

TOWN of WILTON
Zoning Board of Adjustment
MINTUES



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DATE: September 12, 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); Linda Jennings (alternate); Peg Duggan (alternate)
ABSENT: none
STAFF: Caryn Case (Board Secretary)
ATTENDEES: Bill Gagan (applicant); Ken Robinson (Fieldstone Land Consultants); Matt Arel (applicant); Linda Pellerin (applicant); Michael Pellerin (applicant)

I. Call to Order

N Faiman called the meeting to order at 7:05 PM. He reminded the public to sign-in and wear masks. He introduced the voting board members and the board’s new alternates. He explained alternate board members participate in case discussions but do not vote unless their participation became the result of a regular board member choosing to remove him/herself from the case. Additionally, he reminded everyone the board would not hear any new case after 9:30 p.m. and would terminate the meeting at ten (10) p.m. unless the Board unanimously voted to continue. He asked speakers to introduce themselves by name, address, and relationship to the case when called.

2. Non-public session under RSA 91-A:3, II(I)

**N Faiman made a MOTION to open a non-public session under RSA 91-A:3 II(I).
JKEckstrom seconded the motion.**

Roll Call Vote: J Klinghoffer aye
A Hoar aye
J Stone aye
JK Eckstrom aye
N Faiman aye
L Jennings aye
P Duggan aye

Motion was carried.

JK Eckstrom made a MOTION to close the non-public session under RSA 91-A:3 II(I). J Stone seconded the motion.

Roll Call Vote: J Klinghoffer aye
A Hoar aye
J Stone aye
JK Eckstrom aye
N Faiman aye
L Jennings aye
P Duggan aye

47 Motion was carried.
48

49 **3. Minutes**

50 a. *July 11, 2023*
51

52 J Stone noted changes to lines #116, #128, #158, #184 and #188.

53 N Faiman noted changes to lines #129 and #149.
54

55 **J Klinghoffer MOVED to approve the minutes of July 11, 2023 as amended. J Stone**
56 **SECONDED.**

57 There was no discussion.

58 Voice vote: 5: ayes, 0: nays; 2: abstain (L Jennings, P Duggan)

59 Motion was carried.
60

61 b. *August 8, 2023*
62

63 J Stone noted changes to lines #108 and #129.
64

65 **JK Eckstrom MOVED to approve the minutes of August 8, 2023. J Stone**
66 **SECONDED.**

67 There was no discussion.

68 Voice vote: 5: ayes, 0: nays; 2: abstain (L Jennings, P Duggan)

69 Motion was carried.
70

71 c. *August 19, 2023 (site visit)*
72

73 **JK Eckstrom MOVED to approve the minutes of August 8, 2023. J Stone**
74 **SECONDED.**

75 There was no discussion.

76 Voice vote: 6: ayes, 0: nays; 1: abstain (P Duggan)

77 Motion was carried.
78

79 **4. Bill Gagan, Public Hearing continued, Case No. 07/11/2023-02 & 09/12/2023-01 NEW**

80 a. *Bill Gagan has requested a special exception under section 17.3 of the Wilton Zoning Ordinance to*
81 *build a new house (on the foundation of the existing house, which is to be demolished), which will*
82 *be closer to one or more lot lines than allowed by the ordinance on Lot J-118, 27 Island Street.*

83 b. *Bill Gagan has requested a variance to section 4.8 of the Wilton Zoning Ordinance to build a new*
84 *house which will be less than 50 feet from the Souhegan River on Lot J-118, 27 Island Street.*
85

86 N Faiman read the applicants request.
87

88 B Gagan presented a survey, per the request of the Board from a previous meeting. He
89 explained he wanted to demolish the existing property and rebuild on the existing foundation.
90 He acknowledged that recently poured concrete, did in fact, encroach into the abutter's
91 property and said it would be removed. He said all NHDES permitting was in progress.
92

93 A Hoar requested that the survey show the size and location of the easement on the easterly
94 side of the property as well as the percentage of impervious surface that would remain before
95 moving forward. N Faiman did not feel this was necessary for the Board to deliberate on the
96 requests. JK Eckstrom agreed.

97
98 M Pellerin commented saying he once lived on Island Street. He said the lots were extremely
99 small with no space to park a vehicle. He advised the town to buy the property, tear the
100 structure down, and create a parking lot.

101
102 N Faiman found that based on the applicant's testimony and the presentation of the "Existing
103 Conditions Plan" that the lot is 0.078 acres and approximately 46 feet wide and 73 feet deep; it
104 is assessed as residential use by the Town of Wilton; the Souhegan River runs adjacent to the
105 back of the lot; the lot contains a two-story dwelling unit condemned by the Town in 2021; the
106 dwelling currently encroaches on the abutter to the southwest; reconstruction is not permitted
107 by Wilton Zoning Ordinance section 17.1(d, and section 17.2 relieves the applicant of complying
108 with area and frontage requirements for the residential district; however, setback requirements
109 reduce the building envelope to approximately 16' x 23', and section 4.8 of the zoning
110 ordinance requires that all structures be set back 50 feet from all water bodies which is all but
111 25' from the front lot line.

112
113 **A Hoar made a MOTION to close the public hearing for the Board to deliberate. JK**
114 **Eckstrom SECONDED.**

115 There was no discussion.

116 Voice vote: 7: ayes, 0: nays; 0: abstain

117 Motion was carried.

118
119 **A Hoar made a MOTION to deny the request for a special exception under**
120 **section 17.3 of the Wilton Zoning Ordinance because building directly up to a**
121 **side lot line is not reasonable, AND deny the request for a variance to section**
122 **4.8 of the Wilton Zoning Ordinance as constructing a building within a few feet**
123 **of a protected river is inconsistent with the spirit of the ordinance. J Stone**
124 **SECONDED.**

125
126 **JK Eckstrom made a MOTION to re-open the public hearing. J Klinghoffer**
127 **SECONDED.**

128 There was no discussion.

129 Voice vote: 7: ayes, 0: nays; 0: abstain

130 Motion was carried.

131
132 B Gagan said he felt the discussion showed thought and was based in the spirit of the ordinance.

133
134 **Roll Call Vote:** **J Klinghoffer aye**
135 **A Hoar aye**
136 **J Stone aye**
137 **JK Eckstrom aye**
138 **N Faiman aye**

139 **Motion was carried.**

141 **J Klinghoffer made a MOTION that despite the time of 9:30 p.m., the Board agree**
142 **to hear the remaining cases. JKEckstrom seconded the motion.**

143 Roll Call Vote: J Klinghoffer aye
144 A Hoar aye
145 J Stone aye
146 JK Eckstrom aye
147 N Faiman aye
148 L Jennings aye
149 P Duggan aye

150 Motion was carried.
151

152 **5. Roger Chappell Holdings, LLC, Public Hearing Continued, Case No. 08/08/2023-01**

153 a. *Roger Chappell Holdings, LLC (owner) and Better Built Homes, LLC (applicant) have requested a*
154 *special exception under section 11.4(a) of the Wilton Zoning Ordinance to allow construction of a*
155 *road that will cross a wetland area in order to access a proposed subdivision of Lot D-99, 304*
156 *Gibbons Highway.*

157
158 N Faiman read the applicants request.
159

160 K Robinson said the culvert length is proposed at 60', not 40' as cited in the minutes of August 19,
161 2023.
162

163 A Hoar asked the condition of that proposed wetlands crossings after all the rain that has occurred. K
164 Robinson said the length of the culvert was intended to control the velocity of water through the area
165 and diverted, and treated, to a vegetative swale. He said the SMP would narrate the treatment process
166 while the HOA would be required for its maintenance.
167

168 N Faiman found that the plans and testimony of the applicant, and observations by the Board during
169 the August 19, 2023 site walk that an eight (8) lot subdivision is proposed having limited frontage
170 along Route 101, Gibbons Highway; that a common driveway is proposed to access the subdivided
171 lots; that the lot is bisected by an intermittent stream that runs to the Souhegan River and more than
172 half of the lots 24 acres is inaccessible without crossing the stream; that the proposed culvert will
173 replace an existing eroding metal pipe with RCP and impact approximately 1,200 square feet of
174 wetlands designed with a headwall upstream and a natural stream bed for the outflow downstream
175 and mirrors a like proposal approved in April 2021 which has expired.
176

177 **JK Eckstrom made a MOTION to close the public hearing for the Board to**
178 **deliberate. A Hoar SECONDED.**

179 There was no discussion.
180 Voice vote: 7: ayes, 0: nays; 0: abstain
181 Motion was carried.
182

183 N Faiman felt the request was reasonable and allowed for use of the land as intended. He said
184 any approval should include a condition subject to the plan set.
185

186 **JK Eckstrom made a MOTION to approve the request for a special exception**
187 **under section 11.4(a) of the Wilton Zoning Ordinance as a majority of the lot**
188 **would be inaccessible for development without crossing the stream and the**

189 **Board has been persuaded there is no reasonable alternative to the proposed**
190 **wetlands crossing that would have a lesser impact upon the wetlands.**
191 **Additionally, the approval is subject to reference to the latest revised subdivision**
192 **plan. J Stone SECONDED.**

193
194 **JK Eckstrom made a MOTION to re-open the public hearing. J Klinghoffer**
195 **SECONDED.**

196 There was no discussion.

197 Voice vote: 7: ayes, 0: nays; 0: abstain

198 Motion was carried.

199
200 **Roll Call Vote: J Klinghoffer aye**
201 **A Hoar abstain**
202 **J Stone aye**
203 **JK Eckstrom aye**
204 **N Faiman aye**

205 **Motion was carried.**
206

207 **6. Linda and Michael Pellerin, Public Hearing NEW, Case No. 09/12/2023-02**

- 208 a. *Linda and Michael Pellerin have requested a special exception under section 17.3 of the*
209 *Wilton Zoning Ordinance and/or equitable waivers of sections 6.2.4 and 17.2 of the Wilton Zoning*
210 *Ordinance to allow the completion of an addition which is 2½ feet closer to a lot line than is*
211 *permitted by the Zoning Ordinance Lot D-36, 84 Holt Road.*
212

213 N Faiman read the applicants request.

214
215 L Pellerin distributed photographs of measurements she said demonstrates the effort made to assure
216 their 20' x 30' garage addition did not encroach into the rear lot line. Additionally, she said her
217 neighbor identified that lot line to her.
218

219 **J Klinghoffer made a MOTION to close the public hearing for the Board to**
220 **deliberate. JK Eckstrom SECONDED.**

221 There was no discussion.

222 Voice vote: 7: ayes, 0: nays; 0: abstain

223 Motion was carried.
224

225 J Klinghoffer said that the measurements as demonstrated by the applicant were the result of
226 information that was not properly vetted, therefore could not be proved; as such, there was no good
227 faith error made. N Faiman said the property owner is required to be diligent to affirm any action
228 taken by said owner is not in conflict with the zoning ordinance.
229

230 A Hoar began to assess if the addition could have been located in any other place. JK Eckstrom
231 remarked that old-time property cards showed setbacks making it easier for property owners.
232

233 **J Klinghoffer made a MOTION to approve the request for a special exception**
234 **under section 17.3 of the Wilton Zoning Ordinance as it would allow completion**
235 **of the addition which is closer to the lot line permitted, AND deny the request**
236 **for equitable waivers of 6.2.4 and 17.2 of the Wilton Zoning Ordinance since**

237 completion of the addition is allowed by the special exception. JK Eckstrom
238 **SECONDED.**

239
240 **J Klinghoffer made a MOTION to re-open the public hearing. J Stone SECONDED.**

241 There was no discussion.

242 Voice vote: 7: ayes, 0: nays; 0: abstain

243 Motion was carried.

244

245 **Roll Call Vote: J Klinghoffer aye**

246 **A Hoar aye**

247 **J Stone aye**

248 **JK Eckstrom aye**

249 **N Faiman abstain**

250 **Motion was carried.**

251

252 **7. Other Business**

253 a. *Application and new material deadline*

254

No discussion.

255

256 **8. Adjournment**

257

258 **A Hoar made a MOTION to adjourn at 8:34 PM. J Klinghoffer SECONDED.**

260 There was no discussion.

261 Voice vote: 7: ayes, 0: nays; 0: abstain

262 Motion was carried.

263

264

265 APPROVED 12.12.2023