



**Town of Wilton, NH
Zoning Board of Adjustment
MINUTES**

**Tuesday, April 30, 2024
7 PM
Town Hall Courtroom
42 Main Street**

ATTENDANCE

Board Members Present: Neil Faiman (chairperson); Joanna Eckstrom (co-chairperson; remote); Andy Hoar; Jeff Stone (remote); Judith Klinghoffer; Peg Duggan (alternate); Linda Jennings (alternate)

Board Members Absent: n/a

Board Secretary: Caryn Case

Attendees: Christopher P. Higgins; Daniel Baeta; Lorin Baeta; Arrion Murphy; David Potter; Marcia Potter; Alan Jones; Rick Roy; Jake Hurley; Michaelann Murphy; Thomas Ryan; Cale Brandley; Elizabeth Brandley; Chris Guida (Fieldstone Land Consultants)

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MINUTES

1. Call to Order

Chairman Faiman called the meeting to order at 7:05 p.m. He had delayed the start of the meeting to wait for any individuals that might be wandering over from the Fire Station due to a change in the meeting venue.

Chairman Faiman reminded attendees to sign in to assure the records accuracy and then read the Zoning Board of Adjustment policy on masking and the Zoning Board of Adjustment on meeting conduct and protocol. (see attached)

Chairman Faiman introduced the Board members by ROLL CALL and declared a quorum was present.

Neil Faiman, Chairperson;
Andy Hoar, Board Member;
Jeff Stone, Board Member (participating remotely due to concerns of some attendees opting to not wear masks);
Joanna Eckstrom, Co-Chairperson (participating remotely due to illness making it not practical to do so in person);
Peg Duggan Alternate Board Member;
Linda Jennings, Alternate Board Member; and
Caryn Case, Board Secretary.

2. Minutes

a. April 09, 2024

The Board reviewed the section of minutes that related to the case before the Board that evening. Edits were made to lines 121, 123, and 127.

b. April 13, 2024

The Board reviewed the site visit minutes from April 13, 2024. Edits to lines 16, 104, and 131 were discussed.

J Klinghoffer MOVED to accept the April 13, 2024, minutes with edits to lines 16, 104, and 131.

P Duggan SECONDED.

Discussion: None

Roll Call Vote:	J Klinghoffer	aye
	A Hoar	aye
	N Faiman	aye
	J Stone	aye
	JK Eckstrom	aye
	P Duggan	aye
	L Jennings	aye

Motion: Carried 7/0/0

76
77
78 **3. Michaelann Murphy, 291 Captain Clark Highway**

79 Public Hearing continued from a previous meeting

80 **Case #01/09/2024-01**

81 *Michaelann Murphy has requested special exceptions under sections 5.3.1 and 6.6.1 of the Wilton*
82 *Zoning Ordinance to operate a licensed family group care as a home occupation at Tax Map H Lot H-*
83 *132, 292 Captain Clark Highway.*

84
85
86 Chairman Faiman opened the hearing by reading the applicant's request.

87
88 Andy Hoar stated he was absent for the initial hearing due to illness and requested that Linda Jennings,
89 alternate, continue to serve on the voting Board for this case.

90
91 Michaelann Murphy, applicant, summarized her request for a special exception and updated the board on
92 activity since the site visit. She said she met with the Fire Chief regarding the life/safety issues and the
93 driveway, the Planning Board regarding the site plan, and an excavator experienced in driveway
94 construction. Regarding the latter, she said the excavator will achieve the required sight distance by
95 trimming and re-grading the terrain to the right of the driveway where that sight distance is currently not
96 compliant.

97
98 Andy Hoar inquired about the parking spaces. Michaelann Murphy said the number of parking spaces that
99 will result will be driven by the proposed driveway plan and added there will be no off-site parking. She
100 noted that the Zoning Ordinance allows for two additional parking spaces which she has dedicated to
101 future employees in front of the barn.

102
103 Andy Hoar pointed out that both State and Town requirements call for the daycare to reside in the
104 applicant's actual residence. Michaelann Murphy stated that that issue had been amended on the revised
105 site plan and added that the daycare would be located on the first floor of her home which includes the
106 kitchen, living room, dining room, and bathrooms. She said her family's bedrooms would not be off limits to
107 the childcare program. She added that the State Licensing Board will determine her licensing capacity on an
108 appropriate amount of square feet available to the proper care of each child.

109
110 Thomas Ryan, abutter, shared several exhibits with the Board. He says he has had trouble understanding
111 the materials provided to the Board by the applicant. He stated he read the Zoning Board of Adjustment
112 Handbook; he said the Board is being unfair. He stated the application should be rejected because the
113 applicant failed to request a special exception to section 5.3.6 even though it was explained to him this
114 section was not necessary to the request. He accused the applicant of being redundant and therefore not
115 accurate, thus, the application should be rejected. He said the requirements of the special exception are
116 not being met because they have not been justified in the application. He further stated the application
117 should be denied because existing traffic conditions at the intersection of Potter Road with Captain Clark

Highway create a safety hazard as does the narrowing of Captain Clark Highway south of the applicant's driveway because proper sight distance is not achieved. Last, he said the applicant's proposed driveway is excessive for the neighborhood.

Daniel Baeta, abutter, supported the comments made by the applicant to improve her driveway and the character of the neighborhood.

Chris Guida, Fieldstone Land Consultants, remarked supporting the applicant's comments about trimming and re-grading the terrain to the right of the driveway to make it compliant, adding that this is typically a non-issue to the Town.

Alan Jones, abutter, suggested relocating the applicant's driveway to the west of the intersection of Captain Clark Highway with Potter Road stating it would be safer and supports two lanes of traffic.

Elizabeth Brandley, abutter, said she frequents the intersection at least twice a day and has not been subject to traffic as described by Thomas Ryan. At best, she says she has met only two or three cars in the past several years.

Before closing the hearing for the Board to deliberate, Chairman Faiman summarized the facts as they had been heard: (a) the lot is approximately 17 acres and located in the General Residence and Agricultural District; (b) there is a house and a barn on the property; (c) the property is located on Captain Clark Highway across from the intersection with Potter Road whose driveway is offset from the intersection; and (d) the applicant proposes a state-licensed family group daycare within the limits of her residence and whose capacity will in no case exceed 12 full-time pre-school children and no more than five occasional after-school school-age siblings.

J Klinghoffer MOVED to close the public hearing so the Board could deliberate.

P Duggan SECONDED.

Discussion: None

Roll Call Vote:	J Klinghoffer	aye
	A Hoar	not-voting
	N Faiman	aye
	J Stone	aye
	JK Eckstrom	aye
	P Duggan	not voting
	L Jennings	aye

Motion: Carried 5/0/0

Chairman Faiman lead the discussion on modifications to the property to obtain the required sight distance for the proposed driveway and noted there was no obligation on the part of the applicant to re-locate the driveway. He added he was not in favor of the proposal saying the proposal pushed the limits of a home

159 occupation and the proposed driveway layout was too seeable and said that home occupations are not
160 supposed to be visible from the road. Regardless, Chairman Faiman noted the applicant had properly
161 identified the relief in the zoning ordinance needed in her application. Judith Klinghoffer clarified that the
162 applicant had properly addressed the parking spaces for future employees and that additional parking
163 spaces were irrelevant. Linda Jennings concurred.

164
165 Chairman Faiman reviewed with the Board the requirements of sections 5.3.1, 6.6.1 and 4.12 to be sure
166 conditions of the request were being satisfied. The Board agreed that (1) the drop-off and pick-up of
167 children, and presumably, children playing in the yard would not reach the level of obstructiveness from
168 the road; (2) no additional structures are proposed; (3) the applicant has designated two employee parking
169 spaces, to be located behind the house and in front of the barn, and there is adequate space in the
170 driveway for a staggered child drop-off and pick-up schedule; and (4) testimony by various neighbors
171 regarding traffic generated by the home occupation has been quelled the by staggered drop-off and pick-up
172 schedule.

173
174 **J Klinghoffer MOVED to grant the request for a special exception under sections 5.3.1 and**
175 **6.6.1 of the Wilton Zoning Ordinance to operate a licensed family group care as a home**
176 **occupation pursuant to agreements one through four above.**

177 **P Duggan SECONDED.**

178
179 **JK Eckstrom MOVED to re-open the public hearing.**

180 **J Stone SECONDED.**

181 **Discussion: None**

182 **Roll Call Vote:** J Klinghoffer aye
183 A Hoar not-voting
184 N Faiman aye
185 J Stone aye
186 JK Eckstrom aye
187 P Duggan not voting
188 L Jennings aye

189 **Motion: Carried** 5/0/0

190
191 **Chairman Faiman calls for the vote on the motion.**

192 **Roll Call Vote:** J Klinghoffer aye
193 A Hoar not-voting
194 N Faiman nay
195 J Stone aye
196 JK Eckstrom aye
197 P Duggan not voting
198 L Jennings aye

199 **Motion: Carried** 4/1/0

N Faiman relayed to the Applicant that a Notice of Decision would be forthcoming, and that the decision will expire if the construction or use permitted by the Special Exception has not begun by Thursday, April 30, 2026. (Wilton Zoning Ordinance section 17.4) He said the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing of this decision. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Thursday, May 30, 2024, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2) He stated that any activity/progress by the applicant during that period on the request could be at risk if the decision is overturned at a rehearing.

4. Cale & Elizabeth Brandley, 19 Potter Road

Public Hearing, **NEW**

Case #04/09/2024-04

Cale and Elizabeth Brandley have requested variances to sections 6.2.4 and 6.2.5 of the Wilton Zoning Ordinance to allow the partial demolition and replacement of an existing house, and the replacement of an existing septic system, on Lot H-13, 19 Potter Road, where the new house and septic system would be closer to the lot lines than allowed by the Ordinance.

Chairman Faiman opened the hearing by reading the applicant's request.

Chris Guida explained he was working with the Brandley's to renovate and replace a non-conforming structure with a new structure that will be nearly conforming. He stated the non-conforming lot has made this proposal tight and challenging. He said the new dwelling unit will replace the existing non-conforming structure and will be smaller and more appropriate to the lot size. He added the location of the well and the septic system provided limitations they had to work in, such that the new septic system will replace the old septic system in nearly the same location and was NHDES compliant.

Elizabeth Brandley described the red outline in the plan set as the original non-conforming structure and the grayed-out area as the proposed new structure.

Judith Klinghoffer left the meeting. Chairman Faiman identified Peg Duggan as a voting member.

Alan Jones, abutter, said he was in support of the Brandley's upgrading their property and looked forward to having them in the neighborhood.

Chairman Faiman summarized the facts as they were heard (a) the lot is only 0.4 acres; (b) the lot predates the zoning ordinance; (c) the house was built in 1806; (d) the lot has limited depth making it difficult to meet the setback requirements; (e) a portion of the existing home will be demolished; (f) the footprint will be substantially reduced; (g) the renovation will include a second story on the portion of the remaining structure, and an exterior stairwell will extend into the rear lot line setback; (h) and the new septic system will replace the old septic system, in nearly the same location, but extending slightly into setback.

A Hoar MOVED to close the public hearing so the Board could deliberate.

P Duggan SECONDED.

Discussion: None

Roll Call Vote:	A Hoar	aye
	N Faiman	aye
	J Stone	aye
	JK Eckstrom	aye
	P Duggan	aye
	L Jennings	not voting

Motion: Carried 5/0/0

The Board reasoned (1) that the historically tiny lot constitutes a special condition making use of the property impractical to strictly conform with the ordinance; (2) that the proposed construction will reduce the existing setback non-conformity; (3) that the renovation and replacement do not adversely affect abutters, the character of the neighborhood or public health, safety or welfare; (4) that property values are likely to benefit from the proposed new construction; and (5) that the enforcement of the letter of the ordinance would impose a substantial inconvenience on the applicant with no corresponding public benefit.

N Faiman MOVED to grant the request for variances to sections 6.2.4 and 6.2.5 of the Wilton Zoning Ordinance to allow the partial demolition and replacement of an existing house, and the replacement of an existing septic system pursuant to reasons one through five above.
JK Eckstrom SECONDED.

J Stone MOVED to re-open the public hearing.

A Hoar SECONDED.

Discussion: None

Roll Call Vote:	A Hoar	aye
	N Faiman	aye
	J Stone	aye
	JK Eckstrom	aye
	P Duggan	aye
	L Jennings	not voting

Motion: Carried 5/0/0

Chairman Faiman calls for the vote on the motion.

Roll Call Vote:	A Hoar	aye
	N Faiman	aye
	J Stone	aye
	JK Eckstrom	aye
	P Duggan	aye
	L Jennings	not voting

Motion: Carried 5/0/0

N Faiman relayed to the Applicant that a Notice of Decision would be forthcoming, and that the decision will expire if the construction or use permitted by the Special Exception has not begun by Thursday, April 30, 2026. (Wilton Zoning Ordinance section 17.4) He said the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing of this decision. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Thursday, May 30, 2024, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2) He stated that any activity/progress by the applicant during that period on the request could be at risk if the decision is overturned at a rehearing.

5. Minutes

a. April 09, 2024

The Board reviewed the section of minutes that related to the case before the Board that evening. Edits were made to lines 15, 16, 93, 121, 123, 127, 252, 261, 271, 273, 276, 460, and 548.

A Hoar MOVED to accept the April 09, 2024, minutes with edits to lines 15, 16, 93, 121, 123, 127, 252, 261, 271, 273, 276, 460, and 548.

L Jennings SECONDED.

Discussion: None

Roll Call Vote:	A Hoar	aye
	N Faiman	aye
	J Stone	aye
	JK Eckstrom	aye
	P Duggan	aye
	L Jennings	aye

Motion: Carried 6/0/0

6. Other Business

Chairman Faiman reminded the Board of the site visit on Saturday, May 4, 2024, on Wilson Road.

Joanna Eckstrom gave a shout out for the Spring Festival and Maypole Dance to be held Saturday, May 4, 2024, on Carnival Hill.

Linda Jennings inquired about the Office of Planning & Development Seminars and the Zoning Board of Adjustment Handbook.

Peg Duggan mentioned their copies of the Zoning Ordinance were not updated.

7. Adjournment

A Hoar MOVED to adjourn at 9:51 p.m.

325 **L Jennings SECONDED.**
326 **Discussion:** None
327 **Roll Call Vote:** A Hoar aye
328 N Faiman aye
329 J Stone aye
330 JK Eckstrom aye
331 P Duggan aye
332 L Jennings aye
333 **Motion:** Carried 6/0/0
334
335 **APPROVED: 05.14.2024**

I'd like to say a few words about the Zoning Board's masking policy.

ZBA members are volunteers who put in time and energy without compensation to perform a needed service for the Town. We appreciate their time and energy. We do not ask them to risk their health or the health of their loved ones. Some of our members are, or have family members who are, at particular risk if they were to become ill.

To accommodate our members' reasonable health concerns, and to make it possible for them to attend Zoning Board meetings in person, the Zoning Board policy is that all attendees should wear masks at Zoning Board meetings.

Compliance with this policy is optional. Legally, we cannot compel any participant to wear a mask, or discriminate against them for choosing not to do so. As a matter of courtesy, and to allow all ZBA members to participate fully in Board meetings, we request that you wear a mask at our meetings, but the choice is yours.

Thank you.

Is there anyone present who chooses not to wear a mask at this meeting?

I'd like to explain the conduct of Zoning Board hearings.

Like a court, the Zoning Board makes decisions based on facts and law. The facts are the details of a proposed use, the property where it is being proposed, and how it relates to and affects the neighborhood and the town. The law is the Wilton Zoning Ordinance and the New Hampshire Statutes governing Zoning Boards.

A ZBA hearing has two purposes. One is to allow the applicant and any other interested parties to provide information that the Zoning Board may take into account when making a decision on an application. The other purpose is to allow the public to know what is being proposed and what information the ZBA has heard that will go into the decision. Thus, comments, questions, and other testimony are welcome.

However, testimony to the Board should be about matters that can properly go into the Board's decision on the case. These are facts that are relevant to the questions that the Board will have to answer when it makes its decision, and claims about how the law should apply to the facts of the case.

As Board Chairperson, my job is to make sure that the rules are followed, that everyone gets heard, that the decisions get made, and that the meeting proceeds expeditiously so that everyone gets to go home at a reasonable hour. The rules include:

If you wish to speak, please raise a hand. I will call on you.

All questions and comments should be addressed to the Chair and the Board.

I have the option of discouraging, more or less emphatically, irrelevant or repetitious comments.

Thank you.