

Town of Newington, NH
Board of Adjustment Meeting Minutes
Thursday February 15th, 2024

Present: Chair Jennifer Kent Weiner, Vice-Chair and Planning Board Rep Peter Welch, Member John Frink, Alternate Derick Willson, Alternate Meaghan Wayss, Town Planner John Krebs, Jeremy Bernier, Engineer Bill Gregsak and Eleanor Boy, Recorder.

J. Kent Weiner called the meeting to order at 6:33pm.

J. Kent Weiner said that alternate Board of Adjustment members Meaghan Wayss and Derick Willson will be seated as full members for this meeting.

J. Kent Wiener welcomed everyone to the February 15, 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 VIII to construct a parking lot that within the 25' no-cut wetland buffer and within the 50' wetland structural setback. Additionally, a 180 s.f. dredge and fill will be required to construct the parking lot in this area.

J. Kent Weiner said that there are no public speakers attending the public hearing and no public members opposed to this variance request.

D. Willson moved to close the public hearing. P. Welch seconded the motion. All were in favor.

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?

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, M. Wayss-Yes, D. Willson-Yes and J. Kent Weiner-Yes.

2. The spirit of the ordinance is observed.

P. Welch-Yes, M. Wayss-Yes, J. Kent Weiner-Yes, J. Frink-Yes and D. Willson-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, M. Wayss-Yes, J. Kent Weiner-Yes, J. Frink-Yes and D. Willson-Yes.

4. The values of surrounding properties are not diminished.

- Will surrounding property values be negatively affected?

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

P. Welch-Yes, M. Wayss-Yes, J. Kent Weiner-Yes, J. Frink-Yes and D. Willson-Yes.

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:

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

P. Welch-Yes, M. Wayss-Yes, J. Kent Weiner-Yes, J. Frink-Yes and D. Willson-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 VIII to construct a parking lot within the 50' wetland structural setback. Additionally, a 180 s.f. dredge and fill will be required to construct the parking lot in this area.

P. Welch moved to approve the variances requested by 20 Piscataqua Drive, LLC. D. Willson seconded the motion. D. Willson-Yes, P. Welch-Yes, J. Frink-Yes, M. Wayss-Yes, J. Kent Weiner-Yes. All were in favor.

Minutes Approval:

J. Frink moved to approve to January 11, 2024 minutes as written. P. Welch seconded the motion. All were in favor.

Other Business:

J. Krebs researched the Zoning Board application fees at surrounding towns and found that Newington had the lowest fee at \$50 for the application and \$10 per abutter. Dover's fee is \$100, Exeter' is \$100, Greenland fee is \$150 up to \$20,000 in value and \$250 for more than \$20,000, Hampton's fee is \$200, North Hampton's fees is \$175, Rochester's fee is \$175, Rye's fee is \$100 and Stratham's fee is \$250.

J. Krebs suggested that the Board consider increasing the fees to; application fee of \$250, pubic notice fee of \$175 and the abutter fee of \$20 per abutter.

J. Krebs said that the public notice costs at least \$150 to put it in the paper and the postage fee for registered mail is close to \$10 now. Newington's fees haven't increased in a very long time. J. Krebs thought that it isn't fair to the taxpayers to cover the expenses to process zoning applications. J. Kent Weiner agreed that the fees should cover the cost to the Town. However, the proposed new fees seem to be so much higher than any fees of the surrounding towns. M. Wayss suggested decreasing the abutter fees from \$20 to \$15 per abutter. J. Krebs agreed with that. J. Krebs said that he spends approximately three hours with the applicant, \$250 would cover his costs for the Town. P. Welch agreed that the applicants' costs should be covered. J. Frink disagreed and thought that the Town is here to serve the public. J. Kent Weiner thought that the Town needs to show a balance because Newington is competing with surrounding towns for locations. D. Willson questioned if these are all services for the town.

After to listening to the Board's feedback J. Krebs's new suggested increase in the fees could be; application fee of \$250, public notice fee of \$150 and the abutter fee of \$15 per abutter.

P. Welch moved to increase the Zoning application fees to be \$250 for the application, \$150 for the public notice and \$15 per abutter. D. Willson seconded the motion. J. Kent Weiner, D. Willson and P. Welch voted in favor. M. Wayss and J. Frink were opposed. The motion passes 3-2.

J. Kent Weiner said that the Board can reevaluate to fee schedule after the new fees have been in place for a while.

J. Kent Weiner asked the Board members to look at the recent ruling of the NH Housing Board's against the Town of Epping's Zoning Board of Adjustment because of procedural issues. J. Krebs will forward this information to the Board. J. Kent Weiner said that this ruling points out the importance of Attorney Keri Roman attending these meetings to make sure that this Board is following the Rules of Procedure and the process.

J. Frink asked if Newington has land that is zoned for workforce housing. J. Krebs said yes, but now it has all been developed.

Adjournment: P. Welch moved to adjourn at 7:16pm. D. Willson seconded the motion. All were in favor.

Respectfully submitted,
Eleanor Boy, Recorder