



**Meeting Minutes**  
**Town of North Hampton**  
**Zoning Board of Adjustment**  
**Tuesday, April 23, 2024 at 6:30pm**  
**Town Hall, 231 Atlantic Avenue**

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:** Robin Reid, Chair; Phelps Fullerton, Vice Chair; Members Larry Miller, Mark Janos, and Jonathan Howe; Alternate Members Deborah Sillay and Donna McCay; and Recording Secretary Rick Milner.

**I. Preliminary Matters.**

Chair Reid called the meeting to order at 6:35pm.

Ms. Reid presented the minutes of the March 26, 2024 meeting. Mr. Janos noted that the minutes incorrectly state that he made a motion to adjourn the last meeting. Mr. Milner stated that this was a typographical error. Mr. Milner reviewed the meeting video and confirmed that Mr. Howe made the motion to adjourn the last meeting. The minutes will be amended to reflect the correct motion.

**Mr. Miller moved that the ZBA accept the minutes of the March 26, 2024 meeting as amended. Second by Mr. Fullerton. The vote was 4-0-1 in favor of the motion with Mr. Janos abstaining.**

**II. New Business.**

**Case #24:03 – Applicants: Michael and Stacia McMillan, 14 Meadowfox Road, North Hampton, NH 03862.** The Applicants request a variance from Town of North Hampton Zoning Ordinance Section 203.1 Yard and Lot Requirements to allow an increase in impervious surface lot coverage above the allowed maximum as the result of proposed home addition construction. Property Owners: Michael and Stacia McMillan, 14 Meadowfox Road, North Hampton, NH 03862; Property Location: 14 Meadowfox Road; M/L: 008-054-000; Zoning District: R-1, High Density District.

In attendance for this application:

Michael and Stacia McMillan, property owners; Mark Stillman, project manager.  
Mr. Stillman sworn in.

Mr. Stillman addressed the Board. Mr. Stillman stated that the applicants are proposing to construct an 18 foot by 18 foot addition to the back of the home at 14 Meadowfox Road. The proposed addition will increase the amount of the lot area covered by impervious surface to 38%. The applicants are requesting a variance to allow the increase in impervious surface lot coverage above the allowed 35% maximum as the result of proposed home addition construction and avoid having to remove portions of impervious surfaces such as their brick patio and asphalt driveway.

Mr. Stillman presented the following information to the Board:

- a. site plan indicating location and size of existing and proposed structures and surfaces on the 14 Meadowfox Road property, including home, driveway, two patio areas, pool, shed, septic system, proposed addition, and structure setbacks from lot lines,
- b. floor plan for home with the proposed addition, and
- c. architectural renderings of home and proposed addition.

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

- a. Granting the variance will not be contrary to the public interest in that the minimal amount of additional stormwater runoff created by the 3% increase over the maximum allowed impervious surface coverage on the lot will not adversely impact the neighborhood.
- b. The spirit of the ordinance is observed in that the proposed addition is designed in a character that is consistent with other homes in the neighborhood.
- c. Substantial justice is done in that the property owners will be able to add functional living space to a smaller home without negatively impacting abutters.
- d. The values of the surrounding properties are not diminished in that other homes in the neighborhood have similar additions. Also, due its placement at the rear of the existing home, the proposed addition will not block any abutter views.
- e. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship in that the property owners would be prevented from enhancing their property in a reasonable way if the variance is not granted. If the variance is granted, there would be no adverse burden placed on the neighboring properties.

Mr. Fullerton asked if the existing shed at the rear of the property was included in the impervious surface calculation.

Mr. Stillman stated that he believes that the shed was included in the impervious surface coverage. However, he does not have the calculation details on hand for review.

Mr. Fullerton asked if the lot surface area would still sustain NHDES lot loading requirements for a septic system with the construction of the proposed addition.

Mr. Stillman confirmed that the lot loading requirements could be met.

Mr. Fullerton suggested that the existing brick patio could be re-built using pervious pavers in order to decrease the amount of impervious surface lot coverage and eliminate the need for a variance. This could be accomplished since construction vehicles will most likely travel along the left side of the home to access the proposed construction area due to septic tank located on back right side of the home.

Mr. Stillman stated that the applicants intend to retain the existing brick patio construction. Construction vehicles will travel along the right side of the home to access the proposed construction area to avoid damaging the existing patio. The applicants intend to replace the current septic system. NHDES has approved a new septic system design for the property.

Ms. Reid and Mr. Miller noted that the site plan presented to the Board indicates the current septic system location and design. They suggested that the Board may want to review the new septic system location and design prior to making a decision regarding lot coverage.

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93 The meeting was recessed at 7:01pm.

94 The meeting was resumed at 7:16pm.

95  
96 Mr. McMillan sworn in. Mr. McMillan addressed the Board. Mr. McMillan stated that the replacement of  
97 the existing brick patio surface with pervious pavers would cause a hardship on the applicants due to the  
98 expensive cost of pervious paver materials. Mr. McMillan stated that there are several other lots in the  
99 neighborhood which have more impervious surface lot coverage than the applicants' lot.

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101 Ms. Reid asked for public comments.

102  
103 Abutter Michael Cronin addressed the Board. Mr. Cronin stated that the applicants were good neighbors  
104 who have worked hard to improve their own property and add value to the entire neighborhood.

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106 Ms. Reid closed the public hearing at 7:20pm.

107  
108 Mr. Miller stated that he would like to review the new septic system plan in order to understand the  
109 proposed grading of the lot prior to making a decision.

110  
111 Mr. Fullerton noted that the lot currently exceeds the allowed maximum impervious surface lot coverage  
112 by 0.6%. In his opinion, the application does not satisfy the hardship criteria indicated in NH RSA 674:33.  
113 The need for a variance has been self-imposed by the applicants' construction proposal. Other options  
114 exist that would bring the construction of the proposed addition into conformance with the zoning  
115 ordinance, such as converting the brick patio surface to pervious pavers or replacing other impervious  
116 surfaces with a pervious surface.

117  
118 Ms. Reid stated her opinion that the hardship criteria indicated in NH RSA 674:33 has not been satisfied.  
119 An unnecessary hardship exists if there are special conditions of the property that distinguish it from  
120 other properties in the area. The applicants have not presented any special conditions of the property  
121 that distinguish it from other properties in the area. The applicants have only presented a personal  
122 hardship if they are not allowed to expand upon their home. The applicants' hardship statement is not  
123 relevant to the criteria included in NH RSA 674:33. Since other alternatives to achieving compliance with  
124 the impervious surface lot coverage requirements of the zoning ordinance exist, the property can be  
125 reasonably used in conformance with the zoning ordinance requirements.

126  
127 Mr. Janos stated his opinion that all five criteria included in NH RSA 674:33 have been met. Based on his  
128 knowledge of the surrounding neighborhood, many properties have been improved and may not  
129 conform to the impervious surface lot coverage zoning ordinance requirement. He is in favor of allowing  
130 proposals that improve the overall character of the neighborhood when there is a variance of the zoning  
131 ordinance requirement in a minimal amount and no adverse effect on the surrounding neighborhood. In  
132 his opinion, there is no fair and substantial relationship between the general public purposes of the  
133 zoning ordinance provision and the specific application of the zoning ordinance provision to the  
134 property.

135  
136 The Board discussed the classification of different types of surfaces as they relate to the impervious or  
137 pervious nature of those surfaces, especially in connection with the existing brick patio surface.

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139 **Mr. Janos moved that the Zoning Board of Adjustment grant a variance from Town of North Hampton**  
140 **Zoning Ordinance Section 203.1 Yard and Lot Requirements to allow an increase in impervious surface**

lot coverage above the allowed maximum as represented in the application and plans presented to the Board. Second by Mr. Howe. The motion failed by a 2-3 vote with Mr. Janos and Mr. Howe in favor and Ms. Reid, Mr. Fullerton, and Mr. Miller opposed.

The Board discussed the need to draft and vote on a denial decision with reasonings since the variance request was not approved. The Board came to a consensus without objection to assign the Chair with the task of drafting a denial decision with reasonings and continue the case until the next meeting date to consider and vote on a denial decision.

**Mr. Janos moved that the Zoning Board of Adjustment continue Case #24:03 to the May 28, 2024 meeting date and adjourn the meeting at 7:42pm. Second by Mr. Fullerton. The vote was unanimous in favor of the motion (5-0).**

Respectfully submitted,

Rick Milner  
Recording Secretary