

Town of Newington, NH  
ZONING BOARD OF ADJUSTMENT

Meeting Minutes – July 11, 2012

**Call to Order:** Chair Matt Morton called the July 11, 2012 meeting at 6:33 PM.

**Present:** Matt Morton, Chair; Ted Connors; Ralph Estes; John Frink;  
Planning Board Rep, Mike Marconi; Town Planner, Tom Morgan;  
and Jane Kendall, Recorder

**Absent:** Steve Prefontaine

**Public Guests:** Michael & Jane Mazeau, Bernie Pelesh, Edna Mosher

**Minutes:** Ted Connor motioned to accept the Zoning Board Minutes of April 16 & 30, 2012. Ralph Estes seconded the motion, and all members voted in favor.

**1) Public Hearing:** Request by **Michael & Jane Mazeau** for the following on their property located at 124 Fox Pt Rd, Tax Map 11, Lots 13 & 14:

- A) Variance from Article VI of Zoning Ordinance in order to allow a septic system to be installed less than 40 feet from Fox Pt Rd;
- B) Variance from Article X Section 7 of Zoning Ordinance in order to permit erection of a building less than 100 feet from wetlands;
- C) Special Exception pursuant to Article X Section 4C of Zoning Ordinance in order to permit construction of an access way over wetlands; and
- D) Allow access to Fox Pt Rd via private driveway pursuant to RSA 674:41 II..

Michael (and Jane) Mazeau came before the Board with a request for variances for their subdivision plan that they first presented to the Planning Board in February. Mr. Mazeau said their original proposal was to subdivide four lots with individual driveways, but DES denied the wetlands crossings so they came up with the current plan in June for five lots with a shared driveway for three of the lots.

Regarding variance request “A” to allow a septic system to be installed less than 40 feet from Fox Point Road, John Frink asked if the septic system could be installed behind the proposed house, and Mr. Mazeau said it could not because of poorly drained soils and State wetlands regulations. Mr. Mazeau said the lot only has a small buildable area for the house and septic, which can only be done with variance “B” also.

John Frink asked about frontage for the back lot 14-6, and Mr. Mazeau said it was made into a “pork chop” lot to create frontage on Fox Point, and right of way for utilities will be able to come in along the narrow strip. Regarding variance request “C”, Mazeau said Dori Wiggins at DES said the permit for wetlands crossing would be approved and issued this week.

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Attorney, Bernie Pelesh said variance “D” is in response to RSA 674:41 State statute for any lot that does not have access to a road through its own frontage unless the ZBA grants relief so long as it won’t create a burden on abutters, which it wouldn’t with an easement agreement. Attorney Pelesh then went through each of the five criteria for granting variances.

Ted Connors asked Town Planner, Tom Morgan if the shared driveway would be precedent setting. Morgan said it hadn’t been done before, but had been decided on because the other options were to cross wetlands or have a Town maintained road. Ralph Estes asked if the ZBA had ever approved of a shared driveway, and Morgan said they had not, but other shared driveways in Town had been created prior to the ordinance for Planning Board approval. Mike Mazeau said there were shared driveways that had been granted in the last 20 years such as one down near the basketball court on Newington Road.

Board Chair, Matt Morton said he wished they had received the information sooner to give them time to review, and would like more clarity which map version was being proposed. Attorney Pelesh said they are asking for a variance 20 feet from the road, and Mr. Mazeau said they are asking for ten feet from the building, and ten feet from the road. Tom Morgan said one map received showed the septic 40 feet from the road, but it appeared it migrated closer to the road in the last 48 hours, which was different than what was advertised to the abutters. Ted Connors said it is confusing and thought it should be tabled for further review.

John Frink asked if they had received any recommendations from the Conservation Commission, and said they usually receive applications from DES in advance of the meeting also. Frink said he is especially concerned with the stream overflow from the pond and structural setbacks from the stream, and believes they should seek advice from the Conservation Commission. Mr. Mazeau said he thought Conservation Co-Chair, Justin Richardson was more concerned with nitrogen runoff from lawn fertilizers. Tom Morgan and Matt Morton said the Conservation Commission recommendation is supposed to take precedence before the ZBA can make a decision, and there would be trouble if they did not follow procedure. Tom Morgan said the Commission usually meets the second Thursday of the month, but this meeting was scheduled before their meeting. Mike Mazeau said he went to two joint Conservation and Planning Board meetings and one Conservation Commission meeting, where they took a vote to take no action. John Frink asked if that vote was in the minutes, and Secretary, Jane Kendall read from the May 14, 2012 joint Planning Board and Conservation Meeting minutes, as well as the individual Conservation minutes which said the Commission would not support wetlands crossings.

Ted Connors recommended they wait until they receive DES approval and a recommendation from the Conservation Commission.

Tom Morgan requested that a drawing be submitted showing the number of feet from the road for the building inspector. Matt Morton said they would need a detailed plan with dimensions as well.

Mr. Mazeau asked if the Board could approve of Lot 14-7 now and sign off on it later, and Mr. Morton said he regretted that he could not. Mr. Mazeau asked if the ZBA

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could meet before the next Planning Board meeting. Ted Connors said the Conservation Commission would need to meet first. Ralph Estes said the Conservation Commission needs to hold a meeting or send a letter if they want the ZBA to consider their input. Planning Board Vice Chair and representative, Mike Marconi agreed. Tom Morgan said he could ask the Conservation Commission to convene, but they need to notify abutters with accurate information. Edna Mosher said Michael Mathes who holds Power of Attorney for abutter, Dorothy Watson sent an email of support for the Mazeau plan, & submitted the email for the record.

***Ted Connors moved to table the Mazeau's requests for variance to another date. Ralph Estes seconded, and all were in favor.***

**Adjournment:** Mike Marconi motioned to adjourn, Matt Morton seconded, and all were in favor. The meeting adjourned at 7:50 p.m.

**Respectfully**

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