delude asked if there were currently three units. Mr. Arsenault asked Mr. Trottier if he could ask the applicant if, when the NOV was written, there were four units, because that is what he witnessed during the inspection. John Trottier said that is his understanding.

Donna White read from the NOV *“You are hereby ordered to removed two of the four unpermitted dwelling units at the Property to bring the dwelling into compliance with the approved plans and schedule inspection to confirm same.”* The chair said he would like to hear what Mr. Bruzga has to say. Paul Bruzga referred to the second page of the NOV where it says after the issuance of the CO, two units were constructed in the basement. Mr. Bruzga said that is blatantly false as the entire building was built at once, top to bottom. John Trottier asked why it is being considered four separate units. Brian Arsenault said he toured the facility with Donna White and the police chief. They observed basement units on both sides. He explained how anyone could go upstairs from the lower level. One upper unit had boxes stacked in front of the basement door, what he called Yankee security, where the boxes would be moved if someone entered from the lower level. Mr. Arsenault said tenants from the upper level could not get into the lower unit, which was locked, thus being an independent unit. Mr. Bruzga said there are stairs to the lower level, and the doors at the top have passage sets with no locks. He explained that a tenant in a lower unit was concerned for their safety and felt they had to have a lock, which they installed. He said that has now been changed back since those tenants moved out. Mr. Bruzga said there are no locks between up and down, and tenants can go through the entire building. Brian Arsenault said they were here for an appeal, and that was not the case at the time of inspection, noting that the concern here is life safety.

John Trottier said it sounds like different things have changed since the letter was issued. Brian Arsenault said he his hearing about three units, now hears that two stoves were taken out, so were there four units. The chair asked Mr. Bruzga if there were four units. Mr. Bruzga said it depends on how you look at it. He said it was built as separate duplexes. He said the tenants share the space, water, utilities, wi-fi, trash, etc. and they decide what they want to do with the space. He said he does not tell people where they have to live or to sleep in this bedroom or that. He said they sign the lease and have the entire side to do what they want. He said it is up to those on the lease. John Trottier asked how many people signed leases. Mr. Bruzga said it depends on the lease.

The chair said he would like to go back to Mr. Bruzga’s rebuttal. Mr. Bruzga said the NOV contains allegations that he feels are blatantly false. He said no further construction was done after the CO was issued, and all three floors were complete. He said the only exception after the CO was, in an abundance of caution, he contacted State mechanical and electrical inspectors, seeking verification that the electrical and mechanical work were safe and appropriate. Mr. Bruzga said he met the state inspectors and Mr. Cumings at the building. He said there were probably four meetings, inspections were done, work to be done was noted, the work was done to correct issues but there was no construction done. John Trottier asked to clarify that work was done after the issuance of the CO. Mr. Bruzga said no, in an abundance of caution, he wanted an expert to inspect the electrical and mechanical. Mr. Trottier asked who did the initial work. Mr. Bruzga said he thought the electrician’s name was Doug Vangas and Panzieri did the plumbing and mechanical. Both were licensed professionals. Mr. Trottier asked why Mr. Bruzga would pay professionals to do the work, then question the work and pay them. Mr. Bruzga said he had to pay in advance to get tradespeople to show up. He said Mike Cumings approved the work they did, but he was not comfortable with that. He said the state inspectors issued a list of code violations and remediation needed. Mr. Bruzga said he ensured the work was done correctly, referencing electrical breakers and gas furnaces being replaced. He said the plumber mixed domestic hot water with the heat water, which is improper, illegal, and unsafe. Mr. Bruzga said the plumber convinced Mr. Cumings it was fine; the state inspector said to tear it out and replace it, which he did through another contractor. He said the whole thing was very enlightening when it was said there were major deficiencies in the building. Mr. Bruzga said he was concerned about his liability, so he had the work corrected and inspected.

Mr. Bruzga returned to his response, point #10, saying he requested guidance from the Town to build ‘Shared Residences’ right from the beginning. He said the only issue during the entire process was the additional stoves, as noted in point #11. He said he asked to be provided with the rule or regulation that addressed that limit, but never received any. He said there were no other complaints and went on to explain why he put the electric stoves in. Mr. Bruzga said the intent when built was to have a family share one side of

the duplex, as noted in point #12. He read through points #13 - #15. Mr. Bruzga said he has removed the stoves as requested.

Matt Delude asked Mr. Bruzga if he had copies of the two leases. Mr. Bruzga said someone has them, maybe the building department. Donna said she has some, but they are not current. Mr. Bruzga said there is one for Corey Parent on Side B. Donna said she has nothing signed by Mr. Parent. Mr. Bruzga said there are a couple of engineers on Side A. Jim Soucy said the inspection was done on January 20, 2023, so whatever leases they are looking at should reflect that time. Donna showed the signed Kozatek lease to Mr. Delude. Mr. Bruzga said he did not know the Town would be requesting leases, noting that he gave a number of them to the building department. John Trottier said a question the Board was going to have was about the leases. Mr. Bruzga said he could get those to the Town. Jim Soucy asked if the lease that Mr. Delude has is the same lease as others living on the property in January. The chair said he feels the Board is going to send Mr. Bruzga away with a list of what they want to see so they have everything at hand. Donna said she was given several versions of leases. Matt Delude said they need documents from the time period when the inspection was done. John Trottier said even though the stoves were removed, it sounds like there is still the possibility of four units out there.

Matt Delude spoke about the dimensional requirements of the multi-family housing district with three or more units. He said this building is not in that zone. He also spoke about the acreage required, saying if this is four units there is a problem. Jim Soucy asked if the plan sheets include electrical diagrams. Donna reviewed the plans, reading the notes added before approved. Mr. Soucy said if it was constructed per the plans they must have been wired to handle the stoves. Now that the stoves have been removed, they could be plugged right back in there a couple of months from now. Donna confirmed there were no electrical diagrams with the plan set. She said the basement section was labeled as there would be no kitchen and it would be an entertainment room. Donna said when Mike Cumings issued the CO there were no electrical outlets in place for the stoves. She said since the office started their investigation after receiving concerns from an abutter last summer, they have learned that the stoves were in the lower units. At the time of discovery, Mr. Cumings asked for an after-the-fact electrical permit as there had been no connection, and somebody has come in and installed circuits for the stoves. That permit was never received. Donna said again there was no 220-power in place for stoves at the time of the CO being issued. Jim Soucy said his concern is that the stoves have been removed but they could be put back in.

Matt Delude said if they are sending Mr. Bruzga back for additional information, he would like to know the basis of the equitable estoppel and municipal estoppel mentioned on the application. He said he is not hearing anything about representations made by the Town or the building inspector that Mr. Bruzga relied on. Mr. Delude said there are very specific things needed for the estoppels to apply. He said it sounds like Mr. Bruzga is contesting factually some statements made in the NOV, but he is not hearing that there were any actual comments made by the Town that he relied upon. Mr. Bruzga said he is not sure if the Board has seen the plans, but he showed them to the building inspector, discussed his plan, got the okay to build it, and built it. Jim Soucy pointed out that the final version of the plans for the basement area states there are not supposed to be kitchens. Mr. Bruzga said you can call a room anything, and he cannot tell people who rent that they cannot have a computer room/office, dining room, etc. He said it was built exactly as on the plans. Jim Soucy asked if the tenant put in the wiring for the stove. Mr. Bruzga said the wiring was there, the circuit breaker was there, it was not hooked up, but it was inside the wall. He spoke about his plan at one time was the possibility of solar on the full top, using excess power to heat water or maybe put in mini splits. He said they could have hot plates, etc. on the counter. Mr. Bruzga said at one point he was considering using the units for Airbnb but then Covid hit, and it was not a good time for Airbnb.

John Trottier said it sounds like Mr. Bruzga was paranoid about stuff, but the project was done screwy. Mr. Bruzga said he hired licensed professionals to do the work. He said he was offered the opportunity to make formal complaints against the electrician and plumber but was concerned for his safety because he did not trust their behavior and the way they were acting. He said he heard 'scuttlebutt' through the rumor mill to be careful

of them. Mr. Bruzga said their chief supervisor saw their work, and he should have taken their licenses, made them go to school, and learn to do it the right way. He said he did not want someone's animosity aimed at him.

Matt Delude asked Mr. Bruzga if he agreed a two-unit building should have only two families. Mr. Bruzga said he would agree and asked Mr. Delude to define family. Mr. Delude said the building would be limited to two families in the entire structure. He asked to clarify that Mr. Bruzga was not asserting that the Town ever told him it was okay to have three or four families there. Mr. Bruzga said that was correct, but they need to define family. Mr. Delude said he saw the estoppel argument, he is not seeing any reference, so he just wanted to clarify that the Town did not assert that. Mr. Bruzga said he ran the situation by the Portsmouth Building Inspector who went through it and said it is municipal estoppel. He said the NOV seems to say to tear out the basements, seemingly to the bare walls. Mr. Bruzga said that is how he reads it, adding that it is not legal, lawful, or appropriate. He said if the Town did not want him to build it as shown they could have said unfinished basement, etc.

Jim Soucy referred to the application that noted missing items. Donna White explained that the packet did not include a deed, letter of authorization, or plot plan when first received. Those items have since been submitted, although she is not sure they are current or accurate. John Trottier said Donna gave him a copy of the limited power of attorney granted by Helen Champa in 2011, granting Mr. Bruzga the power to represent the trust. He said it was his understanding that Helen Champa is no longer the trustee. Mr. Bruzga said that was correct. He said Robin Morgan and his three other children are co-trustees, with a senior trustee. The chair asked if he had any paperwork on that. Mr. Bruzga said he does but it does not void the authorization presented, he is an agent for the trust. Jim Soucy asked how he is the agent. Mr. Bruzga said the chair read the paper; that power was never taken away. Mr. Soucy asked when Helen Champa was no longer the trustee. Mr. Bruzga said he did not know the exact date, but it was many years ago that it changed from his sister to his children. Jim Soucy verified with John Trottier that the paperwork presented was by Helen Champa, trustee of the trust fund, dated June 2011.

Brian Arsenault said the letter of authorization had also concerned him. He said if Helen Champa is no longer the trustee, someone has to give authority. Mr. Arsenault said he would like to see that document, along with the leases. He said the building department made copies of the entire file for Mr. Bruzga. The check for those copies was not signed by this individual but by another person. Mr. Arsenault said he was curious as to her role, and maybe a letter of authorization would note that. Matt Delude said the Board does not technically have jurisdiction to review the application if not filed by the appropriate person. Jim Soucy added they do not technically have the authority to hear the appeal. Donna explained that the Town's tax records show Helen Champa as the trustee. She said she spoke with Mr. Bruzga about that, and he said she is no longer the trustee, his daughter is. Donna said the letter of authorization raised the question again. She said the checks have been signed with a stamped signature, presumably his daughter's, but she has not seen anything that says his daughter is the trustee. Matt Delude said if Mr. Bruzga is not authorized to represent the trust, the ZBA cannot hear the case. This needs to be clarified. Jim Soucy spoke about the appointment as agent by someone who is no longer agent, now one or more trustees, and how he would think it would fall to the new trustee to appoint an agent, and the former appointment revoked.

Jim Soucy said, with respect to the Town's file, the appellant's submission #2 claims the NOV contains allegation that are false, and #9 mentions an affidavit. Donna White said those documents are in the file. Matt Delude said he noticed a reference to something being filed with the court. Donna explained they had to go to court to get the administrative inspection warrant to do the inspection in January. Brian Arsenault explained that he took documents to the court, had them signed, and then conducted the inspection. Paul Bruzga said false statements were used in the affidavit to get the court order. He said the affidavit said he would not allow anyone in the building, yet he had told Mike Cumings to get permission from the tenants. He said Mr. Cumings could have gone to the place, knocked on doors, and got pictures. Mr. Arsenault said the previous inspector did not do that, but he did. He explained that pictures and a report were given to town counsel which led to the Notice of Violation. He spoke about the history of the matter and life safety requirements of any structure with

more than three units needing sprinklers per the fire marshal. Mr. Arsenault said the Board has heard testimony that Mr. Bruzga did not change the plans, when in fact the plans have been changed. The plans said there were to be no kitchens, yet there are clearly kitchens. He said there were clearly locks. Mr. Arsenault said if the applicant says there are more than two units, based on leases, he would like to hear that and move forward. John Trottier said it would be nice to move forward without court action. Mr. Arsenault stated that he has been through this process before, summarizing the timeframe, safety issues, and the need for a letter of authorization and leases in place on the date of the inspection.

John Trottier said he would like to see the plans used at the time the building permit was issued and the inspection report. Jim Soucy asked how many people were living on Side A at the time of the January 20, 2023 inspection. Mr. Bruzga said there were three; an individual whose children visited at times and a couple who had a baby during their time there. Mr. Soucy asked how many people were living on Side B at the time of the inspection. Mr. Bruzga said there were three adults. Matt Delude asked if the people on Side A were all living together as a single housekeeping unit. Mr. Bruzga said there was a single lease with all parties. Mr. Delude said, per the Dunbarton Zoning Ordinance, a family is any number of people occupying a dwelling unit and living together as a single housekeeping unit. He asked if there were two and a grandmother. Mr. Bruzga explained there were two people who were in a relationship. He said once they have rented space they can do whatever they wanted with regard to who sleeps where, etc. He said he does not tell people what to do. Matt Delude asked if Side B was the same. Mr. Bruzga said there were two adults together, not married, and a single woman. Donna stated that the single woman was in a separate unit in the basement. Mr. Bruzga said tenants could pick any space they wanted, someone picks a bedroom or where to put their stuff, he does not tell people what to do once they rent the space.

Matt Delude said he felt they have enough information to decide this today, saying it is very apparent that there are four units. Brian Arsenault said, as reported, there were locks on the lower unit. The tenants from the upper level could not enter that unit. He pointed out that the residents who lived there, and he met that day, are in the audience. Jim Soucy said the board cannot technically act on the appeal without the proper power of attorney. Paul Bruzga said he believes what they have there is a legal, binding power of attorney. He said they may want to check with their lawyer. John Trottier said Mr. Bruzga may want to provide some basis that his daughter is now the trustee giving him authorization as the agent. Jim Soucy said he would like clarification if the applicant is saying he is the agent on behalf of Helen Champa or on behalf of his one or more kids; it is one or the other. John Trotter said the Board needs something that says Helen Champa is out of the picture and these kids are the trustees. Jim Soucy pointed out that it should be something that already existed prior to this NOV and application. The chair asked for the deadline to submit new information. Donna said the submittal deadline for the May meeting would be April 17th.

Paul Bruzga said he has already said what they have is legally binding. John Trottier said he understands what Mr. Bruzga is saying, but the Board is saying they want something current to clarify the matter. Mr. Bruzga said his daughter is not local, she is in Reading, MA, and he asked to confirm that the Board wants this information by next Monday. Jim Soucy said Mr. Bruzga is on both sides of the fence at the same time. He said if the power of attorney is still operative under the law and is in effect, he would like to see the legal basis for that. He said that trustee is out of that position and at some point all the others started serving as co-trustees. Mr. Soucy said he would like Mr. Bruzga to tell the Board which he is operating under. Mr. Bruzga said the POA was not revoked, and it continues to be operative. Mr. Soucy said he understands Mr. Bruzga's assessment or personal opinion, but he needs to provide the legal basis that someone who is no longer the trustee is still able to authorize an agent. Mr. Bruzga said they just accept the fact that he will act as the agent. He said they could have revoked it, but it has not been revoked. Jim Soucy again said that Mr. Bruzga has to say which way he is going. Tonight, he is saying that he still has the POA by Helen Champa, but also is now saying there are new trustees. Mr. Soucy said those documents and instructions had to exist prior to March 20, 2023. Mr. Bruzga said the new trustees have not disempowered him. Mr. Soucy said they need a legal basis accepted by NH law.

Alison Vallieres said the Town records show Helen Champa as trustee. She asked if that should be corrected. Donna explained that the most recent deed the Town has on file lists her as trustee. She said Mr. Bruzga told her that trustees often change, and he did not know or feel the deed or record had to be updated every time they change. Donna said she does not know the technicalities of such matters. Matt Delude spoke about when authority was given, before or since the appeal was filed. Donna explained that the NOV was sent to Paul Bruzga, as well as in a separate mailing to Helen Champa as Trustee because she was listed on the property records. She said they wanted to be sure all parties were notified, even though they were at the same address.

The chair opened the hearing to the public at this point.

Gerren Kozatek stated that he and his wife Tatiana wanted to be here tonight because their names were brought up by Mr. Bruzga at the February 2, 2023 Selectmen's meeting. He said they wanted to be here to defend their names if anything was said that they disagreed with. He said they have no information to present but would answer any questions. Mr. Kozatek noted that they are previous residents of 51 Morse Road. Dan Dal Pra asked what part of the building they were in. Mr. Kozatek said they were on the A side, basement level. Mr. Dal Pra asked if they had a complete unit. Mr. Kozatek said they did. Matt Delude asked if they had complete housekeeping facilities, everything needed to run a household in their unit. Mr. Kozatek said they did. Mr. Delude asked if the upper level of Side A had the same. Mr. Kozatek said he would assume so. Brian Arsenault stated he saw that during his inspection. Matt Delude asked Mr. Kozatek if there was one person above them. Mr. Kozatek said there was one parent. Mr. Delude confirmed this was the unit where children sometimes visited. He asked to confirm that that person did not live with them as the same housekeeping unit. Mr. and Mrs. Kozatek both said that was correct.

Ben Mitchell, an abutter at 58 Morse Road, said he has had nothing but trouble with Mr. Bruzga. He said he did not know him but had filed several criminal investigations with the Dunbarton Police Department for conduct with Mr. Bruzga. He suggested the Board take into consideration Mr. Bruzga's credibility, referring to open sources on the internet. Paul Bruzga asked Mr. Mitchell to expand on what he was saying. The chair stated this session is for the Board to gather input from the public only.

Rick Stoehrer and his wife Janice are abutters at 42 Morse Road. Mr. Stoehrer said they moved there about one year ago and have seen the property in question be developed, including the additional driveway and awnings at the doors for the downstairs tenants. He said it is easy to see it is an apartment building, with six or seven cars and a boat in the yard. He said they moved here for the quiet town, and they do not want to live next to an apartment house. Mr. Stoehrer said the town has zoning that limits apartment buildings to certain parts of town and those do not include Morse Road. He said the CO was not for an apartment building, and it should be pulled.

Jeff Crosby, 17 Stark Highway South, said the Board has heard a lot of information that is not even pertinent to the matter, such as issues with the subcontractors. He said he does not know what that has to do with the situation, and it just muddies the water. He noted that Mr. Bruzga at one point mentioned a two-unit duplex and another time mentioned using it as an Airbnb. Mr. Crosby said it sounds like the building had the potential of being an evolving project.

Hearing no further comment, the chair brought the discussion back to the Board.

Matt Delude said he would move to decide the appeal based upon what has been heard that at the time of the inspection there were four units. He read the definition of duplex from the Zoning Ordinance. He also read the definition of family from the Zoning Ordinance. Mr. Delude said what they have here is two living together and a separate unit, then two people and one single on the other side. He said if the Board sent Mr. Bruzga to get more information he would feel they are just wasting his time. Mr. Delude said it seems very clear. He noted that Mr. Bruzga took the stoves out, which were there at the time of inspection. He said he is not sure they have the jurisdiction to decide tonight but feels the result would be the same.

John Trottier asked the Kozateks if there were two separate units on Side A when they lived there. Mrs. Kozatek said that was correct. He asked if it was the same on Side B. She said that was correct, adding that the

woman in the lower unit moved out in March, as they did. Mrs. Kozatek said they keep in touch with her, explaining that that woman had signed a second lease that was presented to tenants on both sides when Mike Cumings was coming to inspect last summer. She said the woman seemed very concerned of what was going on because she had lived there before the people above her and had a one-person lease. Donna noted that the lease she showed Mr. Delude earlier was the one that Gerren and Tatiana had signed when they first rented their unit.

Matt Delude said from the testimony there are four units, and he feels the Board can move forward with the information they have. John Trottier said they also have the reliability on the staff's findings and the inspection. Mr. Delude said they have the facts from the staff, from the public, and from the applicant himself. He said the only potential issue is the jurisdictional question, the outcome is the same. Brian Arsenault stated if this hearing is continued, the public does not have to attend as the hearing has been closed to the public.

Paul Bruzga said he would like to point out again, as he said at the beginning, when he first got the CO Side A was rented by a mother, two children, and grandmother. He said clearly a family was using the whole Side A. He said that was his intent, and he was also hoping that would happen on Side B when the couple from Pennsylvania were planning to live there, with elderly parents in the lower level. Mr. Bruzga said that is what was presented to the Building Inspector when it was first designed and approved to be built. He said that is where the municipal estoppel comes in; the Town said it could be built, he did not deviate other than the stoves, which he felt was a safety issue but have now been taken out. Mr. Bruzga said he is 100% in compliance with the plans and what the Town approved. He said nothing was changed afterward, and the Board is stepping right into municipal estoppel.

John Trottier closed the hearing to the public, bringing it to the Board for deliberation. He said voting members would be Jim Soucy, Alison Vallieres, Dan Dal Pra, himself, and Matt Delude. Matt Delude said he would plan to move to a decision. He said the municipal estoppel has no merit, the Town approved a duplex, it is on a stamped plan as a duplex, and everyone agrees his plan for a two-family unit would have been acceptable as a duplex. Mr. Delude said the change in circumstances does not change the zoning requirements for a duplex. He said the Board is hearing testimony that is undisputed, including from the applicant, that there are four family units there. Mr. Delude said he feels it is pretty open and shut. Alison Vallieres had no questions or comments. Jim Soucy said he could not say he disagreed, as he agrees with the practical end of having the applicant come back a second time to learn the same thing, but procedurally, if not given the power and legal authority to render a decision, that should take precedence over making a decision. He said functionally and practically he agrees with Mr. Delude with respect to the appeal. He said they have a well-defined path to follow, and procedures do matter. Mr. Soucy said he agrees with what they have heard and how it applies to the matter before them, but whether or not the appellant has legal standing is still an essential issue.

Board members discussed their authority, moving forward, agent appointment being valid, and if the POA may have dissolved. Dan Dal Pra said the members have heard two versions of who is trustee and who is not. Jim Soucy noted that nothing has been presented to the Board that says this is how NH law decides this. He said there was a trustee in 2011, who has not been the trustee for a very long time, the application was filed on March 23, 2023, now there are four or five new co-trustees. He said this all raises serious questions for him. Brian Arsenault said the hearing was opened, the Board heard testimony from the public, it was closed, the Board deliberated, now the matter can be continued so the most current documentation of letter of authorization and the leases can be submitted, and a decision made at the next meeting. Matt Delude said he was not sure the leases were even still needed after hearing the testimony tonight. He referred to NH RSA 674:33, I about the Board's power to hear appeals and 674:33, VIII about an approval or disapproval being considered within 90 days of the date of receipt.

John Trottier asked the Board if they wanted to give Mr. Bruzga the opportunity to give them information on his status as agent. Jim Soucy said they need to know if he remains the agent for Helen Champa, or he needs to file as the duly appointed agent for the new trustees. Dan Dal Pra asked if they could vote tonight, contingent on determining his status as the agent. John Trottier said it would be a lot cleaner if the

Board had all the details when voting. He said he is leaning toward giving Mr. Bruzga the opportunity to provide additional information, although he is ready to decide tonight. It was mentioned that the Board does not want to risk a technical error, causing the homeowner to lose his property rights.

John Trottier told Paul Bruzga that he needs to present documentation that he has the power to act on behalf of the Trust by April 17th. Jim Soucy said, so it is clear, the applicant takes the position when he filed the appeal he had the authority appointed by Helen Champa. He asked Mr. Bruzga to provide the Board with a still valid document or a document that as of March 20, 2023 the new trustees had already appointed him as their agent. Mr. Bruzga said he had presumed one of the outcomes could be that the Board, for the Town's behalf and his behalf, more formally and critically decide the explanation or definition of family. He asked if a mother/children/grandmother on one side was okay. He said if the Board says he can only rent to related parties, he would do that. Matt Delude said the Board will render a written decision once decided.

Jim Soucy made a motion to continue the Administrative Appeal hearing, 2023-ZBA-001 Wheeler Family Trust of 1993 by Paul W Bruzga, with public comment concluded, to May 8, 2023. The applicant is to submit in writing the substance that the applicant's position continues to be duly appointed power-of-attorney for Helen Champa or that prior to March 20, 2023 the current trustees of the Wheeler Family Trust had appointed him. This information is to be produced to Donna White in the building department office on or before April 17, 2023 by 4:00 p.m. The Board will consider the submitted documentation and continue deliberation. Matt Delude seconded the motion. Dan Dal Pra said the paperwork should not only verify who he is the agent for but if different from what was already submitted, also include documentation of who the current trustees are. Jim Soucy amended his motion to include the submittal documents of the Trust that records the identity of the current trustee(s) of the Wheeler Family Trust of 1993. Matt Delude seconded the amendment to the motion. All were in favor of the amendment to the motion. The chair asked for a vote on the amended motion. All were in favor. The hearing will be continued to May 8, 2023 at 7:00 p.m. There will be no further notification.

Other Business: Jim Soucy spoke about an upcoming training for Zoning and Planning Boards. Donna will distribute the details to the Board.

Adjournment: Having no further business, **Dan Dal Pra made a motion to adjourn the meeting at 8:40 p.m. Alison Vallieres seconded the motion. All were in favor.**

Respectfully submitted,
Donna White, Office Administrator