

Town of Newington, NH

ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Monday, Month #,

Call to Order: Interim Chair John Frink called the May 12, 2022, meeting at 6:30 PM.

Present: Interim Chair John Frink; Board members, Bob Byrnes; Robert Raymond; Jennifer Weiner; Alternate, Kathy Latchaw; and Will Gilbert; Planning Board representative, Peter Welch; Planner, John Krebs; Town Administrative Assistant, Eleanor Boy; Recording Secretary Jane Kendall

Absent: Alternate Derick Willson;

Public Guests: Joe and Paula Akerley; Edna Mosher; Anne Hebert; Building Inspector, Steve Paquin; Town counsel, Attorney John Ratigan

1) Continuation of public hearing request by **Scott Akerley** for a variance from Article VII to allow the construction of a new 36.5-foot-tall home where 35 feet is the maximum allowable height on property located at **327 Fox Point Road, Tax Map 9, Lot 2-1**.

It was stated that the Board had gone on a site walk, and Acting Chair Frink thanked the Akerley's for their hospitality during a site walk.

Joe Akerley stated that he was representing his son, Scott Akerley who was at his home in Baltimore.

(No video of the meeting was available on the Town website. The notes on this section of the meeting were taken by Administrative Assistant, Eleanor Boy. Town Planner, John Krebs had stepped out of the meeting at this point.)

Will Gilbert moved to approve the request by Scott Akerley for a variance from Article VII to allow the construction of a new 36.5-foot-tall home where 35 feet is the maximum allowable height on property located at 327 Fox Point Road, Tax Map 9, Lot 2-1. Kathy Latchaw seconded the motion.

Discussion from the Board ensued.

Board member, Bob Byrnes commented that the house would be over the height restriction anywhere in town, and that there was no hardship.

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Alternate Board member, Will Gilbert stated that the hardship was the topography, and slope of the land, and that a walkout basement was a reasonable use.

Mr. Byrnes responded that they should make the ground work for them. Mr. Byrnes stated that it was the applicant's choice not to comply with the requirement on his property.

Acting Chair John Frink stated that the applicant had already explained their unique circumstances to the planning board, which had referred them to the zoning board of adjustment (ZBA) for a Special Exception.

Building Inspector, Steve Paquin reiterated that the ordinance had been updated in 2018 to allow applicants to request a Special Exception for residential buildings over 35 feet. Planning Board representative, Peter Welch added that it had been determined that it was not the Planning Board's authority to grant Special Exceptions, and that the legal approach was to send applicants to the ZBA. Mr. Welch said the Planning Board would update the zoning ordinance language in 2023.

Mr. Paquin noted that both this application and a previous application had sloping lots with walkout basements, and that both homes had an average roof height of thirty-five feet from the lowest point.

John Frink read the five criteria for granting the request, stating that the request would not be contrary to the public interest because it was a minor adjustment to the height requirement.

The motion was passed with all in favor.

2) Other Business and Discussions:

(Recording Secretary, Jane Kendall arrived from another meeting to resume note taking at this point.)

Town legal counsel, Attorney John Ratigan said he would conduct a legal training session for the Board on Thursday, May 19, 2022. Attorney Ratigan stated that RSA 91A Right to Know law did not require minutes or recordings to be taken during legal meetings.

Ms. Kent noted that an older Zoning Ordinance was referenced on the Town website.

Acting Chair Frink suggested members be provided with a recent copy of the Newington Zoning Ordinance, and the NH Land Use Regulations.

(Attorney Ratigan left at this point in the meeting at 7:08 p.m.)

Mr. Krebs recommended that the Board nominate and vote for a chair and vice chair. Alternate board member Kathy Latchaw stated that the rules of procedure said that officers should have voting should have been done in April. Mr. Krebs responded

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that unexpected resignations, and last-minute appointments resulted in nominations at this time.

Jennifer Kent Weiner asked if all Board members would vote. Mr. Krebs responded that Bob Byrnes, John Frink, Jennifer Kent Weiner, and Alternate Bob Raymond would be voting.

Kathy Latchaw nominated Bob Byrnes as chair. Bob Raymond seconded the motion. The motion was denied with Kathy Latchaw voting in favor, and John Frink, Jennifer Kent Weiner, and Peter Welch abstaining.

John Frink nominated Jennifer Kent Wiener as Chair. Bob Raymond seconded, and the motion passed with John Frink, Bob Raymond, and Peter Welch voting in favor and Bob Byrnes and Kathy Latchaw abstaining.

Jennifer Kent Weiner nominated Bob Raymond as Vice Chair. John Frink seconded, and the motion passed with all in favor.

Minutes: *John Frink made a motion to approve the Minutes of April 25, 2022, meeting. Will Gilbert seconded, and all were in favor.*

Adjournment: *Will Gilbert moved to adjourn the meeting. Kathy Latchaw seconded, and the meeting adjourned at 7:10 p.m.*

Next Meeting: To be determined as needed.

**Respectfully
Submitted by:** Jane K. Kendall, Recording Secretary

These Minutes were approved and adopted by the Zoning Board of Adjustment at their December 22, 2022 meeting.