

Town of Wilton, New Hampshire
Zoning Board of Adjustment
Approved Minutes

DATE: July 9, 2019
TIME: 7:30 PM
PLACE: Wilton Town Hall
PRESENT: Neil Faiman, Chair; Joanna Eckstrom; Jeff Stone; Paul Levesque; Peter Howd
(alternate), Bob Spear, (alternate)
Absent: Andy Hoar
Staff: Land Use Administrator Michele Decoteau
Attendees Carl Foley, Tom Carr (Fieldstone Land Services), Jeremy Greenman, Don
Bogdon, Cheryl Ballou, Bill Keefe, William Polson, Jan Ebner, Don Ebner,
Karon Walker, Jessie Salisbury, Don Deysher, Mike McGonegal, Susan Coffin,
Cheryl Bosquet, Samantha Bosquet, Brandon Cook, Lauren Cook, Jim Quinn,
Tom Quinn, Brett Mayes, Jim Knight, Ashley Shari

PRELIMINARIES:

N. Faiman opened the meeting at 7:31 PM.

MINUTES:

The Board reviewed the minutes from the May 28, 2019 meeting.

- Line 8 ... add Neil Faiman
- Line 47 ... billiard is misspelled
- Line 80 ... B&B (fix other instances as well)
- Line 91 ... weddingS
- Line 109 ... StonE
- Line 120 ... lower case "A" in alcohol
- Line 138 ... BangerT
- Line 145 ... fix Wilton
- Line 153 ... P and P should be Pam and Peter
- Line 196 ... replace "store" with "door"
- Line 202 ... replace "rese" with "respective towns"
- Line 240 ... madE
- Line 266 ... change "president" to "precedent"
- Line 311 ... change wording to read: not objectionable, not causing traffic problems.
- Line 350 ... delete line
- Line 387+ ... should read: If they do serve alcohol, this may affect other boards in town
or invite other restrictions from the state, but that would be on the applicant.
The Board looked at the proposed process of responding to a guest who
brings in alcohol without approval, and it seem to be a reasonable process.
- Line 409 ... delete "will" and replace "are" with "will"
- Line 423 ... add "of the..."
- Line 441 ... add quotes around "similar" and "such as"

45 Line 493 ... Add the Note: N. Faiman volunteered to write the Notice of Decision with
46 the precise working of the details agreed to at the meeting. The following
47 conditions were approved individually by each Board member.

48 Line 507 ... add “was raised about Zoning...”

49

50 J. Eckstrom MOVED to approve the minutes of 05.28.19 with amendments. J. Stone
51 SECONDED. All in favor. B. Spear abstains

52

53 The Board reviewed the Minutes of 06.11.19.

54 Change all mentions to Airbnb

55 Line 8 ... add Neil Faiman

56 Line 56 ... “No” should be lower case

57 Line 82 ... landlord is one word

58 Line 89 ... J. Eckstrom “asked”

59 Line 130 ... delete “and there configuration”

60 Line 184 ... delete apostrophe after Greenmans

61 Line 197 ... delete “had” and change “per” to “perc”

62 Line 214 ... add “said” after Faiman

63 Line 215 ... add “is” after “setbacks”

64 Line 272 ... correct Mayes

65 Line 278 ... delete the “F”

66

67 J. Eckstrom MOVED to approve the minutes of 06.11.19 with amendments. P. Levesque
68 SECONDED.

69

70 JS asked if he could vote on the minutes since he was recused on one case. The Board
71 discussed and asked that he not comment on the content of the second case where he wasn't in
72 attendance.

73

74 All in favor. B. Spear abstained.

75

76 The Board reviewed the Minutes of 06.15.19.

77 Line 13 ... add “Sirius, the dog”

78 J. Eckstrom MOVED to approve the minutes of 06.11.19 with amendments. P. Levesque

79 SECONDED. All in favor. B. Spear abstained.

80

81 PUBLIC HEARINGS:

82 N. Faiman introduced the Board Members

83

84 *Continued Case #6/11/19-2 Greenman*

85 N. Faiman read the revised public notice. The hearing was started with a slightly different set of
86 relief but after the site walk, this was altered with new noticing.

87

88 B. Keefe presented the case. He introduced Jeremy Greenman and Tom Carr (Meridian Land
89 Services). T. Carr explained how this application was different than the first application. T. Carr
90 said that the first time they focused strictly on the wetland setback. They had put the 75 foot

91 setback. They moved the septic system 125 feet from the wetlands, and they have moved the
92 house right up tight to the setback. The wetlands were flagged and the benchmarks were also
93 flagged. Another comment from the Board was to show the entire lot. The new plan shows the
94 entire lot and is 1 inch to 100 feet. The wetlands were delineated in the field. They want to
95 develop a house on the most suitable portion of the lot since there are many wetlands on the lot.
96 They plan to keep the well closer to the house and maintain the 75 feet from the septic.
97

98 P. Levesque asked if the new plan reflects what was on the site walk. T Carr said yes.
99 P. Levesque asked if the test pit been dug in the new location. T. Carr said yes.

100 B. Keefe asked about the state setbacks. T. Carr said that since this is a poorly drained wetland
101 and we could go 50 feet from it and the setback for the septic is 10 feet from the property.

102 B. Keefe asked about the type of septic system. T. Carr said it was an Envirotech system. The
103 state allows this type of system to be at higher levels above the water table since this system will
104 pretreat and is more efficient. B. Keefe asked about venting? T. Carr said this doesn't have the
105 white candy cane but the vents will be close to the house and will vent through the roof. B Keefe
106 asked if this will look like an ordinary lawn. T. Carr said yes, it will look like lawn. T. Carr said
107 they didn't want the driveway to be over 8% grade, so there will be a few feet of grading but it
108 will be blended in. J. Eckstrom asked about the driveway location in relationship to the
109 neighbors across the street? T. Carr said that it is close to right across. B. Keefe asked if there
110 were any other locations possible. T. Carr said no we are trying to maintain the 150 ft setback
111 from the wetlands. This is a balance. This is what we ended with and is the best balance with the
112 ordinances.

113 N. Faiman asked what the shortest distance from a buildable structure to the wetland was. T.
114 Carr said about 95 +_ feet from the northern corner of the house. N. Faiman clarified that the
115 house and garage were outside the setback. The septic is about 19 feet from the side setback.
116

117 B. Mayes asked what is the setback to a lot line for a septic. The Board responded that it was 35
118 feet. B. Mayes asked if the flagging was accurate. T. Carr said the edge of the leach field is 11
119 feet from the lot line. B. Mayes asked was there a test pit shown were the new leach field is
120 shown. T. Carr it was shown as test pit one. The Board and T. Carr discussed that the data shown
121 on the second plan was for test pit one and on the previous plan, in the same location, data was
122 shown for test pit two.
123

124 P. Levesque what is the distance from the leach field to the side lot. T. Carr said it is about 19
125 feet. B. Meyes said it was 11 feet. T. Carr said the boundaries are not flagged. B. Meyes
126 explained how he found the lot line. T. Carr said that the flags were laid out by S. Proctor who is
127 a real estate agent not a septic designer and they may not be quite as accurate as the plan. N.
128 Faiman said the plan says 19 feet and the variance would say that 19 feet was the magic number.
129 It is the builder's responsibility to build it accordingly. P. Levesque asked how the Building
130 Inspector would know. M. Decoteau explained the process of how she has provides the Building
131 Inspector with ZBA decisions and on any new construction, the Building Inspector has a place
132 for the Land Use Administrator to sign off.
133

134 The Board reviewed the case so far. This would require

- 135 A. Septic less than 150 to wetland
- 136

- 137 B. House less than 150 feet to wetland
- 138 C. Septic system less than 35 feet from the side lot line.

139
140 T. Carr asked if the variance could it be 19 feet plus or minus 1 foot? N Faiman said that would
141 be considered.

142
143 B. Keefe presented the subdivision plan from 1980. He also presented a small copy of page 2 of
144 the plan showing the wetlands. He showed that this property drains in to Mill Brook. Where does
145 Mill Brook go? It feeds into what is the Old Reservoir. This 150 foot setback was approved to
146 protect the Old and the New Reservoirs . This was originally a 16 acres zoning location and later
147 changed to a 6 acre zoning. N. Faiman added some details about the watersheds of each
148 Reservoirs.

149
150 B. Keefe said that the dam on the Old Reservoir has been breaches. N. Faiman said no, it was not
151 breached, it is open. P. Keefe said in order to remove the dam, you'd have to go to the Dam
152 Bureau. I can go through the water commissioner's report 2008 to get rid of the water. The pipe
153 between the reservoirs has been severed. And we couldn't use this as a water supply even if we
154 wanted to. The point is that this Watershed protection district that was developed to protect the
155 reservoir and the dam but the dam is open and the reservoir is empty. This is not a supply for the
156 new reservoir. He continued that if these variances are not granted, the property is worthless and
157 doesn't protect these reservoirs. The old reservoir isn't a reservoir.

158
159 He then went through his case. He explained that there were few clues in the minutes about what
160 led people to the ordinances around the Watershed Protection District.

161
162 Substantial Justice

163 This subdivision was approved in 1980 and they have dutifully paid taxes on what is a buildable
164 lot. For 40 years they have kept this and paid taxes. This would be hardship to have this turned
165 into not a buildable lot. That would not be a just result.

166
167 Property Values

168 This will not diminish property values of any surrounding properties and would be consistent
169 with property surrounding it. A single family home proposed in a single family neighborhood.
170 This setback in Wilton is more than twice what is required by the state.

171
172 S. Coffin said she used to own the lot in 2006. For years and years, they called that lot the swap.
173 The lot looked like a swamp and given how wet it is, it didn't look like a buildable lot. Perhaps it
174 isn't going in to a public drinking water system, it is still a wetland. Once you put poison in the
175 wetlands, it is done. Is this lot only buildable with a variance? Do neighboring property owners,
176 have no rights? N. Faiman said that the house on her daughter's lot looks like it was built closer
177 to the stream than the new house. B. Mayes said he'd have to measure it.

178 N. Faiman said there is nowhere on that lot that is farther from the stream than the lot in
179 question.

180
181 S. Coffin expressed concern about how close the septic system is to the lot line. B. Meyers said
182 his biggest concern is that the developer does what they say. If I was to build a house in Wilton, I

183 would go through the ordinances to make sure I was doing it right. The original plan for the
184 house and septic were within what they thought the setbacks were. Now it feels like we are
185 playing chess with the house and leach field to make them work. P. Levesque said this change in
186 design came about because the Board was concerned about the wetlands but it does put it closer
187 to B. Meyes' property. The Envirotech systems do perform well.
188

189 P. Howd said he had a technical question. Are there requirements for how far the leach can be
190 from the garage? T. Carr said that the distance from a slab with no footings or drains, is 5 ft, but
191 he wanted to keep it a bit back from the driveway since snow plowing isn't good for the septic.
192 He said he could maybe move it over a little but this is the most appropriate design.
193

194 J. Stone asked what grading changes were going to be done to accommodate the new design? T.
195 Carr explained that the house is walk out in the basement with only a few feet of fill. The house
196 is going to be brought up so it is level with the street. If this isn't done, they we will have
197 problems with water and drainage.
198

199 J. Stone asked what happens about water runoff in the corner. T. Carr - the water will go around
200 the house. J. Stone on the north side of the house it will be steep. T. Carr we are leaving 10 feet
201 of vegetation. The water is going to come along the property line. J. Eckstrom said the Mayes'
202 property is going to send water downhill onto this property.
203

204 P. Howd - there were two culverts that were active. How is this driveway going to be associated
205 with the culverts? T. Carr said the culvert close to the house will have a diversion swale to carry
206 water around the house. It is going to be a shallow swale.
207

208 N. Faiman summarized. This is a request for a collection of Variances to permit a leach field
209 within the side setback precisely no closer than 19 feet to the lot line. Request for relief from the
210 wetland setbacks for the leach field (125 feet) and the house (95 feet). In addition, it doesn't
211 meet the size requirement for a lot in the Watershed District.
212

213 P. Levesque MOVED to close the Public Hearing. P. Howd SECONDED. All in Favor.
214

215 The Board discussed the application. J. Eckstrom said first she wanted to deal with the lot size.
216 N. Faiman said the applicant thought they had a pre-existing buildable lot. But this lot lost that
217 when the ordinance changed. It doesn't meet the pre-existing non-conforming in every way but
218 this does seem like substantial justice to grant. There is nothing exceptional about this other than
219 if you go down the lot 100 feet, you find wetlands. The applicant has been responsive to our
220 concerns. The applicant has pointed out we don't treat septic systems as structures, but structures
221 and septic systems are both subject to setbacks. Even if the septic system failed, this lot is
222 downhill from the neighboring lots. P. Levesque said this is better than how they presented this
223 the first time. N. Faiman said the balance is that the septic system is a better technology than was
224 expected 30 years ago and that is the most important thing to have as far as possible from the
225 wetlands.
226

227 The Board discussed if a house and septic system could be put on this lot without a Variance.

228
229 J. Stone said his concerns were for the wetlands, less so for the Watershed. N. Faiman said this
230 meets the guidelines for wetlands but not the wetlands in the watershed protection district J.
231 Stone said the Watershed protection district purpose has come and gone. He had concerns about
232 the septic system in the first plan. This new one adequately addressed those concerns and T. Carr
233 explained how the grading will be addressed. He was willing to trade of the house being closer to
234 the wetlands for this being buildable. Other members agreed with J. Stone's summary.
235
236 J. Eckstrom made a MOTION to grant a Variance to Section 6. 2. 5. Location of onsite disposal
237 fields and to construction a septic system no closer than 18 feet from the lot line; Section 14.3.1
238 area of lots in the watershed district and development of a lot with only 2. 3 acres; and Section
239 4.3.3 development of a lot with a building that is approximate 95 feet ± 1 foot from a wetland
240 and a septic system that is approximately 125 feet from a wetland where the requirement is 150
241 feet. P. Levesque SECONDED.
242
243 J. Eckstrom MOVED to reopen the Public Hearing. P. Levesque SECONDED. All in Favor.
244 N. Faiman asked if anything was missed from the audience. Hearing none, the Board voted on
245 the Variance.
246
247 J. Eckstrom - yes
248 P. Levesque - yes
249 N. Faiman - yes
250 P. Howd - yes
251 J. Stone - yes. Motion carries. N. Faiman reviewed the appeal process.
252
253 *Case 7/9/2019-1*
254 B. Spear will sit in for A. Hoar for this case. N. Faiman opened the Public Hearing and read the
255 Public Notice.
256
257 B. Keefe introduced himself as the applicant's representative along with Tom and Jim Quinn. He
258 reviewed the case and need for the Variance. The lot is in the industrial zone where the
259 maximum height for a structure is 45 feet. The Quinns would like to add a batch plant, 68 feet
260 tall, and a silo that is 72 feet tall to make hot asphalt. They are proposing to put up an asphalt
261 batch plant where you take stone and sand and mix with liquid asphalt and it produced a product
262 suitable for roads. About 95% of the product will be mined on site.
263 B. Keefe showed a tax map where the lot is located and showed the road access. This is owned
264 by Quinn Properties LLC. He handed out copies of a portion of a map showing all the property
265 that the Quinn Properties own. It totals 165 acres and the plant will be in the southern corner of
266 B-10 on approximately 2 acres. This site will be over 1000 feet from structures like houses and
267 Goss Park buildings.
268
269 N. Faiman asked if the tar is a liquid petroleum product? Mr. Q said yes. N. Faiman is this in
270 the Aquifer protection district? B. Keefe said no. B. Keefe said there is an example of the plant
271 in Coldwell Park in Amherst.
272

273 B. Spear asked where the power lines were location? This was shown on the plan. B. Spear asked
274 if there was going to be onsite storage of recycled asphalt? Mr. Q said yes. . B. Keefe said this
275 will be a good place to reuse asphalt.

276
277 B. Keefe said this Board approved this variance once before in 1988. The maps were part of the
278 Planning Board application from February 1989. He provided the past variance approval and has
279 a copy of the planning Board approval. The markets changed and a buyer backed out so the plant
280 was never built. He walked the Board through the plan.

281
282 B. Spear asked about the asphalt and if it would be transported on rail road cars? B. Keefe said
283 no, in trucks.

284
285 B. Keefe showed large plans of the silo. N. Faïman asked if this silo would be for raw materials
286 or finished product? B. Keefe said this would be for hot asphalt. J. Quinn said that you make
287 the asphalt in batches and put them in the silo before it is put in trucks.

288
289 P. Levesque - how long do you keep the asphalt into the silo? J. Quinn said the object of the silo
290 is that if you have a job of any kind of size, you put in the silo. The specs say it can stay there 3-4
291 days. B. Keefe provided the Board with a photo of the Caldwell Drive Plant.

292
293 J. Quinn said there were some other machines associated with this like conveyor belts. In terms
294 of the topography, there is a stone quarry at about elevation 560 near the rail road. If you look at
295 the Quinn's other properties they are lower in elevation. There is a change of elevation of about
296 240 feet over the property. The top of the property will be over 100 feet over the top of the silo.

297
298 J. Eckstrom asked if the material was mined onsite? J. Quinn said yes, some would be mined on
299 site, but they would bring in recycled materials, some sand, and the asphalt.

300
301 J. Quinn discussed some of the history of the quarry.

302
303 The Board asked about the noise. J. Quinn said they had a large crusher in the past and they were
304 a big operation. They were crushing a lot closer to Goss Park than this will be and there was no
305 noise to speak. T. Quinn said this is roughly a thousand feet from any other buildings.

306
307 The Noise is not a huge issue. It is the scent.

308
309 B. Keefe - said that they watched the plant in Amherst and there was no odor

310
311 B. Spear said that the train has to be driven slowly by the stream but that carries rocks, not
312 asphalt. I am also concerned about the propane and how it would get there if it is on the train.

313
314 B. Keefe said it would be brought in by truck like it is moved around now.

315
316 Trains and track maintenance were discussed.

317 P. Howd asked if they looked at 4.6 Performance standards. This would be about noise, odor,
318 and vibration. Odor can't extend beyond the lot line. N. Faïman said that this is more for the

319 Planning Board and they will look at the totality of the site plan and ordinance. Their proposal is
320 for the only thing they don't meet in the ordinance, and that is the height.

321

322 B. Keefe reminded the Board that this had been approved once before.

323 J. Eckstrom asked if you could do this with a shorter silo and plant. J. Quinn said if you wanted
324 to have a small batch plant but this might not be competitive.

325

326 P. Howd asked if this will be visible from Forest Road. J. Quinn said no. N. Faiman said you
327 might see it from Pack Monadnock.

328

329 Public Interest

330 This has been approved once before by the ZBA and the Planning Board. No one was sure why
331 there is a 45 foot height requirement in the industrial district and but this might be the maximum
332 height of the fire truck ladder at the time the ordinance was developed. Now the average height
333 of a fire ladder is 100 feet.

334

335 Substantial Justice

336 It was granted once and nothing has changed dramatically other than the nature of the industry.
337 The larger companies are gobbling up the small independent plants.

338

339 Property Values

340 Most of the surrounding properties are owned by the Quinn Properties LLC already and their
341 neighbors are also excavations. They are a smaller producer but want to grow. Not going to
342 diminish property values in the Industrial Zone.

343

344 Fair and Substantial Justice

345 It is unclear where the 45 foot limit on buildings came from.

346

347 Proposed use is a reasonable one

348 We are already a stone quarry and we are next to stone quarry that is more active than we are.

349

350 Special characteristics

351 The elevations are such that you cannot see this because the grade where you are building a
352 building is so much lower than the surrounding land.

353

354 Mike McGonnigal (head of the Board of Goss Park, and resident at 475 Forest Road). I don't
355 think you'd see this from the height of the park. My concerns may be more for the Planning
356 Board but noise and smell abatement are the biggest concerns we have. Yes we have traffic it is
357 quiet and smells like pine trees at the Park. My concern is that the smell and noise would change
358 that.

359

360 B. Spear MOVED to closer the Public Hearing. P. Levesque SECONDED. All in Favor.

361

362 The Board discussed the proposal.

363 P. Levesque said we are just voting on the height. And a previous board granted it. N. Faiman
364 said he'd like to hear the fire chief say he could deal with a fire in a 72 foot asphalt silo. B. Spear

365 asked if that would be part of the Planning Board. N. Faiman I can see two reasons to have a
366 height requirement, visual and safety. This can't be seen off the property and the safety issue
367 hasn't been answered. J. Stone would want like to hear from the Fire Dept. The Board concurred.
368

369 B. Spear MOVED to reopen the Public Hearing. J. Eckstrom SECONDED. All in Favor.
370

371 The Board asked J. Quinn if the plant has any kind of fire suppression equipment. J. Quinn said
372 he didn't know. The Board discussed this and if the fire department could handle this height.
373 There are fire suppression systems available for asphalt silos. But can they deal with an asphalt
374 fire.

375
376 N. Faiman said he'd like to see information from the fire dept. on how they can deal with a fire
377 or other info showing that this would be irrelevant.
378

379 B. Spear MOVED to continue to Aug 13, 2019 at 7:30 PM to allow the applicant to bring back
380 information that the proposed height will not interfere with the ability of the fire dept. to fight a
381 fire or information that this is not necessary. J. Eckstrom SECONDED. All in Favor.
382

383 Case #7/9/19-2

384 *James and Melissa Knight have applied for a variance to section 6.2.4 of the Wilton Zoning*
385 *Ordinance to allow the construction of a carport and a shed on Lot D-116, 168 Burns Hill Road,*
386 *which would be closer to a lot line than is allowed by the ordinance.*

387 Continued to 07.11.19
388

389 Case #7/9/19-3

390 *Karen and Michael Demers have applied for a special exception under section 11.4(a) of the*
391 *Wilton Zoning Ordinance to allow the construction of a driveway which would cross a wetland*
392 *area as part of a proposed subdivision of Lot C-85, 38 Wilton Center Road.*

393 Continued to 07.11.19
394

395 Case #7/9/19-4

396 *Roger G. Chappell (owner) and Glendale Homes, Inc. (applicant) have applied for a variance to*
397 *section 13.3(d) of the Wilton Zoning Ordinance to allow an Elderly Housing Development on Lot*
398 *D-99, 304 Gibbons Highway, which would allow occupancy by families where the head of*
399 *household or spouse is 55 years of age, where the ordinance requires that they be at least 60*
400 *years of age. (Case #7/9/19-4)*

401
402 The applicant requested a continuation to August.
403 J. Eckstrom MOVED to continue to August 13, 2019 at 7:30 PM. P. Levesque SECONDED. All
404 in Favor
405

406 OTHER NEW BUSINESS:

407
408 August review of Land Use Administrator

409 Tabled to Thursday
410

411 Communications and miscellaneous
412 J. Stone would like to get an email with the minutes when posted to the website. M. Decoteau
413 agreed to send them out the Board when posting on line.
414
415 ADJOURN
416 J. Eckstrom MOVED to adjourn at 10:30 PM. B. Spear SECONDED. All in Favor
417
418 Respectfully submitted by Michele Decoteau
419 Approved XXXXXXXXXXXXXXXXXXXX
420