



Town of Wilton Zoning Board of Adjustment MINUTES

Tuesday, February 13, 2024

7 PM

**Town of Wilton, Town Hall Courtroom
42 Main Street**

ATTENDANCE

Board Members Present:	Neil Faiman (chairperson); Joanna Eckstrom (co-chairperson; remote); Jeff Stone; Peg Duggan (alternate); Linda Jennings (alternate)
Board Members Absent:	Judith Klinghoffer
Zoning Board of Adjustment Secretary:	Caryn Case
Attendees:	Sam Foisie (Meridian Land Services); Alec MacMartin (Planning Board); Peter Howd (Planning Board); Randy King (Wilton Conservation Commission)

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MINUTES

1. Call to Order

N Faiman called the meeting to order at 7:02 p.m. He reminded the public to sign-in and wear masks.

He introduced the Board members, alternate Board members, and identified members attending by remote means due to illness, making it impractical to attend otherwise. He then conducted a roll call vote:

P Dugan	present
A Hoar	present
N Faiman	present

40 J Stone present
41 L Jennings present
42 JK Eckstrom present but not voting
43

44 N Faiman explained that alternate Board members participate in case discussions but do not vote
45 unless their participation became the result of a regular Board member choosing to remove
46 him/herself from the case, or became absent for a permissible reason. As a result, he named
47 alternates P Dugan and L Jennings as voting Board members for JK Eckstrom and J Klinghoffer.
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49 Last, N Faiman reminded everyone that the Board would not hear any new case after 9:30 p.m. and
50 would terminate the meeting at ten (10) p.m. unless the Board unanimously voted to continue. He
51 asked speakers to introduce themselves by name, address, and describe their relationship to the
52 case when called.
53

54 **2. North Farm, LLC aka Northern Lights Landscaping, Gibbons Highway**

55 Public Hearing **NEW**
56 **Case #01/09/2024-01**

57 *North Farm LLC (owner) and Erich O. Mueller (applicant) have requested an appeal of a*
58 *decision of the Planning Board regarding sections 11.2, 3.1.34, and 3.1.34-a of the*
59 *Wilton Zoning Ordinance and/or a special exception under section 11.4(a) of the Wilton*
60 *Zoning Ordinance to allow the improvement and enlargement of an existing wetland*
61 *crossing, to allow associated utilities such as but not limited to water, sewer/septic,*
62 *power, and cable/internet to access a proposed business on Lot C-102, Gibbons Highway.*
63

64 N Faiman opened the public hearing by reading the public notice. He reviewed the presentation
65 protocol and explained the voting process. He asked the Applicant to describe what his needs
66 were and explain the relief he sought. He suggested to the Board they hear the Appeal of
67 Administrative Decision first and explained that that decision would determine if the Applicant's
68 second request would even warrant review by the Board. There was no objection from the
69 Board.
70

71 S Foisie identified himself as the Applicant's Representative. In his absence, he had a colleague
72 present to the Planning Board on 09.20.2023 the fact the sewer and water lines would be placed
73 in the wetlands crossing below the culvert for the driveway whose special exception had been
74 approved by the Zoning Board of Adjustment on 07.11.2023. He said this disclosure resulted in
75 the Planning Board requiring the Applicant to seek a second special exception specific to the
76 required utilities even after describing to the Planning Board how the utilities would be
77 constructed and were outside of the wetlands district. He added that a special exception was
78 required as the location of the proposed driveway would require improving the culvert currently
79 there.
80

80 J Stone asked if the location of the wetlands crossing was wetlands or upland.

81 S Foisie identified the area as upland.

82 A Hoar asked if the first request for a special exception through the wetlands crossing included a
83 description of the utilities expected to pass through there too.

84 S Foisie said it did not. He acknowledged it was a mistake on his part to assume that other
85 necessary utilities, needed to access use of the back portion of the lot, would be inherent.
86 N Faiman stated it was a reasonable argument that the Applicant would install the utilities at the
87 same time the culvert was being improved. However, he mentioned the disturbance to construct
88 both would be greater.

89 A Hoar said had he known the utilities through the wetlands crossing he would not have
90 approved of the special exception or would have sought additional information.

91 A MacMartin, representing the Planning Board, said he conferred with Town Counsel on the
92 issue and was told Section 11.4.a of the Wilton Zoning Ordinance clearly identifies utilities that
93 are essential to the productive use of the land require a special exception as granted by the
94 Zoning Board of Adjustment.

95 P Howd, representing the Planning Board, noted that installation of the utilities is a separate use,
96 and it is in everyone's best interest that permission for the sewer (utilities) line(s) is approved by
97 both the Planning Board and Zoning Board of Adjustment for liability reasons.

98
99 JK Eckstrom left the public hearing.

100
101 **A Hoar MOVED to close the public hearing. J Stone SECONDED.**
102 **There was no discussion.**

103 **Roll Call Vote:** P Dugan aye
104 A Hoar aye
105 N Faiman aye
106 J Stone aye
107 L Jennings aye

108 **Motion carried.**

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110 N Faiman said that while the public hearing had been closed, attendees have the right to stay and
111 listen without comment.

112
113 N Faiman said he understands the argument brought by the Applicant; however, he was not
114 persuaded by it.

115 J Stone remarked that installation of the utilities requires a different type of construction and
116 asked that there be more oversight.

117 N Faiman said if the Board grants the Appeal, it will remove the remove oversight by the Town,
118 it agrees with the Applicant that the location of the wetlands crossing is in fact upland, thus
119 allowing the pass through of the utilities.

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121 **A Hoar MOVED to deny the Appeal of Administrative Decision on the basis**
122 **Town oversight is required and the utilities require its own special exception for**
123 **passage through the wetlands crossing. J Stone SECONDED.**

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125 **J Stone MOVED to re-open the public hearing. P Dugan SECONDED.**

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There was no discussion.

Roll Call Vote: P Dugan aye
A Hoar aye
N Faiman aye
J Stone aye
L Jennings aye

Motion carried.

N Faiman called the vote on the MOTION made by A Hoar.

There was no discussion.

Roll Call Vote: P Dugan aye
A Hoar aye
N Faiman aye
J Stone aye
L Jennings aye

Motion carried.

N Faiman continued the public hearing on the Applicant's request for a special exception.

S Foisie said to support the landscape construction business at the rear of the lot, utilities to include, but limited to water, sewer, cable, internet, etc... were needed.

N Faiman indicated the Board is required to the approval of specific improvements only.

S Foisie said those specific improvements are the water line, sewer pipe, underground cable, underground electric, and underground internet to which all would be encased in seamless pipes.

He noted the water line would cross above the sewer line so as not to contaminate the soil.

N Faiman noted that pipes diverge once leaving the crossing.

S Foisie said the effluent pipe will move away from the wetland, embedded in sand, to a permeable location.

A Hoar asked for pipe and sleeve specifications.

S Foisie did not have that exact information but said he would provide that to the Board at the next meeting.

A MacMartin said the Planning Board has the project under peer engineering review and offered to include the concerns of the Zoning Board of Adjustment within the scope of that work.

N Faiman said it was uncommon that the Zoning Board of Adjustment would request a peer engineering review and agreed with A MacMartin this would be advisable and a condition subsequent.

A Hoar asked for schematics to which S Foisie referenced having received State approval for the septic and operation to construct within a wetland.

N Faiman asked to set a date for a site visit.

P Duggan MOVED to continue the hearing and hold a site visit on March 9, 2024. L Jennings SECONDED.

168 **There was no discussion.**

169 **Roll Call Vote:** P Dugan aye
170 A Hoar aye
171 N Faiman aye
172 J Stone aye
173 L Jennings aye

174 **Motion carried.**
175

176 **3. Minutes – 12.12.2023 & 01.09.2024**
177

178 **P Duggan MOVED to approve the Minutes of December 12, 2023, as amended**
179 **and discussed. J Stone SECONDED.**

180 **There was no discussion.**

181 **Roll Call Vote:** P Dugan aye
182 A Hoar aye
183 N Faiman aye
184 J Stone aye
185 L Jennings aye

186 **Motion carried.**
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188 **A Hoar MOVED to approve the Minutes of January 9, 2024, as amended and**
189 **discussed. J Stone SECONDED.**

190 **There was no discussion.**

191 **Roll Call Vote:** P Dugan aye
192 A Hoar aye
193 N Faiman aye
194 J Stone aye
195 L Jennings aye

196 **Motion carried.**
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198 **4. Adjournment**
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200 **A Hoar MOVED to adjourn at 8:35 PM. J Stone SECONDED.**

201 **There was no discussion.**

202 **Roll Call Vote:** L Jennings aye
203 J Stone aye
204 A Hoar aye
205 J Klinghoffer aye
206 N Faiman aye

207 **Motion carried.**
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Approved XX.XX.2024

DRAFT