



**TOWN OF WILTON
ZONING BOARD OF ADJUSTMENT BOARD MEETING
APPROVED MINUTES**

DATE: April 14, 2015
TIME: 7:30 PM
PLACE: Wilton Town Hall Courtroom

PRESENT: ZBA Board Members: Chairman Neil Faiman, Vice-Chairman Andy Hoar, Paul Levesque, Joanna Eckstrom, Carol Roberts, Bob Spear, Secretary Sorrell Downing. Applicants: Chris Guida from Fieldstone Land Consultants and Douglas Lang, Representative from the Wilton Conservation Commission Bart Hunter.

PUBLIC HEARING

Chairman Faiman opened the meeting at 7:30 PM.

Minutes 3/11/15

The Minutes from 3/11/15 were reviewed. The following corrections were made:

- Ms. Eckstrom misspelling
- resigned not reigned

Mr. Spear made A MOTION to accept the Minutes from 3/11/15 as corrected. Mr. Hoar SECONDED the motion.

Voting: 5 ayes, Ms. Roberts abstained.

Minutes 4/11/15 – Site Walk

The Minutes from 4/11/15 were reviewed.

Mr. Spear made A MOTION to accept the Minutes from 4/11/15 – Site Walk as written. Mr. Hoar SECONDED the motion.

Voting: 4 ayes, Ms. Roberts and Ms. Eckstrom abstained

Application for Special Exception. Case #3/11/15-1 – Continued

Ms. Roberts will not vote on the Case #3/11/15-1. Mr. Spear will vote in her place.

Douglas Lang has applied for special exception under section 11.4(a) of the Wilton Zoning Ordinance, to permit the construction of a driveway, which will cross a wetland area on Lot H-103-2, 722 Abbot Hill Road.

Mr. Guida from Fieldstone Land Consultants represents Mr. Lang in this case.

A site walk was held 4/11/15. Mr. Faiman, Mr. Spear, Mr. Hoar, Mr. Levesque, Ms. Downing attended. Ms. Eckstrom visited the site independently on two occasions prior to the meeting tonight, 4/14/15.

Mr Faiman asked if there was anything further Mr. Guida would like to share regarding the case.

Mr. Guida reminded the board the proximity of the abutters barn to the driveway. Mr. Guida referenced Article IV of the Declaration of Covenants, Restrictions, Conditions and Reservations, dated August 17, 1990, which allows for a common driveway at 722 Abbot Hill Road but does not use the language “require” a common driveway at 722 Abbot Hill Road.

Mr. Faiman distributed the Planning Board Minutes from June 20, 1990 where the approval for the common driveway was given. The approval was granted with the following conditions:

- Corrections to covenants; Articles II & IV, adding Lot 103-1 & 103-2.
- Showing the existing stream crossing for the right-of-way on Lot 103-2.
- Add not #9 to plan which would read...access to each lot is restricted to the right-of-way shown on the plan as per covenants.
- \$3 due for additional abutter notification

Mr. Eckstrom pointed out the ZBA can only approve the wetlands crossing. The applicant needs to go to the Planning Board for approval to change the access. Ms. Eckstrom also questioned and clarified that the purpose of the application was to create two private and distinct driveways.

Mr. Guida summarized:

- Conservation Commission has reviewed the application and finds it acceptable.
- The abutters are in agreement with the applicant
- There are no endangered species on the property that would be disturbed
- The road agent had approved
- The separate driveways would increase property values for both homes involved.
- The two driveways allow each property owner to use their own property more effectively.
- The abutter would like to expand his farmland for pasture for animals

- The feasibility for construction is easy – mostly gravel but some asphalt where there is a steep incline
 - Prevent erosion
 - Easier maintenance
- Construction would be done when land is dry: June, July or August depending on weather.

A MOTION was made by Mr. Hoar and SECONDED by Mr. Spear to close the Public Hearing for Wilton ZBA Case #3/11/15-1 to April 11, 2015 at 9:00 AM at 722 Abbot Hill Road.

Voting: 5 ayes, motion carried unanimously

Deliberation

Mr. Spear stated the application was straight forward and he was not opposed to granting the wetlands crossing. The applicant still needs to go to the Planning Board. Mr. Levesque agreed with Mr. Spear.

Mr. Faiman expressed his problem with the proposal because of the language of the Zoning ordinance 11.4(a) which states, “Streets, roads and other access ways and utility right-of-way easements including power lines and pipe lines if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands.” Mr. Faiman does not see the second driveway “essential to the productive use of land.” Mr. Faiman does not have a problem with the land crossing but rather than language.

Reopen Public Hearing

Mr. Faiman reopened the public meeting to allow Mr. Guida to address Mr. Faiman’s concerns about language.

Mr. Guida stated that if someone at 722 Abbot Hill Road wanted to utilize the land for farming or for pasturing animals, there would need to be a special exemption granted for crossing the wetlands. What is “essential productive use of the land” that is subject to interpretation. The owner of the property which the driveway passes through would like to use that space to pasture his animals but currently can not due to the driveway.

Mr. Hoar stated that when visiting the site on 4/11/15, it was clear that human interaction between two unrelated people given the proximity of the driveway to the abutter could be a source of problems.

Mr. Lang stated originally brothers owned the two properties. It was speculated that perhaps the one driveway was put in to conserve financial resources due to the length of the driveways needed. Mr. Guida stated most towns discourage shared driveways.

Voting

A MOTION was made by Ms. Eckstrom and SECONDED by Mr. Spear to grant Douglas A. Lang a special exception under section 11.4(a) of the Wilton Zoning Ordinance to construct a driveway which will cross a wetland area on Lot H-103-2, 722 Abbot Hill Road, as shown on the plan labeled "Minimum Impact Wetland Plan / Tax Map Parcel J-103-02 -- 722 Abbot Hill Road / Wilton, NH" dated January 6, 2015.

This decision has no effect on any rights, responsibilities, or restrictions created by the "Declaration Of Covenants, Restrictions, Conditions And Reservations With Respect to Property Owned By Joseph A. Mazzuchelli, Jr. Pertaining To The Status Of A Certain Private Drive", HCRD Book 5206, Page 0496, which is referenced in note 9 of a "Subdivision Plan, Wilton, New Hampshire, prepared for Joseph A. Mazzuchelli Jr.", dated March 19, 1990, approved by the Wilton Planning Board on June 20, 1990, signed by Joseph A Mazzuchelli, Jr. on July 9, 1990, and filed in the HCRD as Plan #24657.

Voting: Mr. Spear - YES, Ms. Eckstrom - YES, Mr. Levesque – YES, Mr. Hoar – YES, Mr. Faiman – NO. 4-1 Favor.

This decision shall expire if the construction or use permitted by it has not begun by Friday, April 14, 2017. (Wilton Zoning Ordinance section 17.4)

The selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing of this decision. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Thursday, May 14, 2015, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2)

A MOTION was made by Ms. Eckstrom and SECONDED by Mr. Spear to close the Public Hearing for Wilton ZBA Case #3/11/15-1 to April 11, 2015 at 9:00 AM at 722 Abbot Hill Road.

Voting: 5 ayes, motion carried unanimously

Procedure for Re-Opening a Public Hearing/Deliberation/Voting

Mr. Faiman stated there is always the possibility of misreading or misinterpreting the information or not hearing all the relevant facts the first time. Often people disregard information that they think they don't need and sometimes learn later they may have needed that information. It is important for the ZBA to be certain it has heard the applicant fairly. This will prevent re-hearings.

Ms. Roberts asked if the ZBA should allow new information to be brought forth after the motion has been made. It was agreed, no new information should be presented at this time. This time is meant to make sure all board members clearly understand the case. A question should be asked to the applicant something like, "Is there anything we have

missed in understanding the application” – these are not the exact words to be used. The board will work to language this properly.

The board will re-visit this procedure. Mr. Faiman asked to be reminded of this procedure next time the board is to vote on a case.

There are two processes:

- Hearing
- Deliberation/Vote

Board Membership

Mr. Spear nominated Mr. Faiman as Chairman.

A MOTION was made by Ms. Eckstrom and SECONDED by Mr. Hoar to appoint Mr. Neil Faiman as Chairman of the Town of Wilton Zoning Board of Adjustment.

Voting: 5 ayes, Mr. Faiman abstained.

Ms. Eckstrom nominated Ms. Roberts as Co-Vice-Chairperson.

Mr. Levesque nominated Mr. Hoar as Co-Vice-Chairperson.

A MOTION was made by Mr. Faiman and SECONDED by Mr. Spear to appoint Ms. Roberts and Mr. Hoar as Co-Vice-Chairpeople of the Town of Wilton Zoning Board of Adjustment.

Voting: 3 ayes, Ms. Roberts and Mr. Hoar abstained.

All new appointments and reappointments need to be sworn in at the Town Clerk's Office.

A MOTION was made by Mr. Spear and SECONDED by Mr. Levesque to adjourn the meeting.

Voting: 6 ayes, motion carried unanimously

The next meeting will be held May 12, 2015 at 7:30 PM

Chairman Faiman declared the meeting adjourned at 8:30 PM.

Respectfully Submitted,
Sorrell Downing
Secretary