

Enfield Zoning Board of Adjustment – Meeting Minutes
DEPT OF PUBLIC WORKS/TEAMS PLATFORM
April 9, 2024

ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT: Mike Diehn (Chair), Susan Brown (Vice Chair), Madeleine Johnson, Daniel Regan, Bill Finger, Cecilia Aufiero (Alternate)

ZONING BOARD OF ADJUSTMENT MEMBERS ABSENT:

STAFF PRESENT: Rob Taylor- Land Use and Community Development Administrator, Ed Morris – Town Manager

GUESTS: Tony DeFelice, Mike Michaels, John Kluge, John Dibitetto (owner, 107 Maple Street, Enfield), John Cronin (Attorney, Cronin Bisson & Zalinsky P.C.), Karl Dubay (The Dubay Group, Inc.), Daniel Muller (Attorney, Cronin Bisson & Zalinsky P.C.), Stephen J. Doherty (DC Development & Construction), Keith Thomas, Steve Patten, Greg Sargent, Robert Barr, Sharon Beaufait, Shirley Green,

CALL MEETING TO ORDER:

Mr. Diehn called the meeting to order at 7:05 p.m.

Mr. Diehn explained the process for the hearings on the agenda and noted a time limit that would be put on the Laramie Farms continuation hearing, including speaking limits in the interest of time.

ZONING ORDINANCE CLARIFICATION:

Mr. Diehn said that he had a correction to the findings of fact from the previous meeting where the initial hearing for Laramie Farms took place. The statement that the Planning Board had decided to remove the height requirement from the zoning ordinance and that it would go to vote in 2025 was incorrect. Mr. Diehn said that the following would be removed from the Findings of Fact list put together at the last hearing:

2. In 2025 the PB will ask the voters to replace this height limit in the EZO with a CUP requirement.

Mr. Diehn said that the Planning Board Chair also asked him to clarify that the Planning Board will take ideas to the public with problems they have seen and changes they want input on from the public. They plan to work heavily with the public and are not making changes without that input.

Mr. Diehn reminded the public that during tonight's hearings, the focus will be on whether the applicant (particularly for Laramie Farms) can build their buildings taller than the current zoning ordinance allows and have multiple primary buildings on a single lot.

ORGANIZATION OF THE BOARD:

Mr. Diehn said that Mr. Regan and Mr. Finger were now full board members who had been sworn in. He also said that Ms. Aufiero was an alternate now, so she will not vote on the hearings tonight. Mr. Taylor clarified that they had consulted the town's attorney regarding Ms. Aufiero not voting (since there are now two new members), who had confirmed Ms. Aufiero would not vote tonight as an alternate if there were a full board (even though she had been a full board member at the time of the first hearing for Laramie Farms).

Mr. Diehn called for nominations for Chair of the Zoning Board of Adjustment.

Ms. Brown MOVED to nominate Mr. Diehn as the Zoning Board of Adjustment Chair. Seconded by Mr. Finger. The Vote on the MOTION was approved (5-0).

Chair Diehn called for nominations for Vice Chair of the Zoning Board of Adjustment.

Ms. Johnson said that she would volunteer to be Vice Chair again, and Ms. Brown said that she would also volunteer; they had previously discussed alternating.

Ms. Brown MOVED to nominate herself as Zoning Board of Adjustment Vice Chair. Seconded by Ms. Johnson. The Vote on the MOTION was approved (5-0).

Chair Diehn moved on to the next agenda item with no further officer elections needed for the board.

PUBLIC HEARINGS:

Chair Diehn asked that those who wish to speak state their name before speaking so that they have the correct information for the minutes. Ms. Johnson asked that those who had spoken at the first portion of the hearing yield the floor to those who had not spoken.

Continued - Enfield Land Use Case # Z24-03-01, DC Development & Construction LLC (Stephen Doherty, duly authorized) has applied for zoning variances with the Enfield ZBA. First, a variance is requested from article IV, section 401.1, paragraph "L" to allow for a building's height to be greater than 35 ft. Second, a variance is requested from article IV, section 401.1, paragraph "U" which states that "no lot shall have more than one principal building". The subject parcels are located at 107 Maple Street (map 14, lots 47 & 48) and are owned by Maple Street- Enfield Acquisition LLC (care of John Dibitetto).

Board members reviewed and edited the Findings of Fact from the previous hearing. Mr. Michaels asked about the fact that access would be from Route 4 and who would pay for the expansion of Route 4 needed to accommodate that access. Chair Diehn said that this would be a question for the Planning Board and was outside of tonight's ZBA (Zoning Board of Adjustment) focus. Mr. Kluge said that he felt the finding of fact that the developer asserted they would not proceed without the two variances was utterly irrelevant and should be removed. Chair Diehn said that it would remain on the list at this time. Mr. Dibitetto said that he would like the finding of fact that very few other buildings in town are taller than the buildings being proposed to have "very few" removed. Chair Diehn said that it would remain. Mr. DeFelice asked how many taller buildings were approved after the town adopted zoning. Chair Diehn said that they did not know this information. Ms. Saide asked if any residential buildings in Enfield were taller than 35'. Chair Diehn said that he did not know. Mr. Taylor also did not have measurements on hand.

Ms. Aufiero said that she had worked with the Master Plan Task Force during the plan's first development phase and felt that the plan's intent to encourage multi-family housing and increased housing density was not in line with a development of this size but more directed toward historic homes. Ms. Aufiero said that she had worked with many contours and soil maps, and the land where the buildings are being proposed has different contours; she asked that this be added to the findings of fact.

Findings of Fact:

1. Lot size is roughly 77 acres
2. The property is in the R1 district
3. R1 limits building height to 35 feet
4. R1 allows only one primary building on a lot
5. Master plan encourages multi-family housing and increased housing density
6. The state of NH has expressed that one of their priorities is to increase housing stock.
7. All regular access will be through Route 4.
8. A gated emergency access road will give onto Maple Street
9. Enfield measures building height from peak to lowest point.
10. The tallest buildings would be 73 feet by Enfield's measuring methods.
11. Developer asserts this could add as much as 35 million to the town tax base.
12. No information is yet available about the increased cost of services
13. Mark McKeon, licensed appraiser #3 in NH, visited and testified this won't hurt property values.
14. This would be the largest development in Enfield's history.
15. Development will plan to be on town sewer and water.
16. Fire Chief's professional opinion is that the height alone will not be a fire risk.
17. Proposal does not exceed the density allowed in the ZO (zoning ordinance).
18. Developer asserts they won't proceed without these two variances
19. Very few other buildings in town are taller than the buildings being proposed.
20. The contours of the land vary considerably across the lot.
21. There are wetlands on the property.

124 22. There are no steep slopes in the proposed building locations.

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126 Chair Diehn invited Mr. Doherty to present updates to the application. Mr. Doherty said that
127 there were unanswered questions from the board at the last meeting: line of sight and roof height,
128 fly the site with a drone to provide photographs, and steep sloping on the site.

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130 Mr. Doherty said that the Enfield Master Plan states there is a need for up to 300 housing units
131 by 2030, which this development addresses. He said that the buildings were designed based on
132 the Shaker Museum's Great Stone Dwelling and shared side-by-side photographs to show the
133 similarities. He said that the building height is very similar to the Great Stone Dwelling, but
134 parking below the buildings has raised them about 12' – 15'. Parking below the buildings
135 reduces impervious surfaces and allows for more green space – which are priorities of the Master
136 Plan. Mr. Doherty said that the project was designed with the Master Plan in mind.

137
138 Mr. Doherty shared a diagram of the roof height, with the roof lowered and flattened by the
139 architect (a point discussed at the previous hearing). He shared photographs to demonstrate the
140 line of sight from Maple Street, with the entire building dropping an additional 8' into the
141 ground (which would improve the line of sight and keep the building's roof character). Ms.
142 Johnson asked if there was ledge in this area; Mr. Doherty said that they do not believe there will
143 be ledge in the way. He clarified that the height drop is for the apartment buildings.

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145 Mr. Doherty shared a computer generation of what residents along Maple Street would see of the
146 development with the proposed elevation changes. The rendering was taken from the area near
147 the emergency access road to the property along Maple Street. Mr. Dubay reviewed some of the
148 drone photographs taken and the location of the apartment buildings in relation to the homes and
149 fields on Maple Street. He explained the rendering's view and said that there is still a backdrop
150 of existing trees on a neighboring property visible behind the proposed buildings. The elevation
151 change would make the tops of the buildings at or below the tree line behind. Mr. Regan asked if
152 the buildings would be more visible in the winter; Mr. Dubay said that there is a mix of
153 evergreen trees, so he felt the roofs would not stick out further. He said that they could model a
154 winter view. Ms. Johnson also suggested the paint color may affect visibility. Mr. Dubay said
155 that they will refine these renderings further and share them with these suggestions.

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157 Mr. Dubay explained that they had reviewed the town's ordinance and definition of steep slopes
158 and done their own real survey of the steep slopes on the property. He shared a diagram of the
159 property's slopes based on that survey. He said that steep slopes are defined as greater than 25%
160 and showed where there is only one small area on the property within this category. There will
161 not be a building within the steep slope area. Mr. Dubay said that the town defines the over-
162 development of the lot within slope categories and the disturbance percentage allowed for each.
163 He said that the proposal is compliant within every category. He also stated that the ordinance
164 has quantifiable criteria for building near wetlands, and they are compliant.

Mr. Regan asked if the building heights in the rendering photos shown earlier were represented after lowering the elevations 8'. Mr. Doherty confirmed that they were. Mr. Dubay said that all grading plans have also been updated to reflect the building's 8' drop in elevation.

Mr. Thomas asked that the developer mentioned parking under the apartment buildings and wondered how many spaces would be available per unit, as well as visitor parking. Chair Diehn said that this would be a question for the Planning Board.

Mr. Patten said that when the building area is dropped 8', it will cut into the slope and make it steeper. What is the percentage of slope they intend to create on the bank behind the buildings? Mr. Dubay said that it would be a 2:1 slope (a slope with no stabilization required). The slopes could also be 1.5:1 and 3:1 in some areas as needed.

Mr. Sargent asked if the 8' drop in elevation would affect the number of units in the apartment buildings. Mr. Doherty said that it would not. Mr. Sargent asked, if the garage was not part of the project, how tall would the buildings be? Mr. Dubay said that it would be approximately 12' less.

Chair Diehn asked the board if they felt they would decide this case tonight. Board members said that they did not feel they were able to; there had yet to be board deliberation. Mr. Regan said that he would like to see an appraisal by someone local to Grafton County acquired by the applicant. Ms. Johnson said that she did not feel this was necessary. Mr. Finger and Ms. Brown agreed that the appraiser who had already been hired should be qualified.

Mr. Muller asked if the board was looking for the opinion of a real estate professional or a certified appraiser.

Mr. Regan MOVED to have the board ask the applicant to provide a local (Grafton County) certified appraiser's opinion of the potentially negative impact on abutters' residential values. Seconded by Chair Diehn. The Vote on the MOTION was defeated (1-4).

The board will not ask the applicant to provide a second appraisal.

Ms. Brown MOVED to continue the hearing to the board's next regularly scheduled meeting, May 14, 2024. Seconded by Mr. Regan. The Vote on the MOTION was approved (5-0).

Ms. Johnson felt the continued hearing should focus on the board's deliberation, as they have heard the public comments on this case. Chair Diehn clarified that this would be allowed unless the developer presented new information (which they would then need to give the public a chance to comment on).

The hearing is continued to the ZBA's meeting on May 14, 2024. Chair Diehn said that the board does not anticipate taking public comment at that meeting unless the developer shares new information that the public would then be allowed to make brief comments on.

Mr. Barr said that he came to hear about the developers and stated that housing is needed in the area. He said that the development is on the edge of town and felt the impact on Enfield would be minimal.

Ms. Beaufait asked about the appraiser who was used and their scope of work. Chair Diehn directed Ms. Beaufait to the minutes of the last meeting, which contained this information.

Chair Diehn called a short recess at 8:29 pm.

Chair Diehn called the meeting back to order at 8:35 pm.

Enfield Land Use Case # Z24-04-01, Philip and Kathleen Trasatti are seeking a Variance to Enfield's Zoning Ordinance article IV, section 401., paragraph L to replace an existing garage with a new building that would still be within the required setbacks. The subject property is located at 89 Algonquin Road (map 44, lot 28) in the "R3" zoning district. It is owned by the Philip Trasatti, Trustee and Kathleen Trasatti, Trustee.

Mr. Regan recused himself from this hearing as an abutter who knows the applicants well.

Chair Diehn seated Ms. Aufiero as a voting member for this hearing.

Mr. Taylor read the case.

Mr. Trasatti said that there is an existing garage (former bunkhouse) building near the road, and they are looking to have a garage closer to the home (still within the setbacks). The proposed new building will be a garage. The location change will improve the storm runoff and plowing for Algonquin Road. The proposed new building has an approved NH Department of Environmental Services (DES) Shoreland Permit. The location of the new building would conform to the neighborhood more closely. Part of the existing garage is along the town's right of way for Algonquin Road.

Chair Diehn clarified that the board would view this as adding a new building only (because the old building is to be removed and the location changed, it is not considered moving a building). He said that the board will review the case as adding a new building, focusing on the new building.

The new building will be a 12x22', single-story, one-car garage, the same size as the existing garage/bunkhouse.

The only change is to tear down the old building and put up the new building further from the road (out of the town's right of way).

Chair Diehn asked for public comment. Mr. Regan (as an abutter) said that he supports this project; he feels the applicants keep the lake and neighborhood in mind and anticipates they will do a good job with this project.

Mr. Patten said that he supports the applicants.

Mr. Morris (as an abutter) said that he supports this applicant. Moving the building location will improve snow removal and will enhance the neighborhood.

Ms. Green said that she supports this applicant.

Ms. Brown MOVED to grant the variance as requested. Seconded by Ms. Johnson. The Vote on the MOTION was approved (5-0).

Board members agreed the application met the criteria:

1 – The variance will not be contrary to the public interest.

It is in the public interest to move the building location further from the road.

2 – The spirit of the ordinance is observed.

Moving the building would improve the use of the land, not alter the neighborhood's character, or threaten public health, safety, or welfare.

3 – Substantial justice is done.

Members felt that anyone in the same situation would be advised to make a similar choice. The change does not harm the public interest.

4 – The values of surrounding properties are not diminished.

Members agreed the property values would not be reduced.

5 – Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

Not granting the variance would cause more harm than granting it.

Findings of Fact:

APPROVAL OF MINUTES: March 12, 2024

Ms. Brown MOVED to approve the minutes of March 12, 2024 as amended. Seconded by Mr. Finger. The Vote on the MOTION was approved (5-0).

289 Amendments:

290 -Add the motion and vote to appoint Ms. Aufiero as an alternate.

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292 **NEW BUSINESS:**

293 None.

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295 **OLD BUSINESS:**

296 None.

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298 **NEXT MEETING:** May 14, 2024

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300 **ADJOURNMENT:**

301 Ms. Brown MOVED to adjourn the meeting at 9:03 pm. Seconded by Ms. Johnson. The Vote on
302 the MOTION was approved (5-0).

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304 The meeting was adjourned at **9:03 pm.**