



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, March 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: Jonathan Pinette, Vice Chair; Members Robin Reid, Rick Stanton, Audrey Prior, and Bill Clifford; and Recording Secretary Rick Milner.

I. Preliminary Matters.

Vice Chair Pinette called the meeting to order at 6:33pm.

Mr. Pinette presented the minutes of the February 23, 2021 meeting.

Mr. Stanton moved that the ZBA accept the minutes of the February 23, 2021 meeting as written. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).

II. Organizational Meeting of the Board.

1. Election of Chair and Vice Chair.

Mr. Stanton nominated Jonathan Pinette to serve as Chair. No other nominations were made.

Mr. Stanton moved that the ZBA appoint Jonathan Pinette as Chair for a one year term. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).

Mr. Stanton nominated Robin Reid to serve as Vice Chair. No other nominations were made.

Mr. Stanton moved that the ZBA appoint Robin Reid as Vice Chair for a one year term. Second by Mr. Clifford. The vote was unanimous in favor of the motion (5-0).

All potential witnesses were sworn in.

III. New Business.

1. Case #21:05 – Applicants: Dale E. and Judith M. Flemming Revocable Trust, Dale E. and Judith M. Flemming, Trustees, 8 Kimberly Drive, North Hampton, NH 03862. The Applicants request the following variances from Town of North Hampton Zoning Ordinance:

a. Section 203.1 Yard and Lot Requirements to allow less than the required minimum lot area for lots associated with a proposed lot line adjustment.

b. Section 203.1 Yard and Lot Requirements to allow less than the required frontage for lots associated with a proposed lot line adjustment.

c. Section 203.1 Yard and Lot Requirements to allow placement of raised leach field structure within the side yard structural setback.

Property Owners: : Dale E. and Judith M. Flemming Revocable Trust, Dale E. and Judith M. Flemming, Trustees, 8 Kimberly Drive, North Hampton, NH 03862; and Robert E. and Donna A. Garland, 12 Kimberly

Drive, North Hampton, NH 03862; Property Locations: 8 and 10 Kimberly Drive; M/L: 013-066-000 and 013-065-000; Zoning District R-1, High Density District.

In attendance for this application:

Dale and Judith Flemming, property owners; Robert Garland, property owner; Alex Ross, engineer; Monica Kieser, attorney; and Mark Jacobs, wetlands scientist.

Ms. Kieser addressed the Board. Ms. Kieser presented a proposed lot line adjustment plan between the properties located at 8 and 10 Kimberly Drive which included the following:

- a. transfer approximately 4,595 square feet of land from the 10 Kimberly Drive property to the 8 Kimberly Drive property,
- b. proposed replacement septic system with associated mound raised above the existing grade of the land on 8 Kimberly Drive property,
- c. proposed 1,141 square foot structure to be used as a garage with an accessory dwelling unit (ADU) on upper floor above garage connected to the existing home with an elevated, second floor hallway connector allowing passage to the backyard underneath the elevated connector on 8 Kimberly Drive property, and
- d. combination asphalt and pervious pavers driveway on 8 Kimberly Drive property.

Ms. Kieser stated that the applicant was requesting that the ZBA grant variances from the following Town of North Hampton Zoning Ordinance requirements:

- a. Section 203.1 Yard and Lot Requirements to allow lot areas of 21,301 square feet on 10 Kimberly Drive property and 27,288 square feet on 8 Kimberly Drive property where a minimum 87,120 square foot lot area is required,
- b. Section 203.1 Yard and Lot Requirements to allow frontage of 113.50 feet on 10 Kimberly Drive property and 99.09 feet on 8 Kimberly Drive property where a minimum of 175 feet is required.
- c. Section 203.1 Yard and Lot Requirements to allow placement of raised leach field structure with beginning of grading slope 11.6 feet from the side yard lot line on the 8 Kimberly Drive where a minimum distance of 25 feet is required.

Ms. Kieser noted that the primary purpose of the proposed lot line adjustment was to provide adequate space for the placement of the proposed garage/ADU addition on the 8 Kimberly Drive property. The replacement septic system will be able to handle the increased water flow load created by the ADU and also provide better filtration for the wastewater dispersed from the leach field. The replacement septic system will also be placed on the side of the 8 Kimberly Drive property away from the wetlands.

Ms. Kieser presented letters from abutters Tom and Nancy Argue, Rena Correia, and Robert Garland in support of the variance requests. Ms. Kieser presented a letter from the Conservation Commission commending the proposed improved septic system design and drainage ditch around the proposed structure. The Conservation Commission also expressed concern about the close proximity of the proposed structure to the wetlands and suggested additional plantings to further protect the wetlands in the area.

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

1. and 2. Granting the variance will not be contrary to the public interest and the spirit of the ordinance will be observed. The reduction in size for the 10 Kimberly Drive property will have no effect as it is currently vacant. Potential development is restricted by substantial amount of wetlands on the

property. The increase in size of the 8 Kimberly Drive property will bring that property closer to conformance with the lot size regulation.

3. Substantial justice will be done by granting the variance. There is no harm to the public in granting the variance requests. Denial of the variance would restrict the applicants' reasonable use of their property.

4. Granting the variance will not diminish surrounding property values in that the proposed garage, ADU, and modern septic system are consistent with the residential uses in the surrounding area. The leach field and its associated grading will be screened from the abutting property.

5. Denial of the variance requests would result in an unnecessary hardship. There are special conditions that distinguish the property from others in the area. The 8 Kimberly Drive property is a small, irregularly shaped lot with soil conditions and driveway access configuration that limit the placing of the proposed structure and leach field to the locations indicated on the proposed plan. The intention of lot area, frontage, and setback requirements is to ensure ample air, light, and space, prevent overcrowding of land, and allow for adequate stormwater treatment. The area of 10 Kimberly Drive property being transferred to 8 Kimberly Drive property is vacant and contains a significant amount of wetlands. This area will remain wooded with wetlands. There will be no effect on the ground conditions. Wetland impacts will be addressed by Conservation Commission and Planning Board review of a stormwater management plan. The proposed residential use within a residential zone is reasonable.

Mr. Stanton asked for clarification on the ADU layout.

Mr. Ross explained that the ADU will have two bedrooms. The existing home has three bedrooms.

Ms. Reid asked for clarification on the condition of existing vegetation after the proposed construction is finished and future development of 10 Kimberly Drive property.

Ms. Kieser explained that much of the existing vegetation in the area of property being transferred will remain. Mr. Garland explained that he intends to keep the 10 Kimberly Drive property vacant as a natural buffer between his home at 12 Kimberly Drive and the 8 Kimberly Drive property.

Mr. Pinette asked for public comments. No comments were made. Mr. Pinette closed the public hearing at 7:07pm.

Board members expressed their support for the proposed plan during deliberations.

Ms. Reid moved that the Zoning Board of Adjustment grant variances from the following Town of North Hampton Zoning Ordinance requirements for a proposed lot line adjustment plan between properties located at 8 and 10 Kimberly Drive and proposed septic system construction at 8 Kimberly Drive as represented in the application presented to the Board:

a. Section 203.1 Yard and Lot Requirements to allow lot areas of 21,301 square feet on 10 Kimberly Drive property and 27,288 square feet on 8 Kimberly Drive property where a minimum 87,120 square foot lot area is required,

b. Section 203.1 Yard and Lot Requirements to allow frontage of 113.50 feet on 10 Kimberly Drive property and 99.09 feet on 8 Kimberly Drive property where a minimum of 175 feet is required, and

c. Section 203.1 Yard and Lot Requirements to allow placement of raised leach field structure with beginning of grading slope 11.6 feet from the side yard lot line where a minimum distance of 25 feet is required.

Second by Mr. Stanton. The vote was unanimous in favor of the motion (5-0).

IV. Other Business.

1. ZBA Procedures.

Mr. Stanton suggested that the Recording Secretary, not the Vice Chair, announce case information at the beginning of a public hearing as part of the ZBA's regular meeting procedure. No objections were raised.

Mr. Stanton moved that the Recording Secretary shall announce case information at the beginning of a public hearing as part of the ZBA's regular meeting procedure. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).

Mr. Stanton suggested that alternate members of the ZBA should be allowed to sit at the members' table during public hearings and other meeting sessions. The alternate members should be allowed to ask questions and participate in other ways during public hearings and other meeting sessions until such time as deliberation of a case begins. Alternate members will not be allowed to participate in case deliberations or vote on a case unless they have been appointed to act for a non-participating regular member of the ZBA.

Mr. Milner stated that he will create draft language regarding alternate member participation during ZBA meetings based on Mr. Stanton's suggestion. The draft language can be considered for adoption into the ZBA Rules of Procedure at the next scheduled ZBA meeting.

Mr. Stanton moved to adjourn the meeting at 7:15pm. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).

Respectfully submitted,

Rick Milner
Recording Secretary