

**Enfield Zoning Board of Adjustment – Meeting Minutes**  
**DEPT OF PUBLIC WORKS/ZOOM PLATFORM**  
**March 8, 2022**

**ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT:** Ed McLaughlin (Chair), Madeleine Johnson (Vice-Chair), Cecilia Aufiero, Susan Brown, Brian Degnan, Mike Diehn (Alternate Member)

**ZONING BOARD OF ADJUSTMENT MEMBERS ABSENT:**

**STAFF PRESENT:** Rob Taylor- Land Use and Community Development Administrator, Whitney Banker-Recording Secretary

**GUESTS:** Mark Nylund, Dr. Jerold Theis (abutter to case #Z22-03-02, Conservation Commission Chair to case #Z22-03-01, Angus Durocher (via Zoom platform), Jessica Johnson (abutter to case #Z22-03-01 via Zoom platform), Susan and John Archer (abutters to case #Z22-03-01 via Zoom platform), Leah Davis (Conservation Commission member), Kathleen Morin (via Zoom platform)

**I. CALL MEETING TO ORDER:**

Chair McLaughlin called the meeting to order at 7:00 p.m. and took attendance.

Chair McLaughlin stated Mr. Diehn was elevated to a voting member for the first hearing. Ms. Brown will recuse herself from the first hearing because she is an abutter.

Chair McLaughlin explained the process of the public hearings:

Each applicant will give a presentation.

There will be a discussion with each of them. Questions may be asked at this time. The Public may speak at this time.

After the public session ends, there will be deliberation of just the Zoning Board members.

**II. PUBLIC HEARINGS:**

**1) Land Use Case #Z22-03-01, Mark and Deborah Nylund are seeking variance relief from Enfield Zoning Ordinance to construct a single-family home within prescribed setbacks to Depot Street, neighboring properties, and to the Mascoma River. The subject parcel is 0.2 acres and is located at 9 Depot Street (Tax Map 34, Lot 44) and is within the Community Business (CB) zoning district. It is owned by Mark and Deborah Nylund.**

Mr. Taylor read the first case. Mr. Nylund approached the table to present his case. He explained that he bought the land on Depot Street, where the house was in bad shape that was removed.

41 There was also a 1000-gallon gasoline tank that was removed, and soil tested. Mr. Nylund said  
42 that he is proposing to build a 32' x 40', two-story house there. He is proposing to center it more  
43 than the previous house, which was closer to the property line on the West side. He does not  
44 want to infringe further than necessary on any of the setbacks with the new home. He has  
45 submitted the wetland permit and expects a response any day now.

46  
47 Chair McLaughlin clarified the details of the variance request. He said, "Basically you have  
48 taken an old building, that was torn down because it was condemned. You are proposing to build  
49 a new structure that is more centered, further away from the setbacks but still within the 50'  
50 setback from the river. So, you are trying to build something that is more conforming (though  
51 still not conforming, which is why you are here to ask for the variance)". Mr. Nylund confirmed  
52 this was the case. Chair McLaughlin asked the board members for questions or comments.

53  
54 Ms. Aufiero said that she had looked at the lot, and from the other side there appears to be a wall  
55 existing. She asked, will you go over that wall or cut anything there? Mr. Nylund said that he  
56 would not plan to touch anything over the bank. Chair McLaughlin asked to clarify that he would  
57 not go near it with landscaping. Mr. Nylund confirmed that he would not go near the bank with  
58 landscaping.

59  
60 Vice-Chair Johnson said that it looks as if the footprint is the same square footage. Mr. Nylund  
61 said that it is a little bit smaller. Vice-Chair Johnson said, "So this is a two-story house? The  
62 deck is on the first floor? How far off the ground is that"? Mr. Nylund said that it was about 2' to  
63 3' off the ground.

64  
65 Mr. Degnan said that he had walked the road by the property earlier. He said that there was a tree  
66 previously against the old house that was 4 feet off the property line. He said that the  
67 neighboring house must be on the property line. Mr. Nylund said that he believed it was about 3'  
68 away. Mr. Degnan said that one of the things he previously noticed was the snow on the roof  
69 from the old house that was there was falling into that property line between homes possibly  
70 contributing to erosion issues. He said that moving the placement of the house seems that it  
71 would be somewhat of an improvement. Mr. Nylund agreed and said that he wants to center the  
72 home more, but not infringe on the setback to the river or abutters.

73  
74 Mr. Diehn asked when was the old house torn down? Mr. Nylund said that was on January 4,  
75 2022. Chair McLaughlin said that he believed it was condemned. Mr. Nylund agreed he believed  
76 it was as well. Mr. Diehn said that in the current Google Maps photo you can see the location of  
77 the old house, and the property lines quite clearly. Mr. Taylor projected the GIS map for all to  
78 review.

79  
80 Ms. Brown, as an abutter, said that she lives next door. She said that the building that was torn  
81 down was originally the old firehouse. She also confirmed that the oil tank was removed. She  
82 said that she does not want to see a house there. It is a lovely neighborhood, and they are good  
83 neighbors. She said that two other abutters had hoped they could purchase the lot, though neither

84 could afford to with the price. Ms. Brown asked Mr. Nylund, “You don’t have your shoreland  
85 permit yet, why are you positive you will get it”? Mr. Nylund said that he was not sure but hoped  
86 he would. Ms. Brown asked, “What will you do about the retaining wall falling into the river”?  
87 Mr. Nylund said that he is hoping to fix it a little bit. Ms. Brown said that she feels it is a matter  
88 of great concern. She stated she thinks the lot is too small for a house, it is 2/10ths of an acre.  
89

90 Mr. Degnan pointed out the location of the retaining wall. He said that he is not a civil engineer  
91 so he cannot speak to whether it is any good or not, but he did think the lot was cleaned up nicely  
92 after the removal of the old house. He said that he understands Ms. Brown’s concerns about the  
93 size of the lot, but ultimately it is his right to build there. It could be put back on the same  
94 footprint.  
95

96 Ms. Brown asked, “What price range is this house going to be”? Mr. Nylund said that about  
97 \$350,000. Ms. Aufiero asked the price of the lot. Mr. Diehn said that it was \$79,000.  
98

99 Ms. Johnson (via Zoom platform) asked where Mr. Nylund will put his parking. He said that  
100 there will be a garage under the house, and there will also be a two-car lot near the street. Mr.  
101 Taylor pointed out the location of the proposed parking area. Ms. Johnson said that her biggest  
102 concern is the parking as it will be located right outside her bedroom. She had experienced  
103 previous people parking there with loud vehicles. She also was curious if Mr. Nylund would be  
104 putting a fence up at all.  
105

106 Ms. Archer said that they had no questions but were also concerned about noise. She said that  
107 she wondered where the driveway would be. Mr. Nylund said that it would be on the right front  
108 near the property line. Ms. Archer asked, “Will that be a problem for Jessie”? Mr. Nylund said  
109 that it would be in the same location where the other one was. She asked if there were any rules  
110 about where it could be to the property line. Mr. Durocher asked, “Is that where a car is currently  
111 parked right now”? Mr. Nylund said, “Yes, the next-door neighbors are parking there right now”.  
112

113 Ms. Brown said that, as a comment about the noise and traffic, there is a lot of parking in the no-  
114 parking lot next to the ambulance, etc. There are a lot of cars that stay there overnight. There is  
115 traffic, and Ms. Johnson has a young child. Mr. Diehn said that they cannot turn down a variance  
116 for these reasons.  
117

118 Vice-Chair Johnson said, “The garage is underneath the house, but the deck is only being dug  
119 about two feet down. Is the garage underground”? Mr. Nylund said that it is on the ground level,  
120 drive-in. The garage will be 16’ x 20’. Mr. Diehn said that the living space would be above the  
121 garage. Vice-Chair Johnson said that she understood.  
122

123 Chair McLaughlin asked for any further questions from the public. There were none. He closed  
124 the public session and began the executive session.  
125

Chair McLaughlin said that he would like to frame the discussion around the criteria. He explained they will go through each criterion and talk about them and do the finding of facts.

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

All members agreed.

2 – The spirit of the ordinance is observed.

Vice-Chair Johnson said that it seemed to be to her.

Mr. Diehn said that he felt this improved the situation.

Ms. Aufiero agreed, she said that it was “less non-conforming” than the old footprint.

3 – Substantial Justice is done.

Chair McLaughlin said that he thought it was. The lot is there, it does not change the character of the neighborhood.

4 – The values of the surrounding properties would not be diminished.

All agreed.

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

All members agreed they were comfortable with this one.

The findings of fact:

-The lot is now vacant after the old house has been condemned, and an in-ground oil tank was removed.

-It is a small lot; the new house is more conforming to setbacks.

-The proposal is consistent with the neighborhood and improves the value of surrounding properties.

-They could build on the existing footprint.

***Chair McLaughlin MOVED to approve the variance for Mark and Deborah Nylund in Land use Case, to construct a single-family home in accordance with the map and positioning of the house as presented to the Zoning Board, including setback variance and distance from the Mascoma River, pending receipt of approval from NH Department of Environmental Services (DES).***

***The MOTION was seconded by Mr. Diehn.***

**Roll Call Vote:**

**Ed McLaughlin (Chair), Madeleine Johnson (Vice-Chair), Brian Degnan, Cecilia Aufiero, Mike Diehn all voting Yea.**

**None voted Nay.**

**None Abstained.**

***\* The Vote on the MOTION was approved (5-0).***

Chair McLaughlin explained Mr. Nylund's request for variance was granted. Mr. Taylor will type it up and send it to him. He will need to wait until the shoreland permit is approved.

Chair McLaughlin made note that Mr. Diehn was now an alternate for the next case. Ms. Brown is back as a voting member for the next case.

**2) Land Use Case #Z22-03-02, Peter and Teri Tabur are seeking a special exception to Enfield's Zoning Ordinance, as provided in Article 406.1 (Section D), to construct a driveway that crosses wetlands areas. Owned by Peter and Teri Tabur, the subject property's address is 84 George Hill Road (Tax Map 9A, Lot 6) and is 130.5 acres in size. It is located in the Rural Residential-Agricultural (R5) zoning district. Pathways Consulting LLC of Lebanon is representing the Taburs in this matter.**

Mr. Taylor read the second case. Mr. Taylor said that as he had forwarded to the board yesterday, the Taburs had respectfully asked for a continuance. Mr. Taylor read the request:

*On behalf of the applicant, Peter Tabur, we would like to request a continuance for Zoning Board of Adjustment (ZBA) meeting scheduled for next Tuesday, March 8 at 7 pm to review the Tabur special exception application. If acceptable to the ZBA, we would like to postpone discussion of this application to the April meeting.*

*We are in the process of addressing some issues related to wetland application with the NHDES and would appreciate some additional time to resolve these issues before reviewing the application with the ZBA. This will also give us some time to provide additional information pertinent to the application, if needed.*

*We appreciate your consideration of this request.*

*Sincerely,*

*Scott A. Williams, P.E., Project Manager  
Pathways Consulting, LLC*

Chair McLaughlin asked guests Dr. Theis and Ms. Davis to introduce themselves.

Ms. Aufiero shared that on pages 11-5 in the ZBA NH Handbook, RSA 674:33, powers of the ZBA, #6 – "The Zoning Board of Adjustment shall not require submission of an application for or receipt of a permit or permits from other state or governmental bodies prior to accepting a submission for its review or rendering its decision." Chair McLaughlin said that, so you are saying we could hear this if we wanted to. Ms. Aufiero said that yes, and the permit application should not delay the review. Chair McLaughlin said that it is the judgment of the board. Vice-

Chair Johnson asked, “So if the Taburs are the ones who decided they want to wait, are we requiring something”? Mr. Taylor said that what Ms. Aufiero has outlined would have applied also to what they just did for the first case.

Chair McLaughlin thanked Dr. Theis for the explanation letter he provided, as well as the Conservation Commission’s book that helped him to understand some of the things that are going on there. Ms. Brown said that waiting another month would give the board a chance for a field trip to look at the land. She is unsure about the difference between coming in at George Hill Road versus Bog Hill Road. Chair McLaughlin asked if anyone disagreed with granting them the extra month? Ms. Aufiero said that she would abstain.

Ms. Davis asked, “If you grant their request of waiting to get the information from DES, and then they were refused, could they come back to the ZBA to say it was a hardship case? Would it go before the ZBA”? Chair McLaughlin said that if they cannot get the permits, they cannot do anything. Mr. Taylor said that the hardship standards apply to a variance, and not in the special exception he believes.

Chair McLaughlin asked if the other four members of the ZBA agreed to a continuation. All did. A continuation was granted.

Vice-Chair Johnson said that she had driven by over the weekend trying to figure out what was going on. She said that she has the same question as Ms. Brown – why they aren’t going from Bog Road. Mr. Degnan said that one thing they must consider, which was mentioned in the letter, is if there is a better way to get to the proposed property. Mr. Taylor said that the board had decided to continue the hearing. All agreed they should not discuss this further.

Dr. Theis shared the explanation the Conservation Commission had been given by Mr. Finley about the V-shaped “squiggles” on the map, which are for dredging and filling areas. They are all areas where he plans to dredge and fill along the driveway. He said that they had pointed out that they also considered coming in from Bog Road, but the problems of building bridges across wetlands stopped that. The only access they have is from a right of way gained from Ms. Kate Stewart, and another property owner there (he could not recall the name). He said that if this helps the board prepare for their onsite inspection, they will have to come from George Hill Road to get onto the property. It is clear and open where the easement is on George Hill Road. Ms. Brown asked is it an old logging road? Dr. Theis said, “No, this is a separate right of way”.

### **III. NEW BUSINESS**

### **IV. OLD BUSINESS**

### **V. APPROVAL OF MINUTES: December 12, 2021**

**Ms. Brown MOVED to approve the December 12, 2021, Minutes presented in the January 11, 2022, agenda packet as presented and amended.**

**Seconded by Mr. Degnan**

Amendments:

Line 43 – “introducing” to, “said that”

Overall – stated to said that

Line 74 and beyond – remove colons after asked:

Line 91 – “as much” to “so much”

Line 109 – “stated” to, “said that”

Line 199 - capitalize AM and PM

Line 121 – remove question mark (period) – same for overall.

Line 155 – remove the apostrophe

Line 166 – remove the apostrophe

Line 165 – 167 – Mr. Diehn...remove

Line 176 – “stated” to “asked” and “it does not” to “does it change”

Line 174 – remove “stated yes”

Line 184 – move “he believed”

Line 229 – complete sentence

Line 237 – “not” to “no”

Line 252 – “the zoning needs” to “The Planning Board should take into consideration existing lot lines when drawing zoning boundaries”

Line 79 – “he stated he would want to make sure” to “he pointed out” and remove “for....”

The remainder of the sentence.

**Roll Call Vote:**

**Ed McLaughlin (Chair), Madeleine Johnson (Vice-Chair), Susan Brown, Brian Degnan all voting Yea.**

**None voted Nay.**

**Celie Aufiero Abstained.**

**\* The Vote on the MOTION was approved (4-0-1).**

## **VI. OTHER BUSINESS:**

Ms. Brown said that this was Chair McLaughlin’s last meeting as chair, and she wished to thank him for leading good meetings and keeping things moving along. She said that what he has done is much appreciated.

Chair McLaughlin said that the final words he wished to share with the board were that the hardest thing he has found, in leading the board, is understanding the history. He said that the ZBA is the one that tries to decide between state rights and the property owner’s rights. It can be



296 a challenge to come up with something that works in the middle. People have a right to their  
297 property ownership. It is hard to keep that balance in mind.

298  
299 Chair McLaughlin said that he wished to thank the board for helping him lead. He said that he  
300 has volunteered to be an alternate and wishes the board the best of luck.

301  
302 **VI. NEXT MEETING:** April 12, 2022

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304 **VII. ADJOURNMENT:**

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306 *Chair McLaughlin MOVED to adjourn the meeting at 7:53 p.m.*  
307 *The MOTION was seconded by Chair McLaughlin.*

308  
309 **Roll Call Vote:**

310 Ed McLaughlin (Chair), Madeleine Johnson (Vice-Chair), Brian Degnan, Cecilia Aufiero, Susan  
311 Brown, **all voting Yea.**

312 **None voted Nay.**

313 **None Abstained.**

314  
315 *\* The Vote on the MOTION was approved (5-0).*

316  
317 Respectfully submitted,  
318 Whitney Banker  
319 Recording Secretary  
320