

Town of Newington, NH
Board of Adjustment Meeting Minutes
Thursday January 11th, 2024

Present: Chair Jennifer Kent Weiner, Vice-Chair and Planning Board Rep Peter Welch, Member Emily Savinelli, Member Bob Byrnes, Member John Frink, Alternate Derick Willson, Alternate Meaghan Wayss, Alternate Roger Dieker via Zoom, Town Planner John Krebs, Attorney Keri Roman, Wilcox Industries CEO Jim Teetzel, John Bernier, Engineer Bill Gregsak, Attorney Nick Jansen and Eleanor Boy, Recorder.

J. Kent Weiner called the meeting to order at 6:30pm.

J. Kent Wiener welcomed everyone to the January 11, 2024 public hearing and meeting of the Newington, NH Board of Adjustment. The Board will hear one applicant tonight.

The procedure that the Zoning Board of Adjustment will employ is as follows:

After the petitioner has presented the case, those who wish to speak in favor of the petition shall be given one opportunity to speak.

When all those in favor of the petition have been given an opportunity to speak, those opposed will speak, and anyone with a question may ask for clarification.

Following this, those in favor of the application shall have one opportunity to rebut, and when that phase is finished, those opposed will have one opportunity to rebut.

When speaking, please announce your name and organization. If you are a Newington resident, please state your name and address.

In addition, the following general rules apply:

- All questions shall be directed through the Chair. Please no private conversations between board members or the audience as this can be very distracting.
- Please refrain from discussion of personalities and please keep in mind that this is a hearing, not a trial or a debate.
- On its own motion, the ZBA may continue either the public hearing or the board's deliberations to another date. The ZBA may also elect to confer with its legal counsel about a case.

- The Chair will announce when the public hearing is closed.
- The Chair will announce that all comments from the floor will be disallowed while the Board deliberates on the case. The Chair requests no conversations from the audience during Board deliberations.
- The Board will ask questions of the applicant and will be polled by the Chair on each of the 5 criteria.
- The Chair will ask if the Board is ready to vote after discussion of the 5 criteria. The Secretary, immediately following the vote, shall read aloud the name of each member and how that member voted. The Secretary shall record the vote by member name on the original application or other medium suitable to public inspection. Votes on motions, appeals for variance decisions, and appeals on administrative decisions shall be by hand or voice vote at the discretion of the Chair.
- The Board will either approve the application, approve with conditions, deny the application, continue the public hearing, or continue its deliberations on the application to another meeting date. Notice of the decision will be made available for public inspection within five (5) business days, as required by RSA 676:3.
- After a decision has been reached, the Chair shall declare the hearing on the case completed.

J. Kent Weiner opened the public hearing on the variance application for 20 Piscataqua Drive, LLC, 25 Piscataqua Drive, Tax Map 27, Lot 2. The applicant seeks relief of Article VII to construct a parking lot that within the front, side and rear property setbacks. 10' and 20' from the existing and proposed side and rear lot lines where 30' is required and 10' from the front property line where 75' is required.

J. Krebs said that he didn't notice the wetland variance application so that couldn't be discussed tonight and apologized for the error.

J. Teetzel said that the last time he met with the ZBA, there was a concern about the level of construction that was going to take place to accommodate parking. There was a misunderstanding between the Planning Board and Wilcox to get approval for a building permit to add on to their existing building. Wilcox redid the math for how many parking spaces that would be needed for the expansion and found out that they needed 600 spaces. Parcel #2 could hold 400 parking spaces. A parking deck is no longer in the proposal. It is now a ground floor parking lot. There will be one entrance off Woodbury Ave., there are two currently there, Wilcox will abandon one.

There will be 21 feet from Woodbury Avenue, and 11 feet from the TD Bank property line. Since Wilcox moved to Newington 22 years ago, they have done four construction projects to expand their facility. Wilcox's landscaping plan will be comprehensive as they have done in the past. They will use granite curbing, there will be trees and islands in the parking lot. Wilcox will be presenting a drainage plan to the Planning Board. The security fence will be around the building instead of around the entire property like they had originally proposed. There are many easements on the property including electric, gas and telephone. Wilcox will also be asking for a lot line adjustment to combine lots 2 and 3 and have lot 1 separate.

J. Krebs said that the common boundaries between parcels 1, 2 and 3 are likely to go away. These variances are temporary because eventually the lot lines will go away, and it will be one big parcel. J. Teetzel said their plan was to develop the entire property.

N. Jansen, who represents Granite Shore Power, said that he wasn't here to speak against this project but just wants to be involved in conversations about the setback variances on adjoining properties when discussed.

P. Welch moved to close the public hearing. J. Frink seconded the motion. All were in favor.

J. Frink questioned if the GSP representative needs to evaluate the plan, can the Board act on these variances. J. Krebs said that the abutters were notified, and the plans were available at the town hall for 10 days. J. Krebs believes that this shouldn't slow down the zoning board's decision in any way.

P. Welch asked about using pavers in the parking lot because they are permeable and there is a 35% requirement for permeable surfaces. J. Teetzel said that he would be concerned about snow removal with pavers and frost heaves. Discussion ensued about if pavers were a structure or not. J. Teetzel said that he wasn't aware of any other businesses or industries in Newington that had pavers in their parking lots. J. Frink said that they have approved pavers in the past. J. Krebs said that those pavers had been paved over.

M. Wayss said that she understands that the maintenance for pavers is difficult. The granite curbing is professional and appreciated the thoughtfulness of the plan.

K. Roman asked if Newington had an impervious coverage requirement. J. Krebs said yes. K. Roman said that it wasn't in the zoning ordinances. J. Krebs said it was a regulation.

B. Byrnes asked about the planned grading of the lot and the parking lot and the sight lines of the driveway. J. Teetzel said that the grading was only a foot, and the sight

lines were addressed in the traffic study that was done. J. Teetzel explained that the parking area would be about the same grade as the paved area in TD Bank and they would be presenting a drainage plan to the Planning Board.

P. Welch said that the Planning Board will require Wilcox to control all the water on site as part of their drainage plan.

D. Willson asked if 600 parking spaces were sufficient. J. Teetzel said yes, it is 10% more than they need now, but will cover them for future growth.

D. Willson asked about the requested lot line adjustment. B. Gregsak said it is internal lot line adjustment. J. Teetzel said that the lot line couldn't move to the left because of the telephone easement.

J. Frink asked about parcel #1 and parcel #2 were one lot on the previous plans, so it looks more like a subdivision than a lot line adjustment. J. Krebs said that this lot line adjustment is proposed because of financial reasons. Wilcox Industries paid a lot of money for this lot and borrowed money for this project. By doing this, it creates value for parcel 1 and if something goes "south" with this project then this separate lot could be sold. The lot line adjustment would just make one lot bigger and one lot smaller.

K. Roman asked if lot #1 and #2 are separate lots currently. J. Krebs said no. K. Roman suggested that a condition for approval of the variances might be that the Planning Board approves the lot line adjustment and a site plan.

J. Krebs said that there is a long history with this parking issue. The planning board had approved Wilcox using the vacant lot across the street for parking, but it was a safety issue. This lot became available and so the plans changed for their parking.

E. Savinelli said that the plans from the last meeting showed that both entrances to the lot off Woodbury were going to be abandoned. The new plans show an entrance off Woodbury to the parking lot. E. Savinelli asked if people would be exiting the parking lot using the exit onto Woodbury and would they be turning left. J. Teetzel said that the fire department had recommended an entrance/exit out of the parking lot onto Woodbury and yes, people would be turning left. Many businesses along Woodbury Avenue have left turns onto Woodbury.

K. Roman asked if the lot line between parcels 2 and 3 could be eliminated. J. Krebs said that it was going to be eliminated. The two lots will be combine to be one lot.

D. Willson asked about the objective or purpose of the setback ordinances. J. Kent Weiner said there was a general purpose.

J. Kent Weiner asked about the landscaping plan and would it include trees along the Woodbury border. J. Teetzel said yes, specific trees that won't interfere with the power lines. There will also be trees in the islands in the parking lot.

J. Krebs said the landscaping along Wilcox Way is very well done.

J. Kent Weiner read the general purpose listed in the Newington Zoning Ordinance:

This ordinance promotes health, safety, morals, convenience, economic prosperity, and general welfare in the Town of Newington, NH. It regulates use, civic design and arrangement of structures and land for trade, industry, residence, transportation, and other public requirements in accordance with the Town Master Plan to retain the rural charm now attached to our town. The ordinance seeks to achieve its purpose by defining standard terms; establishing districts; setting limits on structures and land use; identifying requirements for specific facilities, businesses and land use; and identifying procedures for the administration, amendment and enforcement of this Zoning Ordinance.

M. Wayss said that the revisions made to the previous plan are very thoughtful and this is a huge investment and will benefit Newington. The vision of the plan is refreshing, especially for that area of town. Value is being added.

Discussion of the five criteria questions began:

1. The variance will not be contrary to the public interest.

- Would granting the variance unduly (excessively) and in a marked (striking, obvious) degree conflict with these Objectives?

B. Byrnes asked if the setback variance that the Board would be giving would be specifically for a parking lot. K. Roman said that the variance Wilcox was asking for is specifically for a parking lot.

P. Welch said that there are three variances required and did the Board have to deal with each variance requested separately or is the Board making a general statement for all three variances.

K. Roman said the Board will not be addressing the wetland variance today and said it would be ok to do the other two variances together, but the Board could decide to do them separately or together. P. Welch voiced concern that there should be some conditions attached to one of the variances.

J. Krebs said that he had considered that and has written up some conditions to be added at the end. One of the conditions would be that the variance is only valid if the planning board approves both a site plan and a lot line adjustment consistent with the

approved plan within one year from the date of approval.

K. Roman added that the approval would be conditional that the lot line between parcels #2 and #3 be eliminated so that parcels 2 and 3 become a single lot.

J. Kent Weiner asked for a vote on if the variance will not be contrary to the public interest.

J. Frink-Yes, P. Welch-Yes, E. Savinelli-Yes, B. Byrnes-Yes and J. Kent Weiner-Yes.

2. The spirit of the ordinance is observed.

P. Welch-Yes, E. Savinelli-Yes, J. Kent Weiner-Yes, J. Frink-Yes and B. Byrnes-Yes.

3. Substantial justice is done.

- Is there a gain to the general public by denying the variance requested?
- What is the loss to the applicant if the variance is denied?

The Board thought there would be a loss to the applicant.

- Does the gain to the public outweigh the loss to the applicant?

The Board thought the gain to the public does not outweigh the loss to the applicant.

P. Welch-Yes, E. Savinelli-Yes, J. Kent Weiner-Yes, J. Frink-Yes and B. Byrnes-Yes.

4. The values of surrounding properties are not diminished.

P. Welch-Yes, E. Savinelli-Yes, J. Kent Weiner-Yes, J. Frink-Yes and B. Byrnes-Yes.

- Will surrounding property values be negatively affected?

The Board agreed that the surrounding property values will not be negatively affected.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

A. For purposes of this sub paragraph, "unnecessary hardship" means that owing to special conditions of the property that distinguish it from other properties in the area:

E. Savinelli said that this property has several easements running through it. B. Byrnes pointed out that many properties in the area have easements running through them.

The Board moved on to the next question and will return to question A later.

B. J. Kent Weiner asked if the proposed use is a reasonable one.

P. Welch-Yes, E. Savinelli-Yes, J. Kent Weiner-Yes, J. Frink-Yes and B. Byrnes-Yes.

Back to question A.

K. Roman asked if a fair and substantial relationship exists between the setbacks that we require and the application of those setbacks to this property. J. Krebs said that this parcel is substantially covered by easements, and this is a growing manufacturing company, and this is the only abutting property that they can expand on. P. Welch said that this parking lot is needed for them to grow their business.

P. Welch-Yes, E. Savinelli-Yes, J. Kent Weiner-Yes, J. Frink-Yes and B. Byrnes-Yes.

Would the literal enforcement of the provisions of this ordinance would result an unnecessary hardship?

P. Welch-Yes, E. Savinelli-Yes, J. Kent Weiner-Yes, J. Frink-Yes and B. Byrnes-Yes.

J. Kent Weiner asked for a vote on the variance application for 20 Piscataqua Drive, LLC, 25 Piscataqua Drive, Tax Map 27, Lot 2. The applicant seeks relief of Article VII to construct a parking lot that within the front, side and rear property setbacks. 10' and 20' from the existing and proposed side and rear lot lines where 30' is required and 10' from the front property line where 75' is required.

J. Krebs read the three conditions that will be required for this variance:

- The landscaping, drainage, vehicle access and traffic analysis will have to be reviewed by the planning board.
- The variance is only valid if the planning board approves both a site plan and a lot line adjustment consistent with the approved plan here and within one year from the date of this approval.
- Parcels 2 and 3 are to be combined by the Planning Board through a lot line adjustment in the same time frame.

P. Welch moved to approve the variances requested by 20 Piscataqua Drive, LLC. with the conditions listed above. E. Savinelli seconded the motion. B. Byrnes-Yes, P. Welch-Yes, J. Frink-Yes, E. Savinelli-Yes, J. Kent Weiner-Yes. All were in favor.

The Wetland Variance will be reviewed by the Conservation Commission on February 8th and the Zoning Board will meet on February 15th.

The Board would like a clearer picture of the wetland delineation for the next meeting.

Minutes Approval:

John Frink moved to approve to October 19, 2023 minutes as written. P. Welch seconded the motion. All were in favor.

Other Business:

B. Byrnes asked about the process of noticing the abutters on an application. J. Krebs said that the applicant supplies the town with an abutters list and then the town sends out the notice by certified mail. The plans are also at the town hall for people to review

before the public hearing. Discussion ensued about the best way to notify abutters, should the town switch to electronic notification and what other towns in the area do for this process.

J. Kent Weiner asked if the Board would like K. Roman to come yearly to do training and update the Board on any new legislation. All agreed that it was a good idea but should be done in April after the Town Meeting and new appointments are made.

ZBA members whose terms are running out in 2024 are B. Byrnes, P. Welch, J. Frink and D. Willson. J. Kent Weiner encouraged these members to apply again. P. Welch said that he would have to be appointed by the Planning Board.

J. Kent Weiner said that J. Krebs has received an instruction from Denis Hebert that the ZBA require that all legal and consulting planner fees be charged to the ZBA applicants. J. Kent Weiner said that neither the Chair nor the Planning Board has the authority to make this request. It is the ZBA board's decision to make. Discussion ensued about the fees and if the fees are too low. J. Kent Weiner asked J. Krebs to figure out the average planning fees and legal fees are for an applicant and to also find out what surrounding towns are charging for ZBA applicants. The ZBA will discuss the fees for the applicant and the abutters at the next meeting.

Adjournment: P. Welch moved to adjourn at 8:25pm. E. Savinelli seconded the motion. All were in favor.

Respectfully submitted,
Eleanor Boy, Recorder