

**Enfield Zoning Board of Adjustment – Meeting Minutes**  
**DEPT OF PUBLIC WORKS/ZOOM PLATFORM**  
**August 10, 2021**

**ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT:** Ed McLaughlin (Chair, via Zoom platform), Madeleine Johnson (Vice Chair), Susan Brown, Mike Diehn (Alternate Member – Voting Member for this meeting)

**ZONING BOARD OF ADJUSTMENT MEMBERS ABSENT:** Brian Degnan, Cecilia Aufiero

**STAFF PRESENT:** Rob Taylor- Land Use and Community Development Administrator, Elizabeth Austin – Recording Secretary (minutes re-recorded remotely by Whitney Banker-Recording Secretary).

**GUESTS:** Janet Carrol, David Alexander, Dr. J.H. Theis

**I. CALL MEETING TO ORDER:**

Chair McLaughlin called the meeting to order at 7:02 p.m. and took a “roll call” of members present for attendance. Chair McLaughlin noted that Mr. Diehn would be promoted to a full board member for the meeting so there is a quorum. Since Chair McLaughlin is operating remotely (via Zoom platform), Vice Chair Johnson will act in place of the chair (with guidance from Mr. Taylor).

**II. REVIEW OF MEETING MINUTES: July 13, 2021**

***Chair McLaughlin MOVED*** to move the approval of the July 13, 2021 minutes presented in the August 10, 2021 agenda packet to approval for the next meeting.

***Seconded by Vice Chair Johnson***

No vote was done. Ms. Brown asked for the board to have a discussion before a vote. She stated that she felt the board should go through the minutes tonight, after the public hearing, so that Ms. Austin would have enough time to work on them and have the board approve them at the next meeting. Chair McLaughlin noted that this was a good point. Mr. Diehn stated that he agreed with Ms. Brown.

***Vice Chair Johnson MOVED*** to move the review and approval of the July 13, 2021 minutes presented in the August 10, 2021 agenda packet to later in the meeting, after the public hearing and other business.

***Seconded by Ms. Brown.***

**Roll Call Vote:**

Ed McLaughlin (Chair, via Zoom platform), Madeleine Johnson (Vice Chair), Susan Brown, Mike Diehn (Alternate Member – Voting Member for this meeting) **all voting Yea.**

**None voted Nay.**

*\* The Vote on the MOTION was approved (4-0).*

**III. PUBLIC HEARING:****Enfield Land Use Case Z21-08-02**

Janet Carrol requests a variance to Enfield Zoning Ordinance Article 4 section 401.2, sub-section L: to construct a pole barn on her property within the prescribed 20-foot setback within the lot boundary in the R3 district. The property is located at 13 Beckwith Lane, Tax Map 45 Lot 10.

Mr. Taylor stated that he found the application to be complete. A certified mailing was sent to all of the 200' abutters as prescribed by the NH RSA. Vice Chair Johnson invited Ms. Carrol to share her application.

Ms. Carrol noted that she and her partner Mr. Alexander (also present) use the property as their primary residence and plan for it to be indefinitely. She shared that what makes the property unique and why they cannot put the barn further from the property line, is that there is no other location on the property with a flat area. The only other flat area is where their septic system is. Mr. Taylor pulled up a map to show the property on screen. There is a neighboring house across from the proposed location of the pole barn, which is also owned by Ms. Carrol and Mr. Alexander. Ms. Brown noted that she had driven by the property, which is near Crystal Lake, and the houses were all very close together. Ms. Carrol agreed. Vice Chair Johnson asked for clarification of which homes on the map were owned by them, and which one they reside in. Ms. Carrol and Mr. Alexander provided clarification of where they live (the brown roofed house) and that the other house they own next door (the gray roof) is a rental house. Mr. Alexander also noted that the rental house (gray roof) has a garage that cannot be seen on the map due to trees covering the roof. This garage would be across from the proposed pole barn. Ms. Brown asked is this a single piece of land? Mr. Taylor clarified that no, they are two houses on two separate pieces of land, but both owned by the applicants.

Mr. Taylor shared the tax map on screen for all board members and guests to see. Chair McLaughlin stated for clarification: [the applicants] own two tax lots next to one another and are looking to build a barn on the property where they reside next to the neighboring lot, which they also own. Ms. Carrol and Mr. Alexander stated this was correct. Mr. Taylor shared on the tax map the two lots owned by the applicants. Vice Chair Johnson asked – the abutters are themselves, technically. What happens if that piece of property is bought by someone else down the line? They would then have the barn close to the property line that does not respect zoning regulations. Mr. Taylor noted many of the properties in this area's zoning map do not seem to

83 respect zoning regulations either. Chair McLaughlin noted that if the rental property (lot 12)  
84 were sold in the future, any potential buyer would see the barn (on lot 10) already exists, so it  
85 would not be something up for discussion. It would either be a feature or disadvantage to the  
86 seller/buyer at that point. Mr. Diehn added that it is something to consider, because the ZBA  
87 does not give variances to owners, they give variances to the piece of property itself. The board  
88 does not know what future owners might consider. The board needs to consider the 5 criteria  
89 they use to determine if they may grant a variance (or not).

90  
91 Vice Chair Johnson asked – could the applicant also request to join the two lots? Mr. Diehn  
92 agreed. Mr. Taylor noted the lots could not be joined together with two residences on the  
93 separate lots. He stated that Enfield allows in the R3 zone “two family” housing, which must be  
94 connected. There cannot be two houses on a single lot.

95  
96 Ms. Brown asked – how far does the proposed barn encroach? Mr. Taylor referred the board to  
97 the application and noted that the applicants had provided answers to all five criteria. Mr. Diehn  
98 noted that he did not see any hardship. Chair McLaughlin brought up the fact that there is not  
99 any other flat area (other than where the septic is located) – does this fall under the  
100 characteristics of the land? Mr. Diehn stated that this is not what the law requires. The law  
101 requires they be given some use for their land, not that they be allowed to put up a pole barn  
102 within the setback. Mr. Alexander stated that the location they have proposed is currently a  
103 parking area, so they would be putting the structure over where they are already parking. He also  
104 noted the materials planned would blend well with the landscape area and aesthetically pleasing.  
105 Mr. Diehn noted that [if a variance is granted] the next property owner could legally tear down  
106 the barn and build whatever they want in the location with the same footprint. Ms. Brown asked  
107 how tall the pole barn would be – 1 or 2 stories? Mr. Alexander noted 1 story. They were waiting  
108 to order it until they found out if the variance is approved.

109  
110 Ms. Carrol added that she considers a hardship for them not to have the structure as they do not  
111 have another place to store the things they plan to put there. Mr. Diehn stated that this is now  
112 what the law considers hardship. He stated that hardship would mean they cannot make any use  
113 of the land without the variance. They already have a primary use of the land without the  
114 structure. Chair McLaughlin noted he would take exception with the way Mr. Diehn stated that.  
115 He believes what the zoning ordinance is trying to do is allow people to use their land, but also  
116 to be able to protect the rights and the land associated in the future. He stated he believes what  
117 the board must decide is if the build something on the land, and the use of the land and  
118 characteristics allow them to build the structure anywhere else on the property or not. He does  
119 not believe they should consider architectural design. He stated that the property is unique in that  
120 they own the property next door, and while they cannot combine the lots the only approach they  
121 have is to request the variance to keep items safe from weather.

122

123 Ms. Brown asked – the other garage discussed, does it go with the other house? Ms. Carol noted  
124 that yes, it is part of that other property. Ms. Brown asked could they use it since they own it?  
125 Mr. Alexander stated that they do use it but have more items that would require another  
126 structure. Vice Chair Johnson noted that the house on the property where they would put the pole  
127 barn is a rental, would the barn be for renter's use or their use? Mr. Alexander noted that barn  
128 would not be part of the rental. Vice Chair Johnson stated the question – in this case you already  
129 have a garage. Mr. Alexander shared they have additional equipment (boats) that will not fit in  
130 the garage. Mr. Taylor noted that he understood where Vice Chair Johnson was leaning with the  
131 question, but that he believes the board needs to consider the variance request for the single  
132 property they are applying for it with. Vice Chair Johnson agreed. Mr. Diehn noted he still did  
133 not see legal NH zoning law hardship shown. The idea that it is unique because they own both  
134 pieces of property, and the statement that there is only the one flat spot on the property does not  
135 make it unique. Chair McLaughlin stated that he did see hardship for the reasons Mr. Diehn  
136 stated he did not. He felt that with the characteristics of the land justified hardship. Mr. Diehn  
137 noted that this was tied to the current owners and their desire to use the land in that way. He  
138 shared there was recently a case where an applicant asked to use the land in a way that wasn't  
139 appropriate and involved a barn. Chair McLaughlin noted this was a separate zoning issue in a  
140 different district. It is entirely different. Chair McLaughlin suggested the board consider the case  
141 where his own garage that he asked to build.

142  
143 Vice Chair Johnson asked, is it possible to build a smaller barn that could be located in a  
144 different area? Ms. Carol stated no, they had worked with Rob and the only other flat area is  
145 where their septic system is. Mr. Taylor shared the tax map on screen again. Vice Chair Johnson  
146 asked what the small square on the tax map was behind the house? Mr. Taylor suggested it was a  
147 shed perhaps when the GIS map was done, but it is no longer there. Vice Chair Johnson asked  
148 could the barn be located there? Ms. Carol stated that the property goes uphill in this area and it  
149 could not, and it would then be near the setback of another property. They are hoping to infringe  
150 only in their own property. Vice Chair Johnson noted that the board has to consider the  
151 properties separately for any future owners, not that they own both properties now.

152  
153 Ms. Brown asked Mr. Taylor to project the google map instead of the GIS. The board asked  
154 about the septic location on the map to see the locations of the land. Vice Chair Johnson noted  
155 that for the lot next door, the proposed barn would block sightlines/fresh air for the lot next door.  
156 The barn would block the view of the lake. Mr. Alexander noted that it is heavily wooded and  
157 there is no lake view. Ms. Brown noted that the way the land is laid out, the two houses cannot  
158 see one another. The Crystal Lake area in general is very "squished in".

159  
160 Vice Chair opened the hearing for public comment. Dr. Theis introduced himself and stated he is  
161 Chair of the Environmental Conservation Commission. He stated that the applicants have been  
162 given a copy of the 2021 Natural Resources Inventory. He directed the board to page 21-71 with  
163 a list of every decent property in Enfield that has any insignificant environmental characteristics

164 to it. He has looked through that list, and notes Tax Map 45, Lot 10 has no significant  
165 environmental characteristics on it. From the standpoint of environmental aspects, there is  
166 nothing there that concerns the Conservation Commission. Cutting down trees would be another  
167 issue, but the applicants have indicated they don't intent to cut trees. As the application has been  
168 presented without any tree cutting, Dr. Theis stated that Conservation Commission would be in  
169 support of the structure. He stated he would like to encourage the board to use the Conservation  
170 Commission's Natural Resources Inventory in the future cases to look for any significant  
171 environmental factors of significant use for wildlife, etc. He stated the importance of preserving  
172 wildlife corridors. The board thanked Dr. Theis for his time in this case and the future resource.  
173 Dr. Theis left the meeting at this time. The public comment period was now closed.  
174

175 Vice Chair Johnson asked the board for any further questions for the applicants. Mr. Diehn asked  
176 what is the size of the proposed barn? Vice Chair Johnson asked for clarification on a drawing  
177 that appeared in the application – was it to scale? It did not appear to be. Mr. Taylor stated, he  
178 would like to offer that because there is not a full board in attendance, and the state law is that  
179 the applicants have a right to a hearing with the full board. He advised that the applicants could  
180 opt to continue the meeting at the next ZBA session, which would hopefully have all 5 board  
181 members, plus an alternate at that meeting. Tonight's discussion would pick up at the next  
182 meeting if they chose to do so. Mr. Alexander shared his frustration with timing and being  
183 available off work etc. to attend another meeting. He did not feel that they had a proper  
184 understanding of how the Enfield ZBA would asses he case based on prior experiences “with  
185 zoning” [in a prior town]. He shared that they did not plan to sell either property, and planned to  
186 put them potentially in a trust after death etc. He also stated that further delay would make it so  
187 that they could not build before winter, which they hope to do.  
188

189 Vice Chair Johnson stated that she wished there were a to-scale drawing to show the proposed  
190 barn. Mr. Alexander noted he did his best with the drawing but was not expecting the hearing to  
191 go the way it had. Vice Chair Johnson extender her empathy for the situation on both parts. Mr.  
192 Diehn suggested that the applicants take Mr. Taylor's suggestion to heart and spend the interim  
193 period drawing the barn to scale. Mr. Alexander stated he did not know how to do this. The case  
194 is simple, the own both properties. Vice Chair Johnson asked Mr. Taylor, does she need to ask  
195 the applicants for confirmation of what they wish to do. Mr. Alexander stated that he felt they  
196 would not get a vote tonight and would have to wait.  
197

198 Chair McLaughlin added a comment for the applicants – he understands that they feel drawing to  
199 scale is something that is hard to do. He suggested they put the resource into obtaining one, as a  
200 scale drawing will show the board a better understanding of their proposed barn, understanding  
201 of the property lines, etc. He stated he felt they would need to do that to help the board  
202 understand what they are trying to achieve so that the board can have as much understanding as  
203 possible. Mr. Alexander stated he did not understand how the drawing he provided was not to  
204 scale? There are only 35' between the garage and house, and the barn is proposed to go between

205 them. Vice Chair Johnson asked – do we have a description of the building and the square  
206 footage? Ms. Brown stated – the town map of your lot is to scale (Mr. Taylor clarified it was  
207 pretty close). Mr. Alexander stated they plan to put the shed directly between the garage (lot 12)  
208 and the house (lot 10). Ms. Brown suggested using the town map, which is to scale, to help make  
209 a scale drawing of the proposed barn. Mr. Alexander stated that he felt his drawing was to scale.

210  
211 Chair McLaughlin asked – are we continuing this meeting or are we going to defer it? Mr.  
212 Taylor stated they had elected to continue at the next meeting, hoping for a full board. The  
213 applicants agreed. Chair McLaughlin stated that perhaps Mr. Taylor can work with them to help  
214 them prepare better for what the board will be looking to understand the location, scale, etc. Ms.  
215 Carrol and Mr. Alexander left the meeting room at this time. Vice Chair Johnson asked – does  
216 anyone else understand what the size will be? Ms. Brown noted they had earlier stated 30x26. It  
217 was not on the application but had been asked at the beginning of the meeting. Mr. Diehn  
218 suggested the board refrain from further discussion since the applicants had left. Chair  
219 McLaughlin stated the board was still in public session, it had not yet been closed. Mr. Diehn  
220 clarified the applicants were no longer here. The applicants returned, and Mr. Diehn provided  
221 some suggestions to the applicants on resources to help the board understand their case. Ms.  
222 Brown and Vice Chair Johnson also provided some guidance on why it is important for the board  
223 to have more detail and understanding of the land and location of the proposed barn. Ms. Brown  
224 suggested as well looking for a site plan from the Grafton County Registry of Deeds. Ms. Carrol  
225 was frustrated and stated that [she does not have time to obtain this]. The applicants thanked the  
226 board and left the meeting.

227  
228 Vice Chair Johnson closed the public session.

229  
230 *A MOTION was made by Ms. Brown to continue the public session at the next meeting,*  
231 *September 14, 2021.*

232 *The MOTION was seconded by Mr. Diehn*

233  
234 **Roll Call Vote:**

235 Ed McLaughlin (Chair, via Zoom platform), Madeleine Johnson (Vice Chair), Susan Brown, Mike Diehn  
236 (Alternate Member – Voting Member for this meeting) **all voting Yea.**

237 **None voted Nay.**

238 **None Abstained.**

239  
240 *\* The Vote on the MOTION was approved (4-0).*

241  
242 **IV. RULES OF PROCEDURE:**

243 Vice Chair Johnson asked Mr. Taylor to present the document that the board would discuss

244  
245 Mr. Taylor shared his apologies to Chair McLaughlin – the electronic copies of the documents  
246 for tonight's meeting included an incorrect draft of the Rules of Procedure document. He has

247 sent the correct version separately, which incorporates the changes discussed at the previous  
248 meeting. Mr. Diehn noted he did not feel this was the document that has the board procedures, it  
249 appeared that someone had completely rewritten them – there are too many changes. Mr. Taylor  
250 stated that he started with the 2019 document that had been adopted in 2019. Mr. Diehn stated  
251 that there was no document adopted in 2019, the last document adopted was in 2016. He  
252 believed that 2019 document was a result of an administrator making edits for themselves and  
253 proposing that. He stated changes should not be suggested based on the 2019 document, but that  
254 they should be made based on the 2016 standard procedures. Mr. Taylor noted he was under the  
255 impression the board wishes to work from the 2019 document. Chair McLaughlin clarified that  
256 he had given the wrong direction at the last meeting – Mr. Taylor had been following his  
257 direction. Mr. Taylor asked Mr. Diehn materially what is different? Mr. Diehn stated everything.  
258 The documents were not comparable – the basic structure was the same, but the wording is  
259 considerably different. Ms. Brown stated – if this is a good document, what is to prevent us from  
260 adopting it even if it is different? Vice Chair Johnson asked – what in 2019 was the scope of  
261 review from the 2016 adopted procedures? What was the reason that in 2019 the procedures  
262 were updated? Mr. Diehn stated there was no particular reason, but that there had been notes  
263 from the previous town administrator, again edited by the interim administrator. Chair  
264 McLaughlin added he believed the changes were made to be more in line with the RSA. He  
265 noted that he felt the 2019 document was more in line with what the RSA's are asking for. If the  
266 board would prefer to sit down with the 2016 document, he did not disagree with doing so. He  
267 did feel it would take longer for the board to do this. Vice Chair Johnson questioned – does this  
268 mean we need to go back to the 2016 document and start over? Mr. Diehn stated no, but the  
269 board needs to understand what is different about the two documents and the rules surrounding  
270 how the board can go about changing them.

271  
272 Vice Chair Johnson asked the board if they would like to put the 2016 version on the agenda for  
273 the next meeting? Mr. Diehn stated there are so many differences based on his review. Chair  
274 McLaughlin recommended that the sub-committee could review the 2016 document, to review  
275 changes and make sure the adoption is done properly. Ms. Brown nominated Mr. Diehn to Chair  
276 that committee. Vice Chair Johnson asked – is the purpose of the change to make it clearer with  
277 the RSA? Mr. Diehn noted that could be the drive of some individuals. The 2016 rules were  
278 adopted after careful study and comparison with the recommended set of board procedures from  
279 the municipal association. Vice Chair Johnson asked – should board members review the 2016  
280 procedures and discuss amongst themselves if they feel any changes are needed? Mr. Diehn  
281 stated yes. Chair McLaughlin stated again that he felt the 2019 version was in line with the  
282 RSAs. He still felt a sub-committee should come to the group at the next meeting with something  
283 to review so the board does not have to start from scratch. Vice Chair Johnson and Diehn agreed  
284 this was what they too were saying. Chair McLaughlin stated he feels the board should not take  
285 time at another meeting, but the work should be done prior to the meeting. Vice Chair Johnson  
286 noted that she agreed. Chair McLaughlin volunteered to be on the sub-committee, Vice Chair

Johnson suggested Mr. Diehn be on the sub-committee – if this is allowed as he is an alternate member? The board agreed he could be.

***A MOTION was made by Ms. Brown to establish a sub-committee to review the 2016 Rules of Procedure and the 2019 draft. The sub-committee consisting of: Chair McLaughlin, Mr. Diehn, and Mr. Taylor.***

***The MOTION was seconded by Vice Chair Johnson***

**Roll Call Vote:**

Ed McLaughlin (Chair, via Zoom platform), Madeleine Johnson (Vice Chair), Susan Brown, Mike Diehn (Alternate Member – Voting Member for this meeting) **all voting Yea.**

**None voted Nay.**

**None Abstained.**

***\* The Vote on the MOTION was approved (4-0).***

Chair McLaughlin noted that he is having trouble with his internet connection – he asked to leave the meeting at this time while the board reviews the minutes. The board thanked Chair McLaughlin and he left the meeting at this time.

**V. REVIEW OF MEETING MINUTES: July 13, 2021**

Vice Chair Johnson moved the meeting forward to corrections of the July 13, 2021 meeting minutes.

*Note – meeting minutes were re-recorded by Whitney Banker remotely at a later date. A significant portion of the remainder of the meeting was spent on corrections to a set of minutes that was not used. Those corrections are not outlined in this document.*

**VI. NEXT MEETING: September 14, 2021**

**VII. ADJOURNMENT:**

***A MOTION was made by Vice Chair Johnson to adjourn the meeting at 8:50 p.m.***

**Roll Call Vote:**

Madeleine Johnson (Vice Chair), Susan Brown, Mike Diehn (Alternate Member – Voting Member for this meeting) **all voting Yea.**

**None voted Nay.**

**None Abstained.**

***\* The Vote on the MOTION was approved (3-0).***

Respectfully submitted,



*Enfield Zoning Board of Adjustment Minutes, August 10, 2021*

- 330 Whitney Banker
- 331 Recording Secretary