

# Town of Newington, NH

## ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Thursday, March 25, 2021

**Call to Order:**

Chair Matt Morton

called the Thursday, March 25, 2021 meeting  
at 6:53 PM.

**Present:**

Board members, Bob Byrnes; Edna Mosher; Temporary  
Alternate, Denis Hebert; Town Planner John Krebs and Recording  
Secretary Jane Kendall

**Absent:**

Vice-Chair Ralph Estes; John Frink; Meredith Hoyt; Alternate  
Board members, Will Gilbert and Kathy Latchaw

**Public Guests:**

Judith Poulin; Tom Poulin; Steve Poulin; Lulu Pickering; Will  
Gilbert; Brenda Blonigan; Jamie Byron; Russ Cooke; Chase  
Coleman (camera operator)

After waiting for another member to appear, Chair Morton announced that a quorum of five members were not available. Town Planner, John Krebs informed the applicant that they could proceed with four members, or they could reschedule for another time when five members were in attendance. After discussion with the family, the applicant determined that they would go forward.

Chair Morton introduced new Board member, Bob Byrnes, and Denis Hebert as a temporary alternate.

1) Request by **Judith Poulin of 311 Little Bay Road, Tax Map 23, Lot 21** for a variance from Article VII to allow the creation of a residential lot with 42' of road frontage where 200' was required.

The applicant, Judith Poulin stated that she owned 21 acres with 222 feet of frontage on Little Bay Road. Ms. Poulin said the parcel was well drained farmland with a private cemetery in the back, and a small area of wetland. Ms. Poulin said her mother gave the parcel to her, and the abutting parcels to her siblings after her father died, and that the property traced back to the 1600's.

Ms. Poulin said she intended to pass on portions of the property to each of her three sons. Ms. Poulin said that her oldest son Steve and his family lived with her, and that her youngest son Tom and his family wanted to move back to town, and build on the property, but there was only 45 feet of frontage remaining between her property and abutter Ralph Estes' property, so they were asking for a variance from the 200-foot requirement.

# Town of Newington, NH

## ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Thursday, March 25, 2021

Ms. Poulin commented that although people now found “cow country” very desirable, but they only wanted to put one home on a three-acre lot for her son and had no intention of developing lots for multimillion dollar homes. Ms. Poulin added that she had never sought relief before.

Ms. Poulin’s sister and abutter, Lulu Pickering of Little Bay Road stated that she and her sister, and brother, Curtis were triplets that their mother had passed properties on to, and they had done everything together, so she was pleased that her 11<sup>th</sup> generation nephew and his children were interested in returning to the Pickering farmland.

Ms. Pickering said that she and her sister had owned their parcels since 1968, and everything on the Pickering Farm had followed zoning, but after careful consideration, she thought it reasonable to consider granting a subdivision with 43 feet of frontage to access Ms. Poulin’s back lot for one home.

Ms. Pickering said her lot had 200 feet of frontage, and the Pickering Farm had never been used for anything else, and they wanted to keep their hay fields for growth, grazing, and bailing.

Ms. Pickering said she and Ms. Poulin downloaded town tax maps to review other properties that dealt with similar issues, and she said came up with a list of ten properties. Ms. Pickering said they used the available data, and acknowledged that there some of the town tax maps needed updating. Ms. Pickering passed out copies to the Board showing the Ackerly, Bowers, James and Phillip Coleman, Connors, Hislop, Knox, Watson, Welch, and Woods’ properties with less than 200 feet of frontage, including others with less than 50 feet of frontage to access their back acreage. Ms. Pickering went on to say that Dave Hislop’s property was the most similar to Ms. Pickering’s request for access for a home lot, and if she ever wanted to put the rest into a conservation easement.

Ms. Pickering said that 25% of all residential lots in town had less than 200 feet of frontage, and while some were grandfathered, others had been granted variances since 1966 when 200 feet of frontage was required.

Ms. Poulin’s son, Tom Poulin said he grew up in town, left in his late 20’s, and now hoped to return with his family now that he was in his early 30’s.

Mr. T. Poulin reviewed the five criteria for granting variances, and said that surrounding properties would not be diminished by building just one house, and it would not be contrary to the spirit of the Ordinance as open spaces would remain intact, and the Ordinance was designed to limit large subdivisions.

Mr. Poulin stated that substantial justice would be done by building just one house on the lot.

Mr. Poulin stated the benefits of denying the request would not out way the loss of use of the property to them. Mr. Poulin stated that denying the use of a such a large parcel to just one home would not be sensible or fair, and literal enforcement of the Ordinance would create a hardship by burdening his mother with large acreage and limited frontage, and forcing them to create a large development with a new road would create a hardship on the Town’s infrastructure costs.

# Town of Newington, NH

## ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Thursday, March 25, 2021

Lulu Pickering's husband Will Gilbert said he was speaking as an abutter and not an uncle in that he would feel the same regarding any other property owner's proposal that would not be visible from the road, and would maintain the rural character of the town.

Mr. Gilbert said they would not be in favor of creating an access road between the Poulin's house, and the Pickering Farm as it would create more taxable road frontage for them.

Steve Poulin, Ms. Pickering's oldest son said he and his family lived with his mother, and they had no objections, and looked forward to his children growing up with their cousins nearby just as he and his brothers had grown up.

Russ Cooke of Hannah Lane said the Ordinance was voted in by residents to guide development on how to develop properties.

Mr. Cooke said he didn't believe the request for a variance passed because the spirit and intent of the Ordinance was to provide adequate access to landlocked lots by public roads for emergency access, and there was a relationship between road frontages.

Mr. Cooke went on to say that the frontage was not grandfathered, so the claim of hardship was self-inflicted.

Jamie Byron of Hannah Lane said she understood their reasons for the request, but the Ordinance was written with the understanding that properties would eventually be sold, and they had to consider look of properties.

Ms. Byron said the only way to develop would be to build a long drive, and she had a concern for the speed, runoff and dust that was created onto other properties.

Board member, Edna Mosher asked how the original lot was subdivided. Ms. Pickering said there was no will when her father died, and State law gives two-thirds of property to the children, and so her mother gave three of her remaining children one third of the farm parcel after she left town. Ms. Pickering said each lot had 600 feet of frontage, but the issue was that the property line would be against the barn, so they did an adjustment with a buffer.

Alternate Board member, Denis Hebert said he recalled that Ms. Poulin's foundation crossed the boundary, so the bank stopped future construction, and they had to do a lot line adjustment, giving Ms. Pickering another 122 feet, and moving the road. Ms. Pickering responded that Ms. Poulin sold another lot to Ralph Estes, identified the wrong pin in the stone walls, and then Ms. Poulin ended up her foundation halfway across the property line. Ms. Pickering said surveyor, Dave Hislop then attached a triangle to the Pickering parcel to attached to protect the barn.

Mr. Hebert said the issue was that it cost Ms. Poulin frontage when she gave up property for the barn, and it would be easier to accept 156 feet of frontage than 42 feet. Mr. Hebert asked if they might consider returning the section back to Ms. Poulin. Ms. Pickering responded that their livestock fenced in a cow paddy for access to the grazing field, so they couldn't give it back.

Ms. Pickering went on to say that putting a road along the property line would create more taxable acreage for them that they didn't want either. Ms. Poulin said they

# Town of Newington, NH

## ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Thursday, March 25, 2021

had offers, but they had no interest in building a road that would open their back land for development.

Chair Morton asked Ms. Pickering if she wouldn't consider a lot line adjustment to create more frontage. Ms. Pickering said it was not reasonable to ask her to give up 150 feet that she used for livestock, and they couldn't use the back lot that was contaminated by PFAS.

Ms. Mosher stated that granting an applicant had to pass the five criteria before the Zoning Board of Adjustment (ZBA) could grant a variance, and hardship was determined with if there was no alternative, but the Pickerings could return the 152 feet, and put a drive in to access the back of Ms. Poulin's property. Ms. Pickering responded that lots were going for \$200,000, and it was asking a lot to give property away.

Ms. Mosher said she didn't think it would hurt the appearance of the farmhouse if Tom Poulin bought the 152 feet of frontage, and put a road down the lot line to build a house in the back. Ms. Pickering said she didn't think it reasonable. Ms. Mosher thought it might be more reasonable for a family member and wondered if the drive could eventually turn into public road for other family members to develop. Ms. Pickering agreed that the drive could be turned into road just as the Hislops put in right-of-way that had no restrictions so long as intent was established.

Ms. Pickering went on to say that the applicant was Poulins, not the Pickerings.

Mr. T. Poulin said he already asked his aunt, but she had two sons herself. Mr. Hebert agreed, but reminded them that Ms. Poulin freely turned a portion of her property over to Ms. Pickering in 1988. Mr. Hebert said the Town was also concerned with good planning for future land use, and not putting in a road in could block future development.

Ms. Pickering said there were a lot of long lots of ten to thirty acres with less than 200-foot frontage for access, as the Ordinance would limit access, and the building of just one house to many large properties in town. Mr. Hebert said the intent of the Ordinance was to allow the creation of roads into larger lots to establish frontage.

Ms. Pickering said they were requesting a variance, but they would present a plot plan when they applied to the Planning Board for a subdivision just as Dave Hislop presented with a right-of way when he wanted to build a house. Ms. Pickering reiterated that ten other properties with similar narrow frontage hardships had been approved for subdivision after the 200-foot frontage requirement was established in 1966.

Mr. Hebert said he could only speak regarding approvals in the years that he had been on the Board, but he knew others had been approved to build roads for the frontage, except for the Connors property. Mr. Hebert said 50 feet was required for roads so they still needed another eight feet.

Chair Morton said it was wonderful that they wanted to keep the property in the family, and he understood what the hardship in what they wanted to do, but 42 feet of frontage was not sufficient for a road, and it was not what was required of subdivisions, so they needed to consider alternatives such as a lot line adjustment

Chair Morton said the town was changing, and the Planning Board didn't allow shared driveways anymore either.

# Town of Newington, NH

## ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Thursday, March 25, 2021

Ms. Pickering said she thought an interest in other lots would be created if the ZBA denied the request, and would also add maintenance costs for a road, so it seemed like a better idea not to build a road for just one house.

Ms. Pickering asked why shared driveways were no longer allowed. Mr. Krebs replied that more than one house to a lot was no longer allowed, so shared driveways were not allowed. Mr. Hebert said duplexes were allowed if regulations were followed, however.

Brenda Blonigan of Hannah Lane said she would be concerned that the intent of the Ordinance would be disregarded, and other subdivisions would expect similar allowances if the Poulin's request was granted. Ms. Poulin responded that the Planning Board created and followed the rules and regulations, but this was an application to the ZBA to grant relief from ordinance.

Chair Morton said the ZBA was still governed by the Ordinance and reasonable requests for relief that met all the criteria, but the applicant was asking for 150 feet of relief, not 20 feet, and a lot of concerns had been raised with it. Chair Morton added that the applicant could consider alternatives such as a lot line adjustment, an addition, or creating a duplex.

Ms. Pickering asked if the Board could discuss two road variances if they denied the request so they wouldn't have to return. Mr. Krebs responded that the Planning Board did preliminary consultations because it was not a judicial board like the ZBA, and it was not fair to ask the ZBA to do a preliminary consultation because they could be prejudiced when voting. Mr. Krebs said they would need to submit another application with an alternative approach that was significantly different if this request was denied. Chair Morton added that the ZBA was not a design group, but they might be able to discuss other options during a consultation with the Town Planner, and the Planning Board.

Ms. Pickering said it sounded like they would need to return with the required frontage, and a new road for a variance and subdivision proposal. Mr. Krebs agreed so long as meet the setbacks from Ms. Poulin's house, keeping in mind that the Planning Board determined curb cuts and front setbacks on corner roads.

Chair Morton praised the applicant's research, and Mr. Hebert agreed that it was a very good presentation.

Mr. Hebert read an explanation of the criteria for granting that literal enforcement would result in an unnecessary hardship when shared equally with all other properties. Mr. Hebert added that they didn't have any unique physical features creating hardship that was not self-imposed.

Chair Morton review the criteria asking if the Board if the request would be contrary to the public interest. Ms. Mosher said granting the request would alter the essential character of the town with less than 200 feet of frontage.

Chair Morton asked if the spirit of the Ordinance would be observed, promoting the general health, safety and welfare of the community, and if substantial justice would be done. Ms. Mosher commented that reasonable rules applied to everyone. Chair Morton agree that the Board reviewed each case individually. Mr. Hebert added that

Town of Newington, NH  
ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Thursday, March 25, 2021

there were alternative solutions available to the applicant as well. Chair Morton agreed that the Board could not elevate a self-imposed hardship by granting a variance that did not meet the criteria.

Chair Morton asked if the value of surrounding properties would be diminished, and Ms. Mosher said they would because it would violate the basic frontage requirement for all subdivisions. Mr. Hebert added that making one exception might not seem like a problem, but allowing one after another created a bigger problem that could continue.

Chair Morton stated that literal enforcement of the Ordinance did not result in an unnecessary hardship because there were alternatives. Mr. Hebert said all restrictions were applied equally to new developments, and it would be one thing to grant relief for 152 feet of frontage, but they were asking for 42 feet of frontage that didn't even meet the requirement for a road.

*Edna Mosher moved to deny the request by Judith Poulin of 311 Little Bay Road, Tax Map 23, Lot 21 for a variance from Article VII to allow the creation of a residential lot with 42' of road frontage where 200' was required as presented. Denis Hebert seconded the motion, and Bob Byrnes, Denis Hebert, Matt Morton, and Edna Mosher all voted in favor of the denial, 4-0.*

**Minutes:** *Edna Mosher made a motion to approve the Minutes of January 21, 2021 meeting with correction as discussed. Matt Morton seconded, and all were in favor.*

**Adjournment:** *Edna Mosher moved to adjourn the meeting. Matt Morton seconded, and the meeting adjourned at 8:48 p.m.*

**Next Meeting:** To be determined

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