



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

landuse@wiltonnh.gov

(603) 654-9166

**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 Hoard; 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 Ryna; Cale Brandley; Elizabeth Brandley; Chris Guida (Fieldstone Land Consultants)

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6. Other Business
7. Adjournment

MINUTES

1. Call to Order

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

38 Chairman Faiman reminded attendees to sign in to assure the records accuracy and then read the Zoning
39 Board of Adjustment policy on masking and the Zoning Board of Adjustment on meeting conduct and
40 protocol. See attached.

41
42 Chairman Faiman introduced the Board members by ROLL CALL and declared a quorum was present.

43
44 Neil Faiman, Chairperson;
45 Andy Hoar;
46 Jeff Stone, participating remotely due to concerns of some attendees opting to not wear
47 masks;
48 Joanna Eckstrom, Co-Chairperson and participating remotely due to illness making it not
49 practical to do so in person;
50 Peg Duggan Alternate;
51 Linda Jennings, Alternate; and
52 Caryn Case, Board Secretary.

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54
55 **2. Minutes**

56 **a. April 09, 2024**

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

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60 **b. April 13, 2024**

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

63
64 **J Klinghoffer MOVED to accept the April 13, 2024, minutes with edits to lines 16, 104, and 131.**

65 **P Duggan SECONDED.**

66 **Discussion:** None

67 **Roll Call Vote:** J Klinghoffer aye
68 A Hoar aye
69 N Faiman aye
70 J Stone aye
71 JK Eckstrom aye
72 P Duggan aye
73 L Jennings aye

74 **Motion:** Carried 7/0/0
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3. Michaelann Murphy, 291 Captain Clark Highway

Public Hearing continued from a previous meeting
Case #01/09/2024-01

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

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

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

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

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

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

Thomas Ryan, abutter, shared several exhibits with the Board. He says he has had trouble understanding the materials provided to the Board by the applicant. He stated he read the Zoning Board of Adjustment Handbook; he said the Board is being unfair. He stated the application should be rejected because the applicant failed to request a special exception to section 5.3.6 even though it was explained to him this section was not necessary to the request. He accused the applicant of being redundant and therefore not accurate, thus, the application should be rejected. He said the requirements of the special exception are not being met because they have not been justified in the application. He further stated the application 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

118 driveway because proper sight distance is not achieved. Last, he said the applicant's proposed driveway is
119 excessive for the neighborhood.

120

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

123

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

127

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

130

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

134

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

142

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

144

145 **P Duggan SECONDED.**

146

147 **Discussion:** None

148

149 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

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154 **Motion:** Carried 5/0/0

155

156 Chairman Faiman lead the discussion on modifications to the property to obtain the required sight distance
157 for the proposed driveway and noted there was no obligation on the part of the applicant to re-locate the
158 driveway. He added he was not in favor of the proposal saying the proposal pushed the limits of a home
occupation and the proposed driveway layout was too seeable and said that home occupations are not

159 supposed to be visible from the road. Regardless, Chairman Faiman noted the applicant had properly
160 identified the relief in the zoning ordinance needed in her application. Judith Klinghoffer clarified that the
161 applicant had properly addressed the parking spaces for future employees and that additional parking
162 spaces were irrelevant. Linda Jennings concurred.

163
164 Chairman Faiman reviewed with the Board the requirements of sections 5.3.1, 6.6.1 and 4.12 to be sure
165 conditions of the request were being satisfied. The Board agreed that (1) the drop-off and pick-up of
166 children, and presumably, children playing in the yard would not reach the level of obstructiveness from
167 the road; (2) no additional structures are proposed; (3) the applicant has designated two employee parking
168 spaces, to be located behind the house and in front of the barn, and there is adequate space in the
169 driveway for a staggered child drop-off and pick-up schedule; and (4) testimony by various neighbors
170 regarding traffic generated by the home occupation has been quelled the by staggered drop-off and pick-up
171 schedule.

172
173 **J Klinghoffer MOVED to grant the request for a special exception under sections 5.3.1 and**
174 **6.6.1 of the Wilton Zoning Ordinance to operate a licensed family group care as a home**
175 **occupation pursuant to agreements one through four above.**
176 **P Duggan SECONDED.**

177
178 **JK Eckstrom MOVED to re-open the public hearing.**
179 **J Stone SECONDED.**

180 **Discussion:** None

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

188 **Motion:** Carried 5/0/0

189
190 **Chairman Faiman calls for the vote on the motion.**

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

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

199

200 N Faiman relayed to the Applicant that a Notice of Decision would be forthcoming, and that the decision
201 will expire if the construction or use permitted by the Special Exception has not begun by Thursday, April
202 30, 2026. (Wilton Zoning Ordinance section 17.4) He said the selectmen, any party to the action or
203 proceedings, or any person directly affected thereby may apply for a rehearing of this decision. A request
204 for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Thursday, May
205 30, 2024, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2) He stated
206 that any activity/progress by the applicant during that period on the request could be at risk if the decision
207 is overturned at a rehearing.
208

209 **4. Cale & Elizabeth Brandley, 19 Potter Road**

210 Public Hearing, **NEW**

211 **Case #04/09/2024-04**

212 *Cale and Elizabeth Brandley have requested variances to sections 6.2.4 and 6.2.5 of the Wilton*
213 *Zoning Ordinance to allow the partial demolition and replacement of an existing house, and the*
214 *replacement of an existing septic system, on Lot H-13, 19 Potter Road, where the new house and*
215 *septic system would be closer to the lot lines than allowed by the Ordinance.*
216

217 Chairman Faiman opened the hearing by reading the applicant's request.
218

219 Chris Guida explained he was working with Brandley's to renovate and replace a non-conforming structure
220 with a new structure that will be nearly conforming. He stated the non-conforming lot has made this
221 proposal tight and challenging. He said the new dwelling unit will replace the existing non-conforming
222 structure and will be smaller and more appropriate to the lot size. He added the location of the well and
223 the septic system provided limitations they had to work in, such that the new septic system will replace the
224 old septic system in nearly the same location and was NHDES compliant.
225

226 Elizabeth Brandley described the red outline in the plan set as the original non-conforming structure and
227 the grayed-out area as the proposed new structure.
228

229 Judith Klinghoffer left the meeting. Chairman Faiman identified Peg Duggan as a voting member.
230

231 Alan Jones, abutter, said he was in support of the Brandley's upgrading their property and looked forward
232 to having them in the neighborhood.
233

234 Chairman Faiman summarized the facts as they were heard (a) the lot is only 0.4 areas; (b) the lot predates
235 the zoning ordinance; (c) the house was built in 1806; (d) the lot has limited depth making it difficult to
236 meet the setback requirements; (e) a portion of the existing home will be demolished; (f) the footprint will
237 be substantially reduced; (g) the renovation will include a second story on the portion of the remaining
238 structures, and an exterior stairwell will extend into the rear lot line setback; (h) and the new septic system
239 will replace in the old septic system, in nearly the same location, but extending slightly into setback.
240

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

242 **P Duggan SECONDED.**
243 **Discussion:** None
244 **Roll Call Vote:** A Hoar aye
245 N Faiman aye
246 J Stone aye
247 JK Eckstrom aye
248 P Duggan aye
249 L Jennings not voting
250 **Motion:** Carried 5/0/0
251

252 The Board reasoned (1) that the historically tiny lot constitutes a special condition making use of the
253 property impractical to strictly conform with the ordinance; (2) that the proposed construction will reduce
254 the existing setback non-conformity; (3) that the renovation and replacement do not adversely affect
255 abutters, the character of the neighborhood or public health, safety or welfare; (4) that property values are
256 likely to benefit from the proposed new construction; and (5) that the enforcement of the letter of the
257 ordinance would impose a substantial inconvenience on the applicant with no corresponding public benefit.
258

259 **N Faiman MOVED to grant the request for variances to sections 6.2.4 and 6.2.5 of the Wilton**
260 **Zoning Ordinance to allow the partial demolition and replacement of an existing house, and**
261 **the replacement of an existing septic system pursuant to reasons one through five above.**
262 **JK Eckstrom SECONDED.**
263

264 **J Stone MOVED to re-open the public hearing.**
265 **A Hoar SECONDED.**
266 **Discussion:** None
267 **Roll Call Vote:** A Hoar aye
268 N Faiman aye
269 J Stone aye
270 JK Eckstrom aye
271 P Duggan aye
272 L Jennings not voting
273 **Motion:** Carried 5/0/0
274

275 **Chairman Faiman calls for the vote on the motion.**
276 **Roll Call Vote:** A Hoar aye
277 N Faiman aye
278 J Stone aye
279 JK Eckstrom aye
280 P Duggan aye
281 L Jennings not voting
282 **Motion:** Carried 5/0/0

283
284 N Faiman relayed to the Applicant that a Notice of Decision would be forthcoming, and that the decision
285 will expire if the construction or use permitted by the Special Exception has not begun by Thursday, April
286 30, 2026. (Wilton Zoning Ordinance section 17.4) He said the selectmen, any party to the action or
287 proceedings, or any person directly affected thereby may apply for a rehearing of this decision. A request
288 for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Thursday, May
289 30, 2024, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:2) He stated
290 that any activity/progress by the applicant during that period on the request could be at risk if the decision
291 is overturned at a rehearing.
292

293 **5. Minutes**

294 **a. April 09, 2024**

295 The Board reviewed the section of minutes that related to the case before the Board that evening.
296 Edits were made to lines 15, 16, 93, 121, 123, 127, 252, 261, 271, 273, 276, 460, and 548.
297

298 **A Hoar MOVED to accept the April 09, 2024, minutes with edits to lines 15, 16, 93, 121, 123,**
299 **127, 252, 261, 271, 273, 276, 460, and 548.**

300 **L Jennings SECONDED.**

301 **Discussion:** None

302 **Roll Call Vote:**

A Hoar	aye
N Faiman	aye
J Stone	aye
JK Eckstrom	aye
P Duggan	aye
L Jennings	aye

308 **Motion:** Carried 6/0/0
309

310 **6. Other Business**

311 Chairman Faiman reminded the Board of the site visit on Saturday, May 4, 2024, on Wilson Road.
312

313 Joanna Eckstrom gave a shout out for the Spring Festival and Maypole Dance to be held Saturday, May 4,
314 2024, on Carnival Hill.
315

316 Linda Jennings inquired about the Office of Planning & Development Seminars and the Zoning Board of
317 Adjustment Handbook.
318

319 Pat Duggan mentioned their copies of the Zoning Ordinance were not updated.
320

321 **7. Adjournment**

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

323 **L Jennings SECONDED.**
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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	9/0/0

A ***non-public session*** may be called at any time under RSA 91-A:3, II (a), (b), (c), (d), (e).
The agenda is subject to change.

DRAFT