

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

DATE: January 14, 2010
TIME: 7:30 PM
PLACE: Wilton Town Hall, Courtroom, 42 Main Street, Wilton, NH
PRESENT: Neil Faiman, Chair; Paul Levesque; Andy Hoar; Jeff Stone; Joanna Eckstrom,
Bob Spear (Alternate), Peter Howd (Alternate)
Staff: Michele Decoteau, Land Use Administrator
Attendees: Shannen Coffey, Joe Coffey, Amy Garcia, DJ Garcia, Lynn Pentler, Dodie
Finlayson, William Finlayson, Andrew Finlayson, Marilyn Jonas, Richard Kahn,
John Zavgren, Chris Balch, Robert Silva, Nancy Wallace, Joanna Gates, Jessie
Salisbury, Sherry Jennings, Dan Dion, Andrew Kennedy, Anthony Graham,
Sandy Lafleur, Thomas Lafleur, Sussy-Rose Shields, Deb Abrahams-Dematte,
Tom Quinn

PRELIMINARIES:

N. Faiman opened the meeting at 7:33 PM and introduced the Board.

MINUTES:

The Board reviewed the minutes from the 12/17/19 meeting.

Line 13 ... Dottie to Dodie

Line 101 ... al to all

Line 102 ... add "Town and ZBA" before websites

Line 103 ... add "Town" before website

J. Eckstrom MOVED to accept the minutes as amended. J. Stone SECONDED. All in favor, P. Howd abstained.

The Board reviewed the minutes from the 1/6/2020 meeting.

Line 18 ... Should read RSA 91-A:3 II (*l*)

J. Stone MOVED to accept the minutes with the one amendment. J. Eckstrom SECONDED. All in favor, P. Howd abstained.

PUBLIC HEARINGS CONTINUED FROM PREVIOUS MEETINGS

P. Howd left the Board at 7:38 PM and joined the audience. A. Hoar will be deliberating but not voting on the case.

J. Eckstrom MOVED to go into Non-public Session at 7:43 PM for statutory reason outlined in RSA 91-A.3 II (*l*) Consideration of legal advice provided by legal counsel. B. Spear SECONDED.

42 J. Eckstrom – yes
43 P. Levesque – yes
44 A. Hoar – yes
45 J. Stone – yes
46 B. Spear – yes
47 N. Faiman – yes. Motion passed.

48
49 B. Spear MOVED to leave Non-public Session at 7:56 PM. J. Stone SECONDED. A. Hoar
50 abstained.

51 J. Eckstrom – yes
52 P. Levesque – yes
53 A. Hoar – yes
54 J. Stone – yes
55 B. Spear – yes
56 N. Faiman – yes. Motion passed.

57
58 Rehearing request

59 N. Faiman reminded everyone of the process for rehearings.

60 P. Levesque MOVED to rehear the case #07/09/19-1. J. Eckstrom SECONDED.

61 B. Spear - yes
62 J. Stone - yes
63 P. Levesque - yes
64 J. Eckstrom - yes
65 N. Faiman - yes. A. Hoar abstained. The motion carries.

66
67 The Board will rehear the case #07/09/19-1. The Board will accept all the written testimony and
68 all the oral testimony at the beginning of the hearing, including the letter from the lawyer that
69 was supplied from the community. New testimony and legal arguments are welcome.

70
71 Regional impact notification

72 J. Eckstrom said that there is a lot of information in this case that has regional impact. The Board
73 discussed if this required new letters from the public. Anyone notified can, if they choose, write
74 new letters, but the notification is to let them know about the hearing.

75
76 D. Finlayson (Heald Road, Wilton) asked about errors or omissions in the minutes. The Board
77 discussed the best way to handle corrections from the public. The Board decided: If someone
78 feels what they said was not correctly recorded, they can submit the correction in writing to M.
79 Decoteau, Land Use Administrator. The Board put a deadline of a week before the meeting to
80 have them in.

81

82 B. Silva (Barret Hill Road, Wilton) asked if written comments could be sent before the next
83 meeting or do people have to wait until the hearing? The Board decided that if comments are in
84 to the office a few days before the meeting, they could read the comments.

85
86 S. Coffey (Stage Coach Road, Wilton) asked if the public could ask for a new test with
87 illumination. The Board said the public can request anything they like at the new hearing.

88
89 The Board discussed some limits on the rehearing request and the public asked a few questions
90 about the process. The Board did not decide on limits at this meeting. P. Howd returned to the
91 Board at 8:12 PM.

92

93 **PUBLIC HEARINGS ON NEW CASES**

94 N. Faiman opened the Public Hearing for Case #1/14/20-1 and read the public notice.

95 Voting members: A. Hoar, J. Stone, P. Levesque, J. Eckstrom, N. Faiman

96

97 DJ and Amanda Garcia represented themselves, and provided facts about the property and the
98 history of the house. The lot has 300 feet of frontage and the house is 100 feet long. There will
99 be over 500 feet of visibility on either side of the driveway.

100

101 DJ Garcia presented their case: The lot, B-62, is already non-conforming. The Ordinance says
102 you need 2 acres per dwelling and they have less. Like 30% of the inventory of the houses in
103 Wilton, it was built between 1970 and 1990. The ZBA should expect to see more people coming
104 for Variances for this age of housing stock as it ages and needs more extensive repairs.

105

106 The land use objectives for the Town of Wilton, are set forth in the Master Plan. DJ Garcia said
107 they have neighbors with equally non-conforming lots and the Garcias want to respect the vision
108 of the Master plan and keep the footprint of the house. Their plan maximizes the views. By
109 creating a second dwelling unit within the same footprint, this will minimally impact the
110 neighborhood.

111

112 DJ Garcia continued. If they had to limit their ADU, this would impact the safety to the ADU. If
113 they were able to have a larger ADU it would be safer and they could have larger income. Their
114 investments will turn their house into the nicest in the neighborhood and positively impact the
115 neighborhood.

116

117 DJ Garcia read a short paragraph from the Master Plan on housing. Everything they plan to do,
118 will remain consistent with the rural character of the neighborhood. The foot print won't change.
119 They will be creating housing for a variety of renters. From the Master Plan, he said the town
120 looks to minimize sprawl and protect the environment. This project will support this. The ADU
121 will occupy about 21% of the property.

122

123 A. Hoar asked about the ADU dimensions. The Board discussed some needs for construction of
124 the ADU.

125
126 B. Spear asked about removing the pool and what it will require. DJ Garcia explained that pool is
127 already gone and this space will become part of the garage. In response to a question from the
128 Board, A. Garcia said that there are 6 to 8 parking places right now that are outside. This project
129 would add parking inside as well.

130
131 In response to a question from the Board, DJ Garcia said there will be a door between the units.
132 The Garcias' plan is that the Original house will become the ADU and the 1990 addition will be
133 the owner's house.

134
135 The Board asked if the applicant wanted a duplex more or the ADU more. The applicants said
136 that bank financing would be easier as a duplex, but felt that the stronger case was for an ADU.
137 If they had to make the ADU conforming to the ordinance, they would have to block off the
138 stairs and the shared wall is in the basement. A new egress would have to be determined as well.

139
140 In response to a question by the Board, the Garcias said they had the second driveway
141 constructed but not opened. The Road Agent, Brian Adams, required them to block off one of the
142 two driveways until they had approval for two.

143
144 The Board asked who had done a drive by of the house. J. Eckstrom, P. Levesque, and N.
145 Faiman had driven by the house in response to the application. Other Board members already
146 were familiar with the property.

147
148 N. Faiman noted that the Master Plan is an aspiration document that the Ordinance is based on.
149 N. Faiman said that a unique circumstances are created historically. He continued, the fact it is a
150 huge house is what makes it unique. But that isn't strong enough justification for a second
151 dwelling unit? But for an ADU, it would make sense to cut the house into an ADU where the
152 addition was made.

153
154 B. Hoar said that perhaps the size is designed to limit the number of people in it. The Board
155 discussed limiting the number of bedrooms to two bedrooms.

156
157 B. Silva (Barrett Hill Road, Wilton) said he was on the Planning Board when the ADU
158 Ordinance was approved. The ADU requires the owner to live in the house and a duplex does not
159 have the same restriction. The Spirits of the Ordinance are different.

160
161 J. Gates (Pead Hill Road, Wilton) said she had a number of concerns. The house is quite large;
162 however, what the Board is not seeing is that both hers and the Garcias' properties are on a slope.

163 The Garcias took out trees that affect drainage, septic, and view. When the Garcias put in the
164 second driveway, this only added more water that goes downhill. Her other concern is that their
165 current septic isn't adequate and if the Garcias have to enlarge their septic system, she is worried
166 about the septic coming into her yard. She is also worried about the extra people. Their house is
167 huge, but 1600 square feet is a large apartment and it could be 5 more people. It lends itself to be
168 a family home and she is concerned about the smallness of the area. She asked, where are people
169 are going to go - they will be outside on her side of the property. The extra traffic will have
170 trouble getting out. The Town has an easement that won't be accessible. The buffers that
171 protected their house, are gone. She said that this will disturb the rural nature of Pead Hill. She
172 moved there to be among single family homes. J. Gates asked about precedent and if this would
173 allow everyone to turn their houses into a duplex. J. Eckstrom said that if anyone wants to do this
174 in their own house, they would have to go before ZBA. A. Garcia said that everyone has the right
175 to put in an 800 sq ft ADU.

176
177 The Board discussed the need for exact measurements. An engineer or architect is not needed,
178 but a contractor who can provide exact measurements might be fine.

179
180 N. Faiman said that if he considered the duplex, the large house would be the hardship and this
181 would be a self-created hardship even though they didn't actually create the hardship.

182
183 A. Hoar MOVED to close the Public Hearing. J. Stone SECONDED. All in Favor

184
185 The Board discussed the need for a better number for the square footage and what is included
186 and not included. An ADU should be two bedrooms with actual square footage.

187
188 A. Hoar said that this is a large ADU and makes a major difference if it is 1600 square feet. The
189 Ordinance and has limit on the square footage for a reason. Others in the Board agreed that
190 smaller is better. The question of a duplex was discussed. A duplex can have separate owners
191 and this was concerning for the Board. The density was a concern.

192
193 B. Spear said that even if he is not voting, he sees this similar to the Abbot case where they asked
194 for an ADU and the footprint of the building didn't change. This is a smaller lot, but this still has
195 adequate parking.

196
197 J. Stone discussed the need to look at the existing house as it is as its uniqueness. The external
198 appearance won't change. B. Spear said yes that is true but there might be four cars. N. Faiman
199 said 1600 sq feet isn't guaranteed to be used by 12 people. The Board discussed that they didn't
200 want the third bedroom as it was beyond what is in the current Ordinance. P. Howd said on the
201 hardship side of the variance, what they have proposed makes sense, because if they were to

202 build it smaller, the burden become prohibitive because you'd have to reengineer and create new
203 egress.

204

205 N. Faiman summarized the options before the Board. The Board could say no to everything, yes
206 to a duplex, yes to an ADU, or other options where the Board continues the case for more
207 information and/or a site walk.

208

209 J. Eckstrom MOVED to reopen the hearing. J. Stone SECONDED. All in Favor

210

211 The Board asked the Garcias about the property and if a smaller ADU was possible. DJ Garcia
212 said that the downstairs area is adjustable. The request to make a two bedroom ADU and to keep
213 it with a 1375 square foot size is acceptable. The downstairs is completely gutted, the basement is
214 down to studs and will be finished back how it needs to be including additional egress.

215

216 P. Levesque MOVED to close the Public Hearing. J. Eckstrom SECONDED. All in Favor

217

218 B. Spear, said what if they didn't include closets in one of the bedroom and call it an office or
219 make it living space? J. Eckstrom said it was interesting if you look at the assessment card, it is
220 just the exterior space and it is the card that says the number of bedrooms. J. Stone says that
221 somebody someday, may put that partition back. This would be an enforcement issue.

222

223 The Board discussed the limits of a variance and how to structure it. They reviewed the 5
224 criteria.

225

226 The Board examined the Spirit of the Ordinance and Public Welfare. The Board discussed what
227 the purpose was of the ordinance, Section 5.5.3: population density, protect the rural character,
228 protect public safety of water resources and septic capacity.

229

230 The Board discussed if this variance would maintain the rural character of Wilton. They
231 discussed the number of people who could be living in the house as it stands given the large size
232 and if restricting the ADU to two bedrooms would limit the additional people. The Board
233 discussed other properties with many people living in them which didn't detract from the rural
234 character of the Town.

235

236 The Board discussed if this variance would affect property values. The Board discussed that this
237 won't change the property values and they read the letter provided by the applicant from Meghan
238 Hardwick.

239

240 J. Eckstrom MOVED to reopen the hearing. P. Levesque SECONDED. All in favor.

241

242 J. Gates (Pead Hill Road) said she was a former real estate agent and in her experience, anytime
243 when there was an extra family living in a house, prospective buyers didn't want to live next to
244 it. She would not like to see her assesses value go down. The property is small and their space is
245 very limited. DJ Garcia said that across the street is a large lot that is open. If this lot were to be
246 split up in to housing lots, there would 25 new lots with houses. P. Howd said law the Garcias
247 are allowed an ADU. This variance is looking at the extra size. Is the extra size going to degrade
248 the rural character and affect property values? A. Garcia said this will be our home. We won't
249 rent to people we wouldn't want in our home.

250

251 J. Stone MOVED to close the hearing A. Hoar SECONDED. All in favor.

252

253 The Board continued their discussion and examined the unnecessary hardship criteria. The Board
254 discussed that the house itself as the unusual condition and that the ZBA is justified in
255 considering the ADU ordinances were not in place when the additions were added. If the owner
256 at the time had the ADU ordinances in place, they might have made other choices.

257

258 The Board discussed substantial justice and that the cost of compliance is greater than benefit to
259 the public. The public will benefit from the proposed project.

260

261 J. Eckstrom MOVED to grant the Variance to allow for the Accessory Dwelling Unit that has a
262 maximum 1375 sq. feet of living space including a maximum of 2 bedrooms and is otherwise
263 conforming to the ADU Ordinance Section 5.5 of the ZONING Ordinance. P. Levesque
264 SECONDED.

265 A. Hoar - yes

266 J. Stone - yes

267 P. Levesque - yes

268 N. Faiman - yes

269 J. Eckstrom - yes. Variance was granted.

270

271 J. Eckstrom MOVED to dismiss the requested variance to Section 6. 2.1 J. Stone SECONDED.

272 A. Hoar - yes

273 J. Stone - yes

274 P. Levesque - yes

275 N. Faiman - yes

276 J. Eckstrom - yes. The motion carries. N. Faiman reviewed the appeal process.

277

278 **ADJOURN**

279 A. Hoar MOVED to adjourn at 10:07PM. P. Levesque SECONDED. All in Favor

280

281 Respectfully Submitted by Michele Decoteau, Land Use Administrator

282 Approved XXXXXXXXXXXXXXXXXXXX