



**Meeting Minutes  
Town of North Hampton  
Zoning Board of Adjustment  
Tuesday, February 23, 2021 at 6:30pm  
Town Hall, 231 Atlantic Avenue  
North Hampton, NH 03862**

These Minutes were prepared as a reasonable summary of the essential content of the Meeting, not as a transcription. All exhibits mentioned, or incorporated by reference, in these Minutes are a part of the official Case Record and available for inspection at the Town Offices.

**In attendance:** Mark Janos, Chair; Jonathan Pinette, Vice Chair; Members Robin Reid, Rick Stanton, and Audrey Prior; Alternate Members Bill Clifford and Dennis Williams; and Recording Secretary Rick Milner.

**I. Preliminary Matters.**

Chair Janos called the meeting to order at 6:33pm

Mr. Janos, Mr. Pinette, Mr. Stanton, Ms. Prior, and Mr. Williams were present at the Town Hall location. Ms. Reid and Mr. Clifford participated by electronic means as authorized by State of NH Executive Orders associated with the current public health crisis.

**Mr. Pinette moved that the ZBA authorizes Ms. Reid and Mr. Clifford to participate in the meeting by electronic means. Second by Ms. Prior. The roll call vote was unanimous in favor of the motion (5-0).**

Mr. Janos presented the minutes of the January 26, 2021 meeting.

**Mr. Pinette moved that the ZBA accept the minutes of the January 26, 2021 meeting as written. Second by Mr. Stanton. The roll call vote was unanimous in favor of the motion (5-0).**

Ms. Prior recused herself. Mr. Clifford was seated for Ms. Prior. All potential witnesses were sworn in.

**II. Old Business.**

**1. Case #21:04 – Applicant: North Hampton Conservation Commission, 233 Atlantic Avenue, North Hampton, NH 03862.** The Applicant requests variances from Town of North Hampton Zoning Ordinance Section 203.1 Yard and Lot Requirements to allow less than the required minimum frontage for rear lot and Section 203.16 Wetlands-Minimum Lot Area to allow more than fifty percent of front lot area to include wetlands for lots associated with a proposed subdivision of property. Property Owner: Walter E. Nordstrom, 14027 Barnett Place, Fishers, IN 46038; Property Location: North Road in vicinity of Highlander Drive, North Hampton, NH 03862; M/L: 017-071-000; Zoning District R-1, High Density District.

In attendance for this application:

Lisa Wilson, Conservation Commission Chair; Andrew Vorkink, Conservation Commission member; Brenda Kolbow, engineer; and Michele Peckham, attorney.

Ms. Wilson addressed the Board. Ms. Wilson explained that the proposed plan has received Planning Board subdivision approval and conditional use permit approvals for non-conformities to the wetlands

section of the zoning ordinance. The goal of the proposed plan is to minimize further adverse impact on the wetlands and river headwaters by limiting potential development in the area of the property. In her opinion, the five criteria for granting a variance identified in the State of NH RSA's have been met by the proposed plan.

Mr. Vorkink addressed the Board. For the benefit of Board members not present at the last meeting, Mr. Vorkink re-presented a proposed two lot subdivision plan for Map/Lot 017-071-000 off of North Road in the vicinity of Highlander Drive which included the following:

- a. a rectangular 2.589 acre lot with wetlands covering the front of the lot and a 13,523 square foot building envelope for a future home in the back northwest corner of the lot,
- b. a 39 acre lot with a 40 foot wide, 1,931 foot long access corridor from North Road to the back northern section of land and large section of wetlands bisecting the southern and northern portions of the lot,
- c. a 360 foot long driveway through wetlands area, using two wetlands crossings, for the proposed house lot, and
- d. the driveway for the proposed house lot will come off of North Road within the 40 foot wide access point of the proposed conservation lot for a short distance before turning onto the house lot.

Mr. Vorkink explained that the applicant was seeking variances to allow the following non-conformities to the zoning ordinance:

- a. The proposed 40.91 foot wide frontage for the proposed conservation lot is less than the required minimum frontage of 175 feet.
- b. The proposed 60.6% of wetlands area coverage on the proposed house lot is greater than the allowed 50% of wetlands area coverage for a lot.

Mr. Vorkink stated that the variance requests for the proposed subdivision plan are justified in that:

- a. 175 feet of frontage for the proposed conservation lot is not necessary since only pedestrian access to a non-developed lot is being proposed.
- b. The proposed 60% amount of wetlands area coverage on the proposed house lot is only slightly greater than the allowed 50% of wetlands area coverage for a lot.
- c. If the variance requests are not granted, then a 2,000 foot driveway through a large section of forested wetlands constructed at great expense and adverse impact would be necessary to access the uplands in the northern section of the property in order to reasonably use the property for a single family home.

Mr. Vorkink addressed the five criteria for granting a variance identified in the State of NH RSA's.

1. Granting the variance requests would not be contrary to the public interest in that the conservation goals of the zoning statutes would be met. Conservation of natural resources is in the public interest. The essential character of the neighborhood would not be changed. The general health, safety, and welfare of the public would not be threatened.

2. The spirit of the ordinance would be observed by granting the variance requests. The objective of frontage requirements for building lots is to prevent overcrowding. In this case, no development is proposed.

3. Substantial justice would be done by granting the variance requests. If the variance requests are denied, the loss to the individual (Mr. Nordstrom) of not being allowed the reasonable use of his land

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and the Town not being able to access conserved lands would outweigh any perceived public interest gain.

4. The values of the surrounding properties are not diminished in that it is desirable for homeowners to be close to conservation land. Opportunities to participate in outdoor activities on abutting land enhances property values.

5. Literal enforcement of the zoning ordinance would create an unnecessary hardship due to the special condition of the land in that denying the variance request would create a situation where a 2,000 foot driveway through wetlands would be required to access a buildable area at the rear of the property rather than a shorter driveway through wetlands at the front of the property.

Mr. Stanton stated that variances may not be necessary in his opinion. The land could be subdivided by moving the proposed lot line further north to meet the wetlands lot coverage requirement for the proposed house lot and provide an easement for access to the conserved land in the northern portion of the property.

Mr. Vorkink stated that Mr. Nordstrom intends to sell the proposed house lot and transfer ownership of the conserved lot. The proposed house lot would be more valuable without any easements attached to it. Also, moving the lot line further north within the 40 foot access way to the northern section of the property may create problems for a subdivision approval by the Planning Board.

Mr. Janos asked for public comments.

Resident Phil Wilson addressed the Board. Mr. Wilson stated that he is strongly in favor of granting the variance requests. The applicant's proposal is the most reasonable way to deal with this lot for the benefit of the Town and the property owner. Several surveys associated with the Town of North Hampton Master Plan have indicated that residents desire that surface waters, wetlands, and open spaces are protected. This property is uniquely situated for conservation due to its close proximity to the headwaters of the Little River. The proposal will help keep an impaired river from getting worse.

Mr. Milner read a letter from property owner Walter E. Nordstrom stating that he intends to place a conservation easement on the northern portion of the Lot 17-71 property with no public access if the subdivision plan is not approved. It is his strong desire that the subdivision plan be approved as presented.

Mr. Milner read letters from the following North Hampton residents in support of granting the variance requests:

Joseph F. Fitzgerald, Brian and Suki Dunham, Valerie Gamache, Charles R. and Alison Robie, Mark Halsor, and Peter Robie.

Mr. Janos closed the public hearing at 7:47pm.

Mr. Pinette stated that the five criteria presentation by the applicant was convincing. He is in favor of granting the variance requests due to the benefits for the property owner and the Town.

Mr. Stanton stated that he is opposed to granting the variance requests. He does not believe that the variances are necessary. The size and configuration of the lot is a self-induced hardship. Substantial

justice is not accomplished by the proposed plan. All other taxpayers will bear the burden of substantial future infrastructure expenses. No special funds have been set aside to monitor the proposed conservation land. Any monitoring activity related expenses will rely on Town revenue generated from taxpayers.

Ms. Reid stated that she is in favor of granting the variance requests. The proposed subdivision plan is consistent with the goals and purposes stated in the Master Plan. In her opinion, the applicant has satisfied the five criteria for granting a variance.

Mr. Clifford stated that he supported granting the variance requests.

Mr. Janos stated that he is satisfied with the justifications presented by the applicant for granting the variance requests. The proposed subdivision plan is favorable to the Town's interests.

**Mr. Pinette moved that the Zoning Board of Adjustment grant variances from Sections 203.1 and 203.16 of the Town of North Hampton Zoning Ordinance for proposed subdivision of Map/Lot 017-071-000 property as represented in the application presented to the Board to allow:**

**a. Frontage of 40.91 feet for the proposed lot labelled as 'Remaining Land.'**

**b. Wetlands area coverage of 60.6% for the proposed lot labelled as 'Lot 1.'**

**Second by Ms. Reid. The roll call vote was 4-1 in favor of the motion. Mr. Janos, Mr. Pinette, Ms. Reid, and Mr. Clifford in favor. Mr. Stanton opposed.**

### **III. Other Business.**

Ms. Prior returned to the Board.

Mr. Janos announced that he would no longer be serving on the ZBA.

Ms. Reid thanked Mr. Janos for his many years of dedication and service to the Town of North Hampton.

**Mr. Pinette moved to adjourn the meeting at 8:00pm. Second by Ms. Reid. The roll call vote was unanimous in favor of the motion (5-0).**

Respectfully submitted,

Rick Milner

Recording Secretary