

TOWN OF WILTON
Zoning Board of Adjustment
Minutes



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DATE: June 22, 2023
TIME: 7:00 PM
PLACE: Wilton Town Hall, Courtroom, 42 Main Street
PRESENT: Neil Faiman (chairperson); Joanna K Eckstrom (co-chairperson); Judith Klinghoffer (member); Andy Hoar (member); Jeff Stone (member)
ABSENT: Paul Levesque (alternate); Peter Howd (alternate)
STAFF: Caryn Case (Board Secretary)
ATTENDEES: Gary Lord (abutter); Stephen Proctor (abutter); Gail Proctor (abutter); Sam Foisie (meridian Land Services); Kevin Dery (Wilton Congregation of Jehovah’s Witnesses); Thomas Costello (Wilton Congregation of Jehovah’s Witnesses); Jared Fait (applicant, Fait’s Property Maintenance); Stephen Morrissey (applicant representative); Shawn Dunphy, Esq. (applicant representative); Caitlin Maki (applicant); Benjamin Maki (applicant); Chris Guida (Fieldstone Land Consultants)

I. Call to Order

N Faiman called the meeting to order at 7:00 PM. He reminded the public to sign-in and wear masks. He asked speakers to introduce themselves by name, address, and relationship to the case. N Faiman introduced the Board members and explained the role of alternate Board members. He explained that the Board would not hear any new case after nine-thirty (9:30) PM and would terminate the meeting at ten (10) PM unless the Board unanimously votes to continue.

2. Case #06/13/2023-04, Fait’s Property Maintenance - Public Hearing on a new case

- Fait’s Property Maintenance, LLC has requested a special exception under section 17.3 of the Wilton Zoning Ordinance to construct a single-family home which would be closer to one or more lot lines than allowed by the Ordinance on Lot J-112-1, Island Street and Mill Street. (Case #6/13/2023-4)

N Faiman read the applicants request and asked that they explain wht it is they want to accomplish and why they would need zoning board relief to achieve that. He instructed the applicant on procedure in that the Board would ask questions after the applicant’s presentation then open the hearing to anyone else who might have questions. He said the Board would then close the hearing to deliberate among themselves in an attempt to make a decision, re-open the hearing, and invite the public to comment on what they just heard. If there is no further discussion, the Board would act on the decision made.

S Dunphy introduced himself as the Attorney representing Fait’s Property Maintenance. He said his client was seeking relief from Section 17.3 of the Wilton Zoning Ordinance to build a residential

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42 dwelling unit. He stated the dimensions of the lot had been in existence before the adoption of the
43 setback requirements, the element which encumbers the proposal. Additionally, he said the request is
44 for a lot line setback as required, and the proposed 28' x 60' residential dwelling unit (whose location is
45 shown on the preliminary site plan) keeps with the character of the neighborhood.

46 It was determined the proposed dwelling unit would be a one (1) to two (2) story structure and include
47 a garage within the 28' x 60' building envelope shown on the preliminary site plan.

48 A Hoar expressed concern the lot had not been lawfully defined, though N Faiman and S Dunphy were
49 able to demonstrate by way of exhibits provided with the application, that the lot was defined by metes
50 and bounds by deed and plan in 1954.

51 N Faiman mentioned the applicant would also need a variance from the area requirements to eventually
52 build, to which S Dunphy acknowledged that additional step.

53 G Proctor, read a letter objecting to the proposal stating that the lot had been used as green space and
54 parking space for the neighborhood and adjacent apartment complex for over 100 years. G Lord
55 circulated photographs he had taken to emphasize the circumstances Gail had described, demonstrate
56 issues with tractor trailers making the turn on Island Street, and convey that adding a home with
57 additional vehicles would further congest the area. S Dunphy said the proposed single family home would
58 have minimal impact on the neighborhood. J Stone said the residents of the adjacent apartment complex
59 would have to park on their own lot. JK Eckstrom argued that the neighborhood property owners have
60 no legal right to allow parking (or 'open space') on property they don't own. N Faiman noted the lot
61 was not owned by the neighborhood to determine its use.

62 **A Hoar MOVED to close the public hearing. JK Eckstrom SECONDED.**

63 There was no discussion.

64 Voice vote: 5: ayes, 0: nays; 0: abstain

65 Motion was carried.

66

67 N Faiman addressed the facts pertinent to the request and the Board discussed elements of least
68 detriment to the neighborhood but in the spirit of the ordinance: the lot size is 0.25 acres; the lot is at
69 the corner of Island Street and Mill Street; the lot satisfies the Ordinance definition of a "Lot," but not a
70 "Lot of Record"; the lot existed with its present dimensions at least as long ago as 1954; the lot has
71 72.5' frontage on Island Street and 140' frontage on Mill Street; the lot depth (from Mill Street) is 65';
72 the lot is in the Residential District, where section 5.2.3 of the Zoning Ordinance requires
73 35' front setbacks and 15' back and side setbacks; taking 35' front setback and 15' back/side setback from
74 65' leaves only a 15' deep building envelope; and that the applicant proposes a 28' x 60' building
75 envelope, which could require a reduction of the front setback to 21.7'.

76

77 **JK Eckstrom MOVED to grant the request for a special exception with the following**
78 **conditions: that the special exception permits the construction of a single-family**
79 **home with no more than three bedrooms, no more than two stories, and optionally**
80 **a one- or two-car attached garage; that all construction is to occur within, and not**
81 **to exceed or stray from, the 28' x 60' building envelope shown on the plan labeled**
82 **"Preliminary / Construction Plot Plan / Prepared for: / Fait Property Maintenance**
83 **LLC / Tax Map J Lot 112-1 / Island Street / Wilton, New Hampshire / January 13,**
84 **2023" which was submitted with the application, and included in the ZBA file for**
85 **the case and further notes that the proposal needs to conform to the area**
86 **requirements. J Klinghoffer SECONDED.**

87

88 **J Klinghoffer MOVED to re-open the public hearing. JK Eckstrom SECONDED.**

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89 There was no discussion.
90 Voice vote: 5: ayes, 0: nays; 0: abstain
91 Motion was carried.

92
93 **N Faiman called for a roll call vote to the MOTION to grant the request for a**
94 **special exception.**

95 Roll Call Vote:
96 J Klinghoffer: aye
97 A Hoar: no
98 JK Eckstrom: aye
99 J Stone: aye
100 N Faiman: aye

101 Motion was carried.

102
103 N Faiman instructed the applicant that a Notice of Decision would be forthcoming, and that the Select
104 Board, abutters, and any person directly involved in the hearing affected by the decision has the right to
105 ask the Zoning Board of Adjustment to reconsider their decision by way of written request no more
106 than 30 days after the decision was made explaining the reasons why the decision should be changed. He
107 stated that any activity/progress by the applicant during that period on the request could be at risk if the
108 decisions is overturned at a rehearing.

109

110 **3. Case #06/13/2023-05, North Farm, LLC - Public Hearing on a new case**

- 111 • North Farm LLC (owner) and Erich O. Mueller (applicant) have requested a special
112 exception under section 11.4(a) of the Wilton Zoning Ordinance to allow the improvement and
113 enlargement of an existing wetland crossing, in order to allow a driveway to access a proposed
114 business on Lot C-102, Gibbons Highway. (Case #6/13/2023-5)

115
116 N Faiman read the applicants request and stated for this type of request a second (2nd) hearing is
117 automatically required. J Stone said the Wilton Conservation Commission (WCC) requested to
118 participate in a site visit.

119
120 S Foisie presented the application to improve and expand an existing wetland crossing for landscape use
121 by the applicant, Erich Mueller, North Farm, LLC. He said the applicant had received advice from the
122 Planning Board (PB) in two (2) conceptual hearings to bring the project to fruition. He said a site plan
123 review by the PB will address vibrational noise, odor, smoke discharge, hazardous materials, signage,
124 stormwater management, structure design, etc..., and the wetland crossing a necessary requirement. He
125 said the proposed wetland crossing would be expanded, though impact to the wetland would be
126 minimal. The existing metal pipe would be replaced with a reinforced concrete pipe to reduce the
127 potential for erosion and contamination to the wetlands and Blood Brook. S Foisie said they eventually
128 would apply for an Alteration of Terrain permit (AoT) and dredge and fill permits as required by the
129 State for impact to the wetlands.

130 K Devy expressed concern about airborne particulates blowing across their shared property line. He
131 said their currently exists a tree line that buffers the two (2) properties and wants to know it will be
132 protected. S Foisie described the buffer as a tall mature wood that reduces wind and would protect
133 from airborne matter. Additionally, he said landscaping materials would be properly stored in blocking
134 bins to keep material where intended.

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135 S Foisie said the size of the wetlands crossing would be 24' wide with a 30' culvert. He said fill would
136 extend beyond this point making the wetlands crossing wider and higher to accommodate the larger
137 pipe. He estimated the area of total disturbance to be about 200 to 300 square feet. A Hoar requested a
138 site walk for ten (10) AM, Saturday, July 8, 2023. K Dery kindly offered the east side of the Wilton
139 Congregation of Jehovah Witnesses parking lot.
140

141 **JK Eckstrom MOVED to continue the hearing to July 11, 2023. A Hoar SECONDED.**
142 There was no discussion.
143 Voice vote: 5: ayes, 0: nays; 0: abstain
144 Motion was carried.
145

4. Case #06/13/2023-06, Benjamin and Caitlin Maki - Public Hearing on a new case

- 147 • Benjamin and Caitlin Maki have requested a variance to section 6.2.4 of the Wilton
148 Zoning Ordinance to allow the construction of an addition to the existing dwelling which
149 would be closer to a side lot line than is allowed by the Ordinance on Lot D-64, 24 Holt
150 Road. (Case #6/13/2023-6)

151 N Faiman read the applicants request.

152 C Guida took the floor and circulated a site plan. He said they questioned if the request should be a
153 variance to Section 6.2.4 or a special exception to 17.1.e of the Wilton Zoning Ordinance and chose the
154 former.
155

156 N Faiman stated it was clear a variance to Section 6.2.4 would be required. Additionally, he noted the
157 house is already non-conforming because a small portion of the northern house corner is already in the
158 setback, triggering Section 17.1.e, which says a non-conforming structure cannot be extended or
159 enlarged.

160 B Maki described their current living space and purpose of the proposed addition. He said the location
161 of the addition ties in with the existing foundation, and the only practical location for expansion. N
162 Faiman agreed this was more suitable and usable than trying to adjust and/or move conditions around
163 the pool or barn

164 The Board debated if it were possible to proceed on both conditions even though a request for only
165 one was made. C Guida asked the Board if they could find a solution that would not require the
166 applicant to return for another hearing. The Board reasoned, that regardless of one (1) hearing or two
167 (2) hearings, the outcome would be the same. C Case, commenting as Land Use Administrator, asked
168 for a decision that acknowledged the setback and the non-conformity.
169

170 **J Klinghoffer MOVED to grant the request for a variance to Section 6.2.4 to allow**
171 **the construction of an addition to the existing dwelling on Lot D-64, 25 Holt Road**
172 **which will be closer to a side lot line than is allowed by the zoning ordinance.**
173 **Additionally, the Board notes that the construction in the setback which is**
174 **permitted by this variance would also, in the absence of this variance, be prohibited**
175 **by section 17.1(e) of the Ordinance. JK Eckstrom SECONDED.**

176 There was no discussion.

177 Roll Call Vote: J Klinghoffer aye
178 JK Eckstrom aye
179 J Stone aye
180 A Hoar aye

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181 N Faiman aye
182 Motion was carried.

183
184 N Faiman instructed the applicant that a Notice of Decision would be forthcoming, and that the Select
185 Board, abutters, and any person directly involved in the hearing affected by the decision has the right to
186 ask the Zoning Board of Adjustment to reconsider their decision by way of written request no more
187 than 30 days after the decision was made explaining the reasons why the decision should be changed. He
188 stated that any activity/progress by the applicant during that period on the request could be at risk if the
189 decisions is overturned at a rehearing.

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191 **5. Minutes of previous meeting - 06.13.2023**

192 Not reviewed
193

194 **6. Adjournment**

195
196 **A Hoar MOVED to adjourn at 9:58 PM. JK Eckstrom SECONDED.**
197 There was no discussion.
198 Voice vote: 5: aye 0: nay 0: abstain
199 Motion was carried.

200
201 Approved 07.11.2023