



Town of Wilton, NH Zoning Board of Adjustment MINUTES

Masks are requested to be worn at all Town of Wilton ZBA meetings.

**Tuesday, November 12, 2024
7 PM
Wilton Town Hall Courtroom
42 Main Street**

ATTENDEES

Board Members Present:

Neil Faiman (chairperson); Joanna Eckstrom (vice-chairperson); Jeff Stone; Peg Duggan (alternate)

Board Members Absent:

Andy Hoar; Judith Klinghoffer; Linda Jennings (alternate)

Board Secretary:

Caryn Case (land use administrator)

Attendees:

Denise Berrigan; Jacob McMaster; Greg Mattison; Dawn Ryan

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MINUTES

1. Call to Order

Chairperson Faiman called the meeting of the Town of Wilton Zoning Board of Adjustment (ZBA) to order at 7:00 p.m. He reminded attendees to sign-in. He shared that the zoning board has some members who themselves or have family members who have reason or are more at risk of becoming ill, and as a courtesy he asked attendees to wear face masks. He announced the sitting board would be composed of only four members as one member was ill and the other on extended leave. He said that the law requires three votes of the Board to approve a request and gave the applicants the option of moving forward with the four member board or wait until next month for a five member board. Both applicants indicated their preference was to stay and have their requests heard.

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Chairperson Faiman asked anyone who might be occasioned to speak to the Board to introduce themselves by name, address and relation to the case and the applicant(s).

Chairperson Faiman introduced the sitting Board: Neil Faiman (chairperson), Joanna Eckstrom (vice-chairperson), Jeff Stone, and Peg Duggan.

Chairperson Faiman stated that no new case would be heard after 9:30 p.m. and the meeting would end at 10:00 p.m. unless there was a unanimous decision by the Board to extend it.

2. Minutes

a. October 8, 2024

Joann Eckstrom asked to defer review of October 8, 2024, minutes until each case had been heard as the minutes were not relevant to any of the evening's proceedings.

Chairperson Faiman addressed the Board asking if there were any objections to Joanna Eckstrom's request to defer the review of the October 8, 2024, minutes until later in the evening. There was no objection.

3. Dawn Ryan

Public Hearing, *NEW*
Case 11/12/2024-01

Dawn Ryan has requested a variance to section 17.1(e) of the Wilton Zoning Ordinance to allow the construction of a 14'x16' single-story addition on the back of the existing house on Lot A-47-2, 74 Stagecoach Road, where the house does not satisfy the setback requirement from the road.

Chairperson Faiman opened the public hearing by reading the public notice.

Chairperson Faiman explained that the applicant or the applicant's representative should present their case by illustrating what it is they want to accomplish, describe why they need permission for it, and justify why the ZBA should grant the request.

Dawn Ryan, applicant, introduced herself as the property owner and Greg Mattison, as her representative and contractor. She said Greg would present the request she is seeking relief from.

Greg Mattison said the current request for relief is like their February 2024 request in that Miss Ryan would like to add an addition at the rear of her property of her non-conforming structure which requires relief from subsection 17.1.e as may be permitted by the ZBA.

75 Dawn Ryan said that her home is close to the road in the front setback, but the addition is proposed at the
76 back of the building outside of the setback as shown in exhibit one in her application.

77

78 Greg Mattison described that exhibits two and three show the existing conditions of the property and
79 exhibits four and five show the single-story back and side property views of the proposed 14' x 16'
80 addition. He added the purpose of the addition is to relocate an outdated and non-compliant bathroom
81 and create laundry and storage space. He added that the addition would have additional egress, windows,
82 and the exterior would mirror the lines and materials of the existing porch and structure.

83

84 Chairperson Faiman asked the applicant to address the specific characteristics of the property that meet
85 the criteria for variance.

86

87 Greg Mattison said:

- 88 1. Granting the variance would not be contrary to the public interest as the proposed addition
89 will not have any impact on adjacent properties/abutters and does not encroach into the 35'
90 setback.
- 91 2. Granting the variance would be consistent with the spirit of the ordinance because the
92 proposed addition, which creates a code compliant bathroom, protects the health and
93 safety of the occupants whom will use it;
- 94 3. Granting the variance would do substantial justice allowing the applicant to remove the
95 outdated and non-compliant bathroom and conditions for a code-complaint bathroom and
96 safer home.
- 97 4. The proposed use will not diminish property values as the use of the property has not
98 changed in 200 years and improvements that benefit the safety and welfare of the occupants
99 have been made.
- 100 5. Literal enforcement of the ordinance would result in unnecessary hardship as a special
101 condition of the property that distinguishes it from other properties in the area is the fact
102 the house is 200 years old and non-conforming by today's standards; and
- 103 6. No fair and substantial relationship exists between the public purposes of the ordinance
104 provision and the specific application of that provision to the property because the
105 proposed addition at the rear of the structure does not affect the public.

106

107 Chairperson Faiman shared the facts as he has determined:

- 108 1. the lot is a 14.5-acre lot on the east side of Stagecoach Road in the General Residence &
109 Agricultural District;
- 110 2. the lot contains a large historic house, which at its closest is ten feet from the front lot line
111 where the zoning ordinance requires a thirty-five-foot setback;

112 3. the applicant proposes to build a single story (14' x 16') addition at the southeast rear
113 corner of the house extending to the south where no portion of the addition would be less
114 than fifty feet from any lot line or so estimated.
115

116 **JK Eckstrom made a MOTION to close the public hearing for deliberations.**

117 **J Stone SECONDED the motion.**

118 **There was no DISCUSSION.**

119 **Voice vote: ayes 4**

120 **nays 0**

121 **abstentions 0**

122 **Motion CARRIED. 4/0/0**
123

124 Joanna Eckstrom said the request is valid and well thought out. She said it was good that there was no
125 further imposition at the front of the property and the addition will remain a single-story structure that
126 keeps with the character of the neighborhood and as the original house was intended to be.
127

128 Chairperson Faiman addressed the question of reasonable use saying the proposed use does not threaten
129 the public health, safety or welfare nor does it change the character of the neighborhood. He said that the
130 use is consistent with residential zoning and does not offend the setback restrictions, that is, it is not
131 offensive to the reasons for the restrictions, substantial justice preventing the property owner from making
132 a minor and reasonable improvement to their property because of decisions that were made generations
133 before anyone ever imagined the idea of zoning. He added that the proposed addition makes no tangible
134 difference to the character of the property or neighborhood, and that hardship arises from special
135 conditions of that property being an historic house which would have been consistent with the character
136 of the neighborhood when it was built and is still consistent with the character of the neighborhood now,
137 notwithstanding subsequently imposed setback requirements consequently.
138

139 **JK Eckstrom made a MOTION to grant the variance of 17.1(e) of the Wilton**
140 **Zoning Ordinance to allow the construction of a 14' x 16' single-story addition at**
141 **the back of the house for the following reasons:**

- 142 **1.** that the proposed use does not threaten the public health, safety or welfare;
143 **2.** that the proposed use is consistent with residential zoning and does not offend the setback
144 restrictions;
145 **3.** that the proposed use is a minor and reasonable improvement to the property;
146 **4.** that the proposed use does not affect the character of the property or neighborhood;
147 **5.** that due to special conditions of that property, that is, at the time the house was built its
148 character was consistent with the neighborhood and is still consistent with the
149 neighborhood;

- 150 **6.** Granting the variance would not be contrary to the public interest as the proposed addition
151 will not have any impact on adjacent properties/abutters and does not encroach into the 35'
152 setback.
- 153 **7.** Granting the variance would be consistent with the spirit of the ordinance because the
154 proposed addition, which creates a code compliant bathroom, protects the health and
155 safety of the occupants who will use it;
- 156 **8.** Granting the variance would do substantial justice allowing the applicant to remove the
157 outdated and non-compliant bathroom and conditions for a code-complaint bathroom and
158 safer home.
- 159 **9.** The proposed use will not diminish property values as the use of the property has not
160 changed in 200 years and improvements that benefit the safety and welfare of the occupants
161 have been made.
- 162 **10.** Literal enforcement of the ordinance would result in unnecessary hardship as a special
163 condition of the property that distinguishes it from other properties in the area is the fact
164 the house is 200 years old and non-conforming by today's standards; and
- 165 **11.** No fair and substantial relationship exists between the public purposes of the ordinance
166 provision and the specific application of that provision to the property because the
167 proposed addition at the rear of the structure does not affect the public.

168 **J Stone SECONDED the motion.**

169 **There was no discussion.**

170

171 **JK Eckstrom made a MOTION to re-open the public hearing for deliberations.**

172 **J Stone SECONDED the motion.**

173 **There was no DISCUSSION.**

174 **Voice vote: ayes 4**
175 **nays 0**
176 **abstentions 0**
177 **Motion CARRIED. 4/0/0**

178

179 Chairperson Faiman called for a vote on the motion.

180

181 **There was no DISCUSSION.**

182 **ROLL call vote: P Duggan aye**
183 **J Stone aye**
184 **JKEckstrom aye**
185 **N Faiman aye**
186 **Motion CARRIED. 4/0/0**

187

188 Chairperson Faiman told the applicant written notification of the decision would be sent in the next few
189 days. He said the applicant, the Select Board and any of the abutters have the right to appeal the decisions
190 and request the Zoning Board of Adjustment hold a new hearing to consider its decision. He said that
191 requests for a rehearing must be filed in writing no more than 30 days from the day of the decision and
192 fully state all the reasons why it is perceived that the Bard made a mistake or ought to reconsider its
193 decision. He said that in the absence of any request for rehearing, the decision becomes final.
194

195 4. Denise Berrigan

196 Public Hearing, *NEW*

197 **Case 11/12/2024-02**

198 *Denise Berrigan has requested a variance to section 17.1(e) of the Wilton Zoning Ordinance to allow the*
199 *construction of a 15' porch roof on the north and north-west of the existing house on Lot A-48-2, 77*
200 *Stagecoach Road, where the house does not satisfy the setback requirement from the road.*
201

202 Chairperson Faiman opened the public hearing by reading the public notice.
203

204 Denise Berrigan, applicant, introduced herself as the property owner, and Jacob McMaster as her
205 representative. She said that Jake would present the request she is seeking relief from.
206

207 Jake McMaster explained he was a landscaper assisting the applicant with the variance to construct a roof at
208 the north and northwest side of the house over an existing patio. He noted that the existing patio or the
209 proposed porch roof would encroach into the 35-foot setback.
210

211 Chairman Faiman commented that he had driven by the property and photographed the open porch from
212 the roadway.
213

214 Jake McMaster described the proposed porch as open with support pillars, a design like that of a property
215 in Wilton Center. He said the area extends the line of sight from the enclosed sunroom, and there was no
216 intent to enclose this exterior space. He indicated the owner desired more outdoor living space and has
217 considered adding an outdoor kitchen and additional stonework in the future.
218

219 Chairperson Faiman noted receipt of an email from Cori Ryan, abutter, expressing support for the
220 proposal.
221

222 Chairperson Faiman stated that the parcel is 2.2 acres on the west side of Stagecoach Road with frontage
223 on the northeast side of Davisville Road in the General Residence and Agricultural District where the
224 zoning ordinance requires a 35-foot setback. He said the applicant proposes to build a porch roof that
225 extends 13 feet from the north and 17 feet from the west side of the house and 125 feet from the entire
226 north end of the house and that no portion of the structure would be less than 35 feet from any lot line.

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JK Eckstrom made a MOTION to close the public hearing for deliberations.
J Stone SECONDED the motion.
There was no DISCUSSION.

Voice vote: ayes 4
nays 0
abstentions 0
Motion CARRIED. 4/0/0

Chairperson Faiman noted, as with the previous case, the proposed addition is not going to change the character of the house or the neighborhood, and that the house existed before zoning caused problems with compliance.

Joanna Eckstrom noted that the applicant had been through in their responses and the applicant's reasons for an approval were reasonable.

JK Eckstrom made a MOTION to grant the variance of 17.1(e) of the Wilton Zoning Ordinance to allow construction of a 15' porch roof on the north and north-west side of the existing house for the following reasons:

1. that the proposed use does not threaten public health, safety or welfare;
2. that the proposed use is consistent with residential zoning and does not offend the setback restriction
3. that the proposed use is a minor and reasonable improvement to the property;
4. that the proposed use does not affect the character of the property or neighborhood;
5. that due to special conditions of that property, that is, at the time the house was built its character was consistent with the neighborhood and is still consistent with the neighborhood;
6. the house had been built at a time before trucks and automobiles were part of society when it made sense to build homes closer to the roadway for access by horse, food and buggy;
7. that the home was built during the late 1800's or early 1900's before setback requirements had been established;
8. the porch roof extends over an existing patio which does not have any impact on the public or abutters;
9. the porch extension does not add to the non-conformity;
10. the porch extension will provide the property owner a more luxurious outdoor living space and add value to the property.

J Stone SECONDED the motion.
There was no discussion.

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JK Eckstrom made a MOTION to re-open the public hearing for deliberations.

J Stone SECONDED the motion.

There was no DISCUSSION.

Voice vote: ayes 4
nays 0
abstentions 0
Motion CARRIED. 4/0/0

Chairperson Faiman called for a vote on the motion.

There was no DISCUSSION.

ROLL call vote: P Duggan aye
J Stone aye
JK Eckstrom aye
N Faiman aye
Motion CARRIED. 4/0/0

Chairperson Faiman told the applicant written notification of the decision would be sent in the next few days. He said the applicant, the Select Board and any of the abutters have the right to appeal the decisions and request the Zoning Board of Adjustment hold a new hearing to consider its decision. He said that requests for a rehearing must be filed in writing no more than 30 days from the day of the decision and fully state all the reasons why it is perceived that the Bard made a mistake or ought to reconsider its decision. He said that in the absence of any request for rehearing, the decision becomes final.

5. Minutes (continued)

a. October 8, 2024

The Board noted changes to lines 46, 47, 70, 71, 137, 138, 175, 178, and 201.

JK Eckstrom made a MOTION to edit lines 46, 47, 70, 71, 137, 138, 175, 178, and 201 and accept the minutes of October 8, 2024, as amended.

J Stone SECONDED the motion.

There was no DISCUSSION.

Voice vote: ayes 4
nays 0
abstentions 0
Motion CARRIED. 4/0/0

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6. Other Business

a. HAB Appeal Update

Chairperson Faiman stated that no information on the decision relative to the Thomas Ryan appeal had been received.

7. Adjournment

JK Eckstrom made a MOTION to adjourn at 8:15 p.m.

J Stone SECONDED the motion.

There was no DISCUSSION.

Voice vote: ayes 4

nays 0

abstentions 0

Motion CARRIED. 4/0/0

APPROVED XX.XX.2024

