



**Meeting Minutes**  
**Town of North Hampton**  
**Zoning Board of Adjustment**  
**Tuesday, April 28, 2020 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; and Recording Secretary Rick Milner.

**I. Preliminary Matters.**

Chair Janos called the meeting to order at 6:35pm. Mr. Janos explained that, due to the current public health situation, the public may call posted phone number to participate during public comment periods.

**II. New Business:**

**1. Case #20:02 – Applicants: Timothy and Tressa Bickford, 283 Atlantic Avenue, North Hampton, NH 03862.** The Applicants request a variance from Section 203.1 - Yard and Lot Requirements of the Town of North Hampton Zoning Ordinance to allow construction of a building addition within the structure setbacks. Property Owners: Timothy and Tressa Bickford, Trustees, TCLT Family Revocable Trust of 2019, 283 Atlantic Avenue, North Hampton, NH 03862; Property Location: 283 Atlantic Avenue; M/L: 014-005-000; Zoning District: R-1, High Density District.

In attendance for this application:

Timothy and Tressa Bickford, property owners.

Timothy and Tressa Bickford were sworn in.

Mr. Bickford addressed the Board. Mr. Bickford presented plans which detailed the construction of a 32 foot by 28 foot detached, two-car garage slightly behind and to the northwesterly side of the existing single family home. The proposed garage will have a side setback distance from the westerly lot line of 6 feet, 10 inches where 25 feet is required. The plans and other application materials show the existing home, driveway, septic system, lot lines, and bushes along the westerly property line in addition to the proposed garage. The plans include lot size and impervious surface calculations to prove conformance with the lot coverage requirements of the zoning ordinance. Mr. Bickford also presented architectural renderings showing the proposed garage from various viewpoints abutting the property.

Mr. Bickford explained that the proposed garage is needed because the current space under the home is too small to shelter a modern vehicle. The location of the proposed garage is limited to the westerly side of the home due to the current septic system on the easterly side of the home and the fact that any future replacement of septic system, if current older septic system fails, will most likely occur in the center of the rear yard.

Disclaimer – these minutes are prepared by the Recording Secretary within five (5) business days as required by NH RSA 91A:2,II. They will not be finalized until approved by majority vote of the Zoning Board of Adjustment.

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Mr. Stanton and Mr. Janos asked if moving the proposed garage to a setback distance of 15 feet, as allowed for an accessory structure, is possible.

Mr. Bickford replied that moving the proposed garage to a setback distance of 15 feet may create a problem due to the location of the existing home blocking access to the garage and may inhibit location of a future replacement septic system. Mr. Bickford asked the Board to consider that the proposed garage is not encroaching on space to a neighbor's home. An access drive, not a home, is in the area adjacent to the westerly lot line.

Mr. Janos read a letter from abutter Phelps Fullerton in support of the variance application.

Mr. Milner read a letter from abutter Dieter Ebert in support of the variance application.

Mr. Milner read a letter from abutter Arnold Plastridge expressing a concern about the value of his property diminishing. However, he is willing to go along with the Town's decision.

Mr. Stanton asked for clarification regarding the height of the proposed garage.

Mr. Bickford estimated that the proposed garage will be approximately 26 feet in height.

Mr. Stanton suggested that the applicant consider building a garage that is narrower to allow for a greater setback distance.

Mr. Janos asked if anyone from the public wished to speak about the application. No comments were made. Mr. Janos closed the public hearing at 7:15pm.

Mr. Pinette stated that he believes that the application meets all five criteria for granting a variance.

Ms. Prior stated that the five criteria for granting a variance have been met. A property owner in New England has the right to have an adequate garage.

Mr. Stanton stated that he does not believe that the application meets the spirit of the zoning ordinance regarding setback distances. There are other ways to approach the situation and satisfy the applicant's right to have a garage. He is opposed to the application as presented.

Ms. Reid stated that the application meets the five criteria. Since the proposed garage will be next to an access drive, not a home, the setback distance is less of an issue. Also, there is support for the application from abutters.

Mr. Stanton stated that the size of the proposed garage is very large. It is approximately 50-60% the size of the house and nearly as high. It does not fit in with the character of the surrounding neighborhood.

Mr. Janos stated that the size of the garage presents some issues. If the proposed garage location is moved away from the lot line and closer to the building envelope, then he would be more comfortable allowing a variance.

Ms. Reid suggested that the Board consider alternate options for the size of the proposed garage and its setback distance from the lot line.

Mr. Bickford stated that he is willing to reduce the footprint of the proposed garage to address Board member concerns.

**Mr. Pinette moved that the Zoning Board of Adjustment grant a variance from Section 203.1 of the Town of North Hampton Zoning Ordinance for a proposed garage at 283 Atlantic Avenue as represented in the application presented to the Board to allow a side yard structural setback of 6 feet, 10 inches from the westerly lot line. Second by Ms. Prior.**

Ms. Reid again suggested that the Board and the applicant should discuss alternate options.

**Ms. Prior withdrew her second to the motion. Mr. Pinette withdrew the motion.**

Mr. Bickford suggested that the width of the garage could be reduced to 26 feet and the garage footprint could be moved 14 inches to the east to create a 10 foot setback distance from the westerly lot line.

Ms. Reid stated that Mr. Bickford's suggested revisions to the application were reasonable.

Mr. Stanton suggested that the height of the proposed garage be no higher than the roof peak of the existing home.

**Mr. Stanton moved that the Zoning Board of Adjustment grant a variance from Section 203.1 of the Town of North Hampton Zoning Ordinance for a proposed garage at 283 Atlantic Avenue to allow a side yard structural setback of no closer than 10 feet to the westerly lot line and a structure height no higher than the roof of the existing home not including the chimney. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).**

**2. Case #20:03 – Applicant: John Kollmorgen, 8 Hampshire Road, North Hampton, NH 03862.** The Applicant requests an equitable waiver from the Town of North Hampton Zoning Ordinance Section 203.1 - Yard and Lot Requirements to allow placement of a shed within the structure setbacks. Property Owner: The Rebecca Kollmorgen Revocable Trust of 2002, 8 Hampshire Road, North Hampton, NH 03862. Property Location: 8 Hampshire Road; M/L: 007-142-000; Zoning District: R-1, High Density District.

In attendance for this application:

John Kollmorgen, applicant.

John Kollmorgen was sworn in.

Mr. Kollmorgen stated that a shed was constructed on the 8 Hampshire Road property next to lot line abutting Town of North Hampton municipal complex property. The shed location does not conform to zoning ordinance setback requirements. Mr. Kollmorgen presented pictures of the shed placement on the property and other views from the property. Since the shed was placed in the same location where a previous jungle gym play fixture existed for 10 years, Mr. Kollmorgen did not realize that a building permit was required for placement of the shed. The Building Department informed Mr. Kollmorgen that the shed was not in conformance with the zoning ordinance setback requirements after the shed was built.

Mr. Kollmorgen explained that the shed does not constitute a nuisance nor diminish property values since it is only visible to the town municipal complex and one other abutter. The shed is well-constructed and not unsightly. The shed fits into the neighborhood characteristics since other surrounding properties have sheds. The location of the shed is the most logical spot due to the location of the existing home and the septic system/leach field locations in the middle of the rear yard.

Mr. Stanton stated his objection to the submittal of the application as an equitable waiver petition. The application does not fit the standards for an equitable waiver. In his opinion, the application should be considered as a variance request.

Mr. Janos read the statute language from RSA 674:33-a regarding equitable waivers.

Mr. Milner noted that, even though the Board may determine that an equitable waiver process is not applicable in this case, a variance request process is not allowed by the zoning ordinance. Town of North Hampton Zoning Ordinance Section 301 - Accessory Structures states the required setback distances for accessory structures such as the shed in this case. Section 301 further states that any non-conformance with requirements of Section 301 requires the issuance of a conditional use permit from the Planning Board.

Mr. Janos stated his opinion that an equitable waiver process is an appropriate method for addressing the situation since the shed has already been completed and currently exists in the location which is in non-conformance with the zoning ordinance setback requirements.

Ms. Prior stated that she does not believe that the equitable waiver criteria stated in 674:33-a(b) has been met. The violation appears to be an outcome of ignorance of the ordinance or a failure to inquire about the ordinance.

Ms. Reid stated that she also does not believe that the equitable waiver criteria stated in 674:33-a(b) has been met. She further stated that the shed is an accessory structure which requires the issuance of a conditional use permit from the Planning Board as stated in Zoning Ordinance Section 301.10

Mr. Pinette stated that he believes that, as stated in the zoning ordinance, the Planning Board is the appropriate entity to grant relief for the placement of the shed within the setback.

**Mr. Stanton moved that the Zoning Board of Adjustment finds that the application for an equitable waiver to allow placement of a shed within the structure setbacks at 8 Hampshire Road was improperly filed and is not subject to Zoning Board of Adjustment approval. As such, the Zoning Board of Adjustment authorizes that application fees, except for abutter noticing fees, be returned to the applicant. Second by Ms. Prior. The vote was unanimous in favor of the motion (5-0).**

**3. Case #20:04 – Applicant: Michael Lefebvre, 3 Sandpiper Lane, Seabrook, NH 03874.** The Applicant requests a variance from Section 203.16 – Wetlands – Minimum Lot Area of the Town of North Hampton Zoning Ordinance to allow a two lot subdivision where one of the lots does not have the required building envelope. Property Owner: Michael Lefebvre, 3 Sandpiper Lane, Seabrook, NH 03874; Property Location: 19A Pine Road; M/L: 007-010-000; Zoning District: R-1, High Density District.

In attendance for this application:

James Scully, attorney; Henry Boyd, engineer; and Sergio Bonilla, wetlands scientist.

Mr. Scully and Mr. Boyd were sworn in.

Mr. Boyd addressed the Board. Mr. Boyd presented a proposed plan to subdivide the 19A Pine Road property into two lots. The plan showed proposed lot lines, proposed shared driveway, wetlands, wetlands setbacks, proposed septic system area, and proposed building envelope for a single family home. Mr. Boyd stated that the 19A Pine Road property previously received a variance to allow frontage for the proposed subdivision below the minimum amount allowed by the zoning ordinance. The applicant is seeking another variance to allow less than the allowed amount of buildable area for one of the proposed two lots. Due to the large amount of wetlands on the property and imposition of the 100 foot wetlands setback buffer area, the amount of buildable area for the proposed home is 8,346 square feet. The minimum buildable area allowed by the zoning ordinance is one quarter acre (approx. 10,970 square feet). If granted, the variance request would provide 7 linear feet of relief from the 100 foot wetland buffer boundary on this property.

Mr. Bonilla was sworn in. Mr. Bonilla addressed the Board. Mr. Bonilla described the nature of the wetlands and other soils on the property. Mr. Bonilla stated that the proposed reduction in the wetlands buffer area and the proposed development will not harm the surrounding forested wetlands. The uplands and wetlands will still provide their intended values and functions.

Mr. Stanton asked why porous pavers were proposed for the driveway instead of pipes to allow natural flow of water.

Mr. Boyd stated that there is no need to move water because of a high point in the topography on one side of the proposed driveway. The porous pavers are proposed to help water infiltration through the driveway.

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

1. Granting the variance would not be contrary to the public interest. The essential character of the neighborhood would not be altered by a 7 foot reduction in the wetlands setback boundary.

2. The spirit of the ordinance is being observed in that only minor relief from the zoning ordinance requirement is being requested.

3. Substantial justice would be done in that granting of the variance would allow the applicant to build a single family home on the property. There is no gain to the public by not allowing the variance.

4. There will be no detrimental impact to surrounding property values in that the proposed home will be setback from the road and surrounding property lines. There are several conditions of approval issued with the previous variance which protect surrounding property values.

5. No fair and substantial relationship exists between the public purpose of the zoning ordinance provision and its application to this specific property. The proposed variance, if granted, would cause no detrimental impacts to the wetlands. Strict adherence to the zoning ordinance would prohibit the property owner from the reasonable use of the property for a single family home.

Mr. Janos asked if anyone from the public wished to speak about the application. No comments were made. Mr. Janos closed the public hearing at 8:45pm.

All Board members stated that they had no concerns with the variance request as proposed.

**Mr. Pinette moved that the Zoning Board of Adjustment grant a variance from Section 203.16 of the Town of North Hampton Zoning Ordinance for property located at 19A Pine Road to allow a building envelope of 8,346 square feet, as represented in the application presented to the Board, where at least one building envelope of one quarter (1/4) acre or more is required. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).**

### III. Old Business:

**1. Case #19:06 – Applicant: Peter Goodrich, 148 Prescott Road, Brentwood, NH 03833.** The Applicant requests variances from the Town of North Hampton Zoning Ordinance:

- a. Section 203.1 - Yard and Lot Requirements to allow construction of a building addition within the structure setbacks,
- b. Section 202.9.B – Non-Conforming Uses to allow expansion of a non-conforming use,
- c. Section 203.13 – Height Regulations to allow construction of a building addition in excess of the maximum height requirement, and
- d. Section 203.1 – Yard and Lot Requirements to allow site improvements to exceed the maximum lot coverage requirement.

Property Owner: Friends of Centennial Hall, Inc., P.O. Box 200, North Hampton, NH 03862. Property Location: 105 Post Road; M/L: 014-049-000; Zoning District: R-1, High Density District.

#### In attendance for this application:

Marcy McCann, property owner representative; Peter Goodrich, project manager; Eric Weinrieb, engineer; and John Ratigan, attorney.

Mr. Pinette and Mr. Stanton recused themselves from consideration of the case.

Mr. Janos informed the applicant that, per State of NH RSA statutes, three votes in favor of a variance request, not a simple majority of the three presiding Board members, was necessary to grant a variance. He asked the applicant if they wished to proceed at this time or continue the case until such time as five Board members could consider the case.

Mr. Goodrich stated that the applicant wished to proceed with consideration of the case at this time. All potential witnesses for Case #19:06 were sworn in.

Mr. Ratigan addressed the Board. Mr. Ratigan noted that the Board has been presented with revised application materials which address additional variance requests and site concerns discussed at a previous ZBA meeting regarding the Centennial Hall renovation project. Mr. Ratigan stated that the applicant's response to the five criteria for granting a variance identified in the State of NH RSA's is fully detailed in the application materials presented to the Board. The renovations proposed for Centennial Hall will benefit the public in that the ability to present performing arts programs and "creative economy" events will be greatly expanded. Careful consideration of the neighbors' needs and the historical nature of Centennial Hall has been implemented in the design of the building addition. The survival of Centennial Hall depends on renewed and increased vitality as a community gathering place. If the proposed variances are not granted, there is no way to achieve revitalization of this community asset.

Ms. McCann made note of the following documents presented to the Board:

- a. a letter of support from the church organization which abuts Centennial Hall,

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b. a letter offering use of the bandstand area across the road for expanded parking during events, and  
c. a letter of mutual understanding between Centennial Hall and the Town of North Hampton regarding use of the town property which contains parking spaces and access point for Centennial Hall.

Mr. Janos stated that it appears that all concerns expressed by the church organization at a previous meeting have been addressed. He asked the applicant to explain details regarding how these concerns were addressed in the plans.

Mr. Goodrich stated that water control features were re-designed with catch basins. The driveway was re-designed to mitigate stormwater run-off. The width of the driveway was expanded to create more space for drop-off and pick-up area between Centennial Hall and the church building and improve traffic flow. Off-site parking agreements are in place. Shared land and septic system maintenance agreements are in place.

Mr. Janos asked if anyone wished to comment on the application.

Abutter Jonathan Pinette addressed the Board. Mr. Pinette stated that he was in favor of granting the variance requests.

Ms. Reid asked the applicant to provide more details regarding stormwater drainage features.

Mr. Weinrieb addressed the Board. A full drainage analysis report has been completed. Catch basins have been added to handle surface and roof gutter water run-off. A grading plan has been completed to ensure that no ponding of water on the surface occurs.

Mr. Milner asked the applicant to explain how the septic system will handle the proposed increased uses for the site.

Mr. Weinrieb explained that Centennial Hall and the church consistently use about 125 gallons of water per day currently. The septic system which Centennial Hall and the church share can handle 1,300 gallons of water per day. Since only 10% of the septic system capacity is currently being used, there is sufficient septic system capacity remaining to handle any additional water load during peak periods of proposed events for the site.

Mr. Janos closed the public hearing at 9:08pm.

Ms. Reid stated that she was in favor of granting the variance requests. All concerns stated at the previous meeting have been addressed. The materials included in the application packet are very thorough.

Ms. Prior stated that she was in favor of granting the variance requests. The closest abutter most affected by the renovation, the church organization, has stated its support for the project.

Mr. Janos stated that he was in favor of granting the variance requests. All concerns stated at the previous meeting have been addressed.

**Ms. Prior moved that the Zoning Board of Adjustment grant a variance from Section 203.1 of the Town of North Hampton Zoning Ordinance to allow the structural setback on the easterly side of the**

proposed Centennial Hall building addition to be 6 feet and on the southerly side of the proposed Centennial Hall building addition to be 16.3 feet for the property located at 105 Post Road. Second by Ms. Reid. The vote was unanimous in favor of the motion (3-0).

Ms. Reid moved that the Zoning Board of Adjustment grant a variance from Section 202.9.B of the Town of North Hampton Zoning Ordinance to allow the expansion of a non-conforming use as represented in the application presented to the Board for the property located at 105 Post Road. Second by Ms. Prior. The vote was unanimous in favor of the motion (3-0).

Ms. Reid moved that the Zoning Board of Adjustment grant a variance from Section 203.13 of the Town of North Hampton Zoning Ordinance to allow a height of 53 feet for the proposed Centennial Hall building addition to be located on the property at 105 Post Road. Second by Ms. Prior. The vote was unanimous in favor of the motion (3-0).

Ms. Reid moved that the Zoning Board of Adjustment grant a variance from Section 203.1 of the Town of North Hampton Zoning Ordinance to allow 51.2% of Tax Map/Lot 014-049-000 located at 105 Post Road to be covered with impervious surface. Second by Ms. Prior. The vote was unanimous in favor of the motion (3-0).

### III. Other Business:

Mr. Pinette and Mr. Stanton returned to the Board.

#### 1. Minutes.

Mr. Janos presented the minutes of the March 24, 2020 meeting.

Mr. Stanton moved that the ZBA accept the minutes of the March 24, 2020 meeting as written. Second by Ms. Reid. The vote was 4-0-1 in favor of the motion with Mr. Pinette abstaining.

#### 2. Alternate member positions.

Mr. Milner stated that, based on the Board's previous direction to seek candidates for available alternate member positions on the Board, former Board members Dennis Williams and Joseph Bernardo have indicated that they are willing to become alternate members.

Mr. Stanton moved that the Zoning Board of Adjustment appoint Dennis Williams and Joseph Bernardo as alternate members with appropriately staggered terms of office. Second by Mr. Pinette. The vote was unanimous in favor of the motion (5-0).

Mr. Stanton moved to adjourn the meeting at 9:18pm. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).

Respectfully submitted,

Rick Milner  
Recording Secretary