



**Meeting Minutes  
Town of North Hampton  
Zoning Board of Adjustment  
Tuesday, November 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:** Robin Reid, Vice Chair; Members Rick Stanton, Audrey Prior, and Bill Clifford; Alternate Member Dennis Williams; and Recording Secretary Rick Milner.

**I. Preliminary Matters.**

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

Mr. Williams seated for Mr. Pinette.

Ms. Reid presented the minutes of the October 26, 2021 meeting.

**Ms. Prior moved that the ZBA accept the minutes of the October 26, 2021 meeting as written. Second by Mr. Clifford. The vote was unanimous in favor of the motion (5-0).**

Ms. Reid presented the minutes of the November 2, 2021 site walk.

**Mr. Stanton moved that the ZBA accept the minutes of the November 2, 2021 site walk as written. Second by Ms. Prior. The vote was unanimous in favor of the motion (5-0).**

**II. Old Business.**

**1. Case #21:08 - Applicant: Joseph Falzone, 7B Emery Lane, Stratham, NH 03885.** The Applicant requests a rehearing of the Zoning Board of Adjustment's decision to not grant a variance from the Town of North Hampton Zoning Ordinance to allow 31.8 feet of frontage on a lot to be used for erection of a structure where 40 feet of frontage is required. Property Owners: David and Julee Sanderson, Trustees, Jarib M. Sanderson Family Trust, 3 Olivia Lane, Kensington, NH 03833. Property Location: Post Road in vicinity of 85 and 87 Post Road; M/L: 008-104-000; Zoning District: R-1, High Density District.

**In attendance for this application:**

Joseph Falzone, applicant.

Ms. Reid presented to the Board a rehearing request and associated documents submitted by Attorney Tim Phoenix on behalf of the applicant. In his November 11, 2021 letter to the Board, Mr. Phoenix stated that the applicant was requesting a rehearing with respect to the Zoning Board of Adjustment's (ZBA) October 26, 2021 decision to not grant a variance from the Town of North Hampton Zoning Ordinance Section 203.4 to allow 31.8 feet of frontage on a lot to be used for erection of a structure where 40 feet of frontage is required. In his letter, Mr. Phoenix stated that the ZBA erred in its decision by:

a. overlooking the frontage variance requested and focusing on the wetlands and proposed home on the property,

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.

b. providing no factual or legal support that a 20 percent deviation from the frontage requirement is contrary to the public interest,  
c. determining that an increase in the impervious surface may create an adverse impact as it relates to the wetlands and aquifer in the area in the absence of any expert testimony,  
d. incorrectly concluding that no special conditions exist and that hardship was self-created by the applicant, and  
e. failing to balance potential harm to the public if frontage variance is granted against property owner's rights guaranteed by federal and state constitutions.

Ms. Reid explained that consideration of the rehearing request was not a public hearing and that no testimony is expected to be taken. The Board is acting on what has been submitted in the request documents and may not involve comments by the applicant or abutters. Mr. Milner read excerpts regarding rehearing request procedures from the State of New Hampshire Office of Strategic Initiatives ZBA Handbook at the request of Ms. Reid.

Mr. Stanton stated that other lots in the Town of North Hampton exist with similar narrow, even smaller, driveways. In his opinion, the Board should allow a family to build a home on the property.

Ms. Reid stated that she does not believe that the Board has made a technical error. Also, the applicant has not presented any new evidence that was not available at the time of the original hearing on the matter. She is not in favor of allowing a rehearing of the case.

Mr. Clifford stated that, even though he voted to grant the variance, he agreed that the Board made no technical error during its original consideration of the case.

**Mr. Clifford moved that the ZBA grant the request for a rehearing of the Zoning Board of Adjustment's October 26, 2021 decision to not grant a variance from the Town of North Hampton Zoning Ordinance Section 203.4 to allow 31.8 feet of frontage on Map/Lot 008-104-000 to be used for erection of a structure where 40 feet of frontage is required. Second by Ms. Prior. The motion failed by a 2-3 vote with Mr. Stanton and Mr. Williams in favor and Ms. Reid, Ms. Prior, and Mr. Clifford opposed.**

**2. Case #21:07 – Applicants: Millie Bauer, LLC, Scott Prince, and Jarrod Patten, 50-52 Lafayette Road and 1 Fern Road, North Hampton, NH 03862.** The Applicants request the following relief:

- a. Administrative Appeal regarding approval of existing wall construction within the side yard structural setback,
  - b. Equitable Waiver to allow existing wall construction within the side yard structural setback, or
  - c. Variance to allow existing wall construction within the side yard structural setback.
- Property Owners: Millie Bauer, LLC, 16 Woodknoll Drive, North Hampton, NH 03862; and Jarrod Patten, 1 Fern Road, North Hampton, NH 03862; Property Locations: 50-52 Lafayette Road and 1 Fern Road, North Hampton, NH 03862; M/L: 008-024-000 and 008-023-001; Zoning Districts: I-B/R, Industrial – Business/Residential District, and R-1, High Density District.

**Applicants: Millie Bauer, LLC, and Scott Prince, 50-52 Lafayette Road, North Hampton, NH 03862.** The Applicants request a variance from Town of North Hampton Zoning Ordinance Section 202.2 Permitted Uses in R-1 High Density District to allow commercial storage in the R-1 High Density District. Property Owner: Millie Bauer, LLC, 16 Woodknoll Drive, North Hampton, NH 03862. Property Location: 50-52 Lafayette Road; M/L: 008-024-000; Zoning Districts: I-B/R, Industrial – Business/Residential District, and R-1, High Density District.

**Applicants: Millie Bauer, LLC, and Scott Prince, 50-52 Lafayette Road, North Hampton, NH 03862.** The Applicants request a special exception as required by Section 202.4 of the Town of North Hampton Zoning Ordinance to allow motor vehicle service facility use on the property. Property Owner: Millie Bauer, LLC, 16 Woodknoll Drive, North Hampton, NH 03862. Property Location: 50-52 Lafayette Road; M/L: 008-024-000; Zoning Districts: I-B/R, Industrial – Business/Residential District, and R-1, High Density District.

In attendance for this application:

Greg Bauer, property owner and applicant.

Mr. Milner informed the Board that the applicant has requested a continuance of the case because the primary preparer and presenter of the case material, the applicant's attorney, is not able to be present due to an illness.

Mr. Stanton stated that abutters or other members of the public have made time to be present at this meeting and the previous meeting date when the case was originally continued. They should be allowed to comment on the case due to the possibility that they may not be able to attend a later meeting date as a result of the upcoming holiday period or other personal conflicts.

Ms. Reid stated her opinion that, in the interest of being equitable to all parties, comments regarding the case should be heard at meeting in which both the applicant's representatives and the members of the public, whether in favor or not in favor of the proposal, are present and can answer to any issues that may arise from information presented or comments made. The Board and the public should have the benefit of hearing the applicant's presentation prior to comments being made to the Board.

The Board discussed continuing the case to the January 25, 2022 meeting date in order to allow participation by members of the public who may not be able to attend the December 28, 2021 meeting date due to the upcoming holidays. The Board also discussed establishing an electronic connection at the January 25 meeting to allow members of the public to participate remotely due to the unique circumstance of this case in which multiple continuances may be granted resulting in the case being presented three months after its originally noticed date.

**Mr. Williams moved that the Zoning Board of Adjustment continue Case #21:07 to the January 25, 2022 meeting date. Second by Ms. Prior.**

Discussion of the motion - Mr. Stanton suggested that the Board ask the property owner if he agreed with continuing the case to the January 25, 2022 meeting date. Ms. Reid asked Mr. Bauer if he agreed with the proposed date for continuing the case. Mr. Bauer stated that he agreed with continuing the case to the January 25, 2022 meeting date.

**The vote was unanimous in favor of the motion (5-0).**

David McGilvray addressed the Board. Mr. McGilvray stated that he believes the public and neighbors should be allowed to speak on the case at this time since they have waited for two months.

**Mr. Stanton moved that the ZBA authorize a Zoom electronic connection for the January 25, 2022 meeting to allow the public to participate remotely. Second by Mr. Williams. The vote was unanimous in favor of the motion (5-0).**

**III. Other Business.**

**1. 2022 ZBA meeting schedule.**

Mr. Milner presented the 2022 ZBA meeting schedule to the Board. The proposed schedule followed the ZBA Rules and Procedures meeting scheduling guidelines. Meetings scheduled to be held on the fourth Tuesday of each month.

Ms. Reid suggested that the December 2022 meeting date be moved to December 20, 2022 to avoid the holiday week in late December and early January.

**Mr. Stanton moved that the ZBA accept the 2022 ZBA meeting schedule with a meeting scheduled on the fourth Tuesday of each month except that the December 2022 meeting will be scheduled for December 20, 2022. Second by Mr. Clifford. The vote was unanimous in favor of the motion (5-0).**

**Mr. Williams moved to adjourn the meeting at 7:28pm. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).**

Respectfully submitted,

Rick Milner  
Recording Secretary