

Enfield Zoning Board of Adjustment – Meeting Minutes
DEPT OF PUBLIC WORKS/MICROSOFT TEAMS
PLATFORM
April 12, 2022

ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT: Ed McLaughlin (Chair), Cecilia Aufiero, Susan Brown, Brian Degnan, Mike Diehn (Alternate Member), Madeleine Johnson (Vice-Chair, via Microsoft Teams Platform, joined at 7:55 PM)

ZONING BOARD OF ADJUSTMENT MEMBERS ABSENT:

STAFF PRESENT: Rob Taylor- Land Use and Community Development Administrator

STAFF ABSENT: Whitney Banker-Recording Secretary

GUESTS: G Grip (via Microsoft Teams Platform), Carol K (via Microsoft Teams Platform), Glyn Green (via Microsoft Teams Platform), Ellen Hender (via Microsoft Teams Platform), Noreen Oak, Robert Ford (RD Ford Home Improvement), John Haffner (via Microsoft Teams Platform), James Ibey (via Microsoft Teams Platform), Linda Jones (via Microsoft Teams Platform), Dr. J. H. Theis (Conservation Commission Chair), James Kelleher, Barbara Kelleher, Robert Barr, Pat Hugo, Pete Hugo, Mary Wood, Peter Wood, Dan Regan, Kim Quirk, Dick DuMez, Steve Girdwood (Lebanon, NH), Nicole Sipe, Shirley Green (via Microsoft Teams Platform), ‘Cemetery’ (via Microsoft Teams Platform), Casey Wood, Gary Hutchins (via Microsoft Teams Platform), Matt Dow (MTD Building Contractors)

I. CALL MEETING TO ORDER:

Chair McLaughlin called the meeting to order at 7:03 p.m. and took attendance of members present.

Chair McLaughlin said to guests that tonight there are only four members of the ZBA to hear their cases. He said that every person having a hearing has a right to have all five members of the board present. If any wished to postpone their hearing until it can be heard by five members of the board, he asked that they please let him know before the public hearings begin.

Chair McLaughlin said that there will be one alternate member coming, as one of the board members will need to recuse himself for one of the cases. If the alternate does not show up, at that hearing there would be only three board members present and they would need to discuss whether the community members wish to go forward with their hearing with only three board members present.

Mr. Taylor reminded in-person guests to please sign in if they have not done so already.

Chair McLaughlin asked guests attending via Microsoft Teams to utilize the “raise hand” feature for any questions they have during the hearings.

II. PUBLIC HEARINGS:

Chair McLaughlin opened the public hearings at this time.

1) Continued from March, 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 in the Rural Residential-Agricultural (R5) zoning district. Pathways Consulting LLC of Lebanon is representing the Taburs in this matter.

Mr. Taylor read the case.

Mr. Diehn (alternate member) arrived at the meeting at this time. Chair McLaughlin promoted Mr. Diehn to a full voting board member for this hearing.

Mr. Taylor said that board members may recall that last month there was a written request from the representative Scott Williams at Pathways. He read the request:

Dear Rob,

As mentioned on the phone, we are currently working through some potential driveway layout changes with the New Hampshire Department of Environmental Services (DES) and will need more time until we are ready to present to the ZBA. We would like to request another continuance for this ZBA meeting scheduled for Tuesday, April 12. If acceptable to the ZBA, we would like to postpone the discussion of this application to the May 10 meeting. We also understand we would need to provide any plans or other material at least a week before the scheduled meeting for consideration by the board and will keep this in mind for next month. Please let me know if there is a reason to attend the April 12 meeting in person to request the continuance.

Thanks,

Scott A Williams

Project Manager

Pathways Consulting LLC

Chair McLaughlin asked if there was any in-person representative from Pathways. There was not.

Ms. Brown MOVED to grant the continuance.

Seconded by Mr. Diehn

Roll Call Vote:

88 **Ed McLaughlin (Chair), Cecilia Aufiero, Susan Brown, Brian Degnan, and Mike Diehn all voted**
89 **Yea.**
90 **None voted Nay.**
91 **None Abstained.**

92
93 ** The Vote on the MOTION was approved (5-0).*
94

95 Chair McLaughlin said that to Mr. Taylor to be sure that they understand that if they come in
96 with anything different than what was submitted, they need to do the entire application over
97 again. Mr. Taylor confirmed he had let them know any substantial changes from the original
98 application would require re-application, re-notification of abutters, etc.
99

100 **2) Land Use Case # Z22-04-01, Noreen Oak is seeking variance relief from the Enfield**
101 **Zoning Ordinance to construct a garage and storage building within the prescribed 50'**
102 **setback to wetlands. The subject parcel is 0.38 acres and is at 65 May Street (Tax Map 38,**
103 **Lot 34) in the "R1" zoning district. It is owned by Noreen Oak. RD Ford Home**
104 **Improvement of Canaan, NH is representing the owner in this matter.**
105

106 Mr. Taylor read the case. Mr. Taylor invited the applicant as well as Mr. Ford to come up to the
107 table to present their case.
108

109 Mr. Ford introduced himself, a builder within the Upper Valley over the last 28 years. He said
110 that Ms. Oak has a current garage, with a slab so low water goes into the garage and has multiple
111 cracks. The slab is failing. Mr. Ford referenced a photo (Mr. Taylor projected on the screen) to
112 explain the location of the back corner of the garage in relation to the brook. He said that the
113 banking has been eroded and is about three feet away from the rear corner. The break in the slab
114 indicates it is sinking in this spot. Mr. Ford said that the square footage of the proposed two new
115 buildings is smaller than the current garage. They are planning to move the new buildings further
116 from the brook and the sloped area of the land. This will have fewer feet between the home and
117 the storage building. The proposed building is also 1 foot wider than the existing garage. Mr.
118 Degnan asked, you are squaring it up and moving it away from the brook. Mr. Ford said that this
119 is correct.
120

121 Ms. Brown asked, on the diagram what part is the original building? Mr. Taylor projected the
122 diagram on the screen. Mr. Ford clarified on page 1 where the original building is.
123

124 Chair McLaughlin explained to guests who had not attended a public hearing before that there
125 are five criteria on the application for granting a variance that the board would review and
126 discuss as part of their process. Mr. Ford clarified that the projected image does not easily show
127 the original building – the lines are very faint. Mr. Taylor suggested that he could point to the
128 area on the screen where the original building is located. Mr. Ford said that they intend to cut up
129 the slab and move the building to be 18' from the water's edge, with a new footed slab and
130 sturdy land.
131

132 Ms. Aufiero asked if they plan to remove any trees along the brook. Mr. Ford said that if they do
133 not want them to, they won't.

Ms. Brown said that this area is very wet in the spring (she had driven by the location to review it).

Mr. Diehn said that he is concerned about whether moving the building is enough of an improvement to prevent future building erosion into the wetlands. Mr. Ford said that he believes so. Mr. Diehn asked him to explain why this solution will be better. Mr. Ford said that moving the building an additional 4' puts it 18' from the water's edge. Mr. Diehn asked how long the building had been there and when the slab cracked. Ms. Oak said that the building had been there for more than 20 years. The slab was cracked in 2003 when she purchased the property.

Ms. Aufiero said that she would suggest implementing drainage along with the building such as stone along the edges of the building. Mr. Ford said that this could be done. Mr. Ford asked if they would be permitted to put the stone down the bank. Mr. Diehn said that this would be something they would have to check with the Planning Board about.

Chair McLaughlin asked for clarification on page 2 of the diagram on if the 14' indication was for the new building or the old building. Mr. Ford said that it was the old building. Chair McLaughlin said that the way it is shown, it appears to be the new building. He asked Mr. Ford to correct the building permit. Mr. Taylor will make note of this anticipated change as well.

Chair McLaughlin asked for additional questions from the board. There were none.

Chair McLaughlin asked for questions from the public and abutters.

Dr. Theis, Chairman of the Conservation Commission, said that Mr. Ford had mentioned something to him when he recently visited the site about dredging and fill in the wetlands. Dr. Theis asked if this was no longer to be done. Mr. Ford confirmed they would not be doing this. They would be doing some fill-in in another area of the property, but not in the wetlands at all.

Ms. Jones, an abutter, asked if the sheds attached down the hill on the back of the garage have actual foundations? Mr. Ford said that they do not and are built on the ground. Ms. Jones asked if they are proposing to build in that area? Mr. Ford said that no, they will remove those and bring in fill enough to bring the building back toward the house. Ms. Jones asked are you replacing those? Mr. Ford said that they are coming down and being replaced, but with smaller square footage.

Mr. Diehn asked if they are demolishing the building? Mr. Ford said that they are taking it apart in pieces, to remove everything there.

Chair McLaughlin asked for any further questions. There were none.

Chair McLaughlin closed the public hearing at this time.

178 **Mr. Diehn MOVED to grant the variance to allow the building to be 30' from the side lot**
179 **line in accordance with the application, including drip-edge and drainage on the brook-**
180 **side.**

181 **Seconded by Mr. Degnan**

182
183 **Roll Call Vote:**

184 **Ed McLaughlin (Chair), Cecilia Aufiero, Susan Brown, Brian Degnan Mike Diehn (Alternate**
185 **Member) all voting Yea.**

186 **None voted Nay.**

187 **None Abstained.**

188
189 *** The Vote on the MOTION was approved (5-0).**

190
191 Mr. Taylor said that he will be in touch with Ms. Oak and Mr. Ford with the written decision.
192 Mr. Ford asked if the building permit still needs a correction. Chair McLaughlin said that it does
193 need to be corrected to 18'. Mr. Diehn said that this is between Mr. Ford and the building
194 inspector.

195
196 Chair McLaughlin shared the findings of fact:

197 1 – Current garage is an environmental concern because of the water running through it.

198 2 – The new building is not grandfathered because of elevation and footprint changes, however,
199 if built on the same footprint it would be a major concern.

200 3 – Moving forward with a new retaining wall would be an improvement to prevent erosion.

201
202 **3) Land Use Case # Z22-04-02, Jim Kelleher is seeking variance relief from the Enfield**
203 **Zoning Ordinance to construct a multi-unit apartment building within prescribed setbacks**
204 **to the street and other lot boundaries. He is also seeking a special exception to allow for**
205 **ground-floor residential use. The subject parcel is 0.07 acres and is at 71 Main Street (Tax**
206 **Map 31, Lot 37) in the Community Business “CB” zoning district. It is owned by James**
207 **Kelleher.**

208
209 Mr. Taylor read the case. Mr. Taylor invited Mr. Kelleher to the table to present his case.

210
211 Mr. Degnan recused himself from this case as an abutter.

212
213 Chair McLaughlin asked Mr. Kelleher if he wished to go forward with only four board members.
214 Mr. Kelleher said that he did wish to go forward with the hearing.

215
216 Mr. Kelleher introduced himself and provided a history of his ownership of the property, since
217 2016. Previously the building on the property was used for storage, and the land was leased from
218 the State of New Hampshire. Mr. Kelleher had to contact the Department of Transportation
219 regarding the leased land. Mr. Kelleher had to get permission from the state to purchase the
220 property. In 2017 he closed on the building, but not the property. He then applied to purchase the
221 property from the state, and in 2018 they came up with a proposal for the purchase. There were
222 some issues with the size of the property and the state did not plan to have it surveyed. Mr.
223 Kelleher had the property surveyed and finally received the deed from the state in 2021 for the

correct piece of property. There is a 10' setback on the back of the property. Mr. Kelleher removed the original building that was on the street-side property line.

Mr. Kelleher said that he had planned from the original purchase to do multi-family housing on the lot. Originally, he was going to do housing with garages on the bottom, but the NH DOT would not allow a curb-cut for this type of housing.

Mr. Kelleher is now proposing a building 7' from the rail trail along the back, and 9' from the pavement along the front. He is proposing 4 units on the first floor and 4 units on the second floor. A parking lot has been designed to hold 8 parking spaces, 1 for each unit. Mr. Kelleher said that if his case is approved tonight, additional adjustments to the building size and parking may be needed by engineering to allow as much parking onsite as possible.

Mr. Kelleher said that there is a multi-family unit across the street, as well as several in this same area along Main Street – including a recent approval for first-floor storefronts to be converted to apartments.

Mr. Kelleher said that he is asking for a special exception to the requirement of having retail on the first floor of his proposed building. He said that the lot is a non-conforming lot that was instituted before any town zoning. Mr. Diehn asked what district this is in and what the setbacks are. Mr. Taylor confirmed it is in the CB district and the setbacks are 38' from the street and 20' from the other lot boundaries. Mr. Kelleher said that both buildings on either side of the lot sit on the property line themselves.

Mr. Diehn said that he is a little concerned about the density. He does not like to see a chunk of what could be retail space go away, but he said that he admits that far it is not a retail location. In 20 years of attempting to turn this into a retail district that he is aware of, it has not been done yet.

Madeleine Johnson joined the meeting via Microsoft Teams Platform at this time. Chair McLaughlin asked if Vice Chair Johnson wished to attend as a member of the public or as a member of the board. Mr. Taylor confirmed she can attend as a member of the board remotely if there is a quorum in person. Vice-Chair Johnson will attend as a member of the board.

Chair McLaughlin asked Mr. Kelleher to do a brief overview of his case. Mr. Kelleher reiterated his proposed multi-unit building, as well as the locations of other multi-family apartment buildings in the same area. Mr. Kelleher said that the unit would fit architecturally within the neighborhood and would be consistent with other multi-family units in the neighborhood.

Mr. Kelleher is requesting both a special exception to allow housing on the first floor of a building along Main Street, as well as a variance for the non-conforming lot's setbacks.

Ms. Brown said that the previous warehouse building pretty much filled the lot, can't you use that footprint? Mr. Kelleher said that he is using the footprint of the warehouse for the eastern location on the lot. His proposed building would be longer (the warehouse was 30'x70', the new building is 30'x104'). The new location also provides enough room for the 8 parking spaces.

270

271 Ms. Brown said that, suppose somebody is in an apartment and wants a home-based business – is
272 that going to be permitted? Chair McLaughlin said that this was not something for the ZBA to
273 discuss.

274

275 Mr. Diehn asked Mr. Kelleher whom he thinks will rent these apartments. Mr. Kelleher said that
276 there has been a high demand for hospital personnel. He is of the understanding that the hospital
277 has recently taken over several new apartment buildings in Lebanon for personnel.

278

279 Mr. Diehn asked how many square feet per apartment. Mr. Kelleher said that the first-floor units
280 would be about 750 and the second floor 787. Mr. Diehn asked if this just living space or gross
281 footage? Mr. Kelleher said that it was a living space.

282

283 Chair McLaughlin said that these are all one bedroom. Mr. Kelleher confirmed they are all one
284 bedroom. They would have 8 sewer and water hookups, taking a lot with minimal income to the
285 town to be a tax benefit. Mr. Diehn said that the only downside he can think of is the density, but
286 he does not think it is a big problem in that spot.

287

288 Mr. Kelleher said that he is within 150' of the river, so he would have to get a shoreland permit,
289 and provide a stormwater management plan for runoff. There is a catch-basin on Main Street
290 where stormwater can be directed. There will also be a drip-edge around the building.

291

292 Chair McLaughlin asked for public comments and questions.

293

294 Mr. Williams said that he owns the apartment building at 79 Main Street. He said that his only
295 concern is the parking situation because there are two parking spaces for his tenants along the
296 abutting side of the building. Ms. Williams said that they have owned the building for 21 years
297 and have had a tenant park in that location. They are concerned about this with the proposed new
298 building. Mr. Diehn asked what the side-lot-line setback is there. Chair McLaughlin said that it is
299 20'. Ms. Aufiero asked, "Are you next to this property"? Ms. Williams said yes. Mr. Taylor
300 explained on the GIS map on the screen where their building is in relation to Mr. Kelleher's lot.
301 Mr. Diehn asked Mr. Kelleher if are parking spaces are within the 20' setback? Mr. Kelleher
302 confirmed that there are.

303

304 Ms. Brown asked to review the larger map that Mr. Kelleher had on hand.

305

306 Chair McLaughlin asked for other abutter questions or concerns. Mr. Degnan (as an abutter) said
307 that not much has been happening in downtown Enfield in quite a while. He thinks this is
308 generally a good thing. To have business downtown you must have residents. He said that he
309 thinks this is the best possible use of this lot and encourages the ZBA to approve the variance.

310

311 Mr. DuMez said that he and his wife Ms. Quirk own 78 Main Street across the road. He said that
312 they are in favor of housing; it is in desperate need. Mr. DuMez said that he is familiar with Mr.
313 Kelleher's buildings, and they are done well. He has a few concerns. First, regarding parking
314 there is 1 spot per unit, what happens if tenants in a unit have two cars, where will they park?
315 Parking is an issue downtown. Second, where will trash go? Mr. Kelleher said that he prefers not

316 to put a dumpster in and is hoping each unit could have its canisters. Chair McLaughlin asked if
317 access to the apartments is from the street or the back? Mr. Kelleher said that the front, from the
318 street. Mr. Diehn asked if storage for the trash could be made around the back? Mr. Kelleher said
319 that he believed yes as these are temporary receptacles that would be within the DOT setback.
320 Mr. DuMez said that the third concern he has is regarding the cost of the units. He said that he
321 would be in more support of the units with more affordable rent, but he understands Mr. Kelleher
322 is a developer. Mr. Kelleher said that he used the numbers he originally used concerning current
323 rents in Lebanon, however, the numbers may come down. He said that one-bedroom units are
324 not going to attract families, but likely professionals who probably only have one car, etc. Ms.
325 Quirk said that she is also concerned about parking. They have a parking lot in the yard for the
326 78 Main Street property, and there is parking at both the laundromat and Holmquist Furniture
327 that is not used regularly. She asked if the town could encourage a landlord to address parking
328 needs ahead of time; perhaps they could negotiate rented spaces for their tenants from these other
329 businesses with available parking. Chair McLaughlin suggested to Ms. Quirk that if this case is
330 approved, she could bring these issues to the Planning Board for the next steps in the process. He
331 said that this would be a good discussion to have there. Mr. Degnan said that Holmquist does
332 rent parking spaces.

333
334 Mr. C. Wood, a tenant of the abutting property that would lose parking if Mr. Kelleher's case
335 were approved, said that in the wintertime when people warm up their cars, he is concerned
336 about the exhaust from the parking there entering his apartment. He wondered if this could be a
337 health concern. Chair McLaughlin said that he did not know how to answer this question but felt
338 it would be something to bring up with the Planning Board if the case is approved by ZBA
339 tonight. Mr. Diehn asked, do you often have the windows open in the winter?

340
341 Mr. Hutchins asked Mr. Kelleher if he is granted the variance, would it be a NH minimum code
342 housing project, or would he consider making it a net-zero energy project for the Town of
343 Enfield? Mr. Kelleher said that the units will have the Mitsubishi heat pump units, very well
344 insulated, with low utility bills anticipated. They will be energy recovery units due to how tight
345 they will be.

346
347 Chair McLaughlin asked for any further questions from the public. There were none.

348
349 Chair McLaughlin closed the hearing.

350
351 Chair McLaughlin asked board members if they would like to discuss the variance or the special
352 exception first. Ms. Aufiero suggested the variance first.

353
354 The board discussed the variance first. Chair McLaughlin reviewed the five criteria:

355
356 1 – The variance will not be contrary to the public interest.

357 Mr. Diehn agreed. Ms. Aufiero did not agree. Ms. Aufiero said that with the small size of the lot,
358 the setbacks are not enough. Vice-Chair Johnson said that she felt it was coherent with the
359 purposes. Chair McLaughlin said that when he looks at downtown, he doesn't think there are any
360 buildings besides George's that meet the 30' setback. Mr. Diehn said that he did not think this
361 was against the public interest, though he did wish it were possible to require more affordable

housing for the public. Vice-Chair Johnson said that regarding affordability, more than how a building is built can contribute to affordable housing. Something that adds more units may help free up lower-cost units for community members who need them. She said that even if these are more luxury apartments, she thinks that they can contribute to more affordable housing in Enfield in this way. Chair McLaughlin encouraged Mr. Kelleher to work with the abutting tenant who had health condition concerns.

2 – The spirit of the ordinance is observed.

Ms. Aufiero said that it does not promote health, safety, and welfare because of the population growth in that area. Fire safety with the proximity of the building would be an issue, as would access for fire trucks if needed. She also said that she felt rail-trail traffic would pose a safety issue. In addition, she said that she felt the building would take away light from the abutting properties. Ms. Aufiero said that she did not think it would be an appropriate use of the land, and she thinks the job of the ZBA is to consider the appropriate use of the land. She also said that she felt sidewalk safety could be impacted by the density. Vice-Chair Johnson asked, “Given the shape of the lot what do you think, Ms. Aufiero, an appropriate use would be”? Ms. Aufiero said that she would say a business that has kayak or sport/bike rentals would be a better use. This would promote the downtown village business use that Enfield community members say they want.

Ms. Brown said that “What if someone wants to have a home-based business who is renting an apartment here, will the zoning ordinance allow this”? Chair McLaughlin said that he believed the ordinance was worded to be general in allowing home-based businesses. He asked Mr. Taylor to read the ordinance:

[Section 404 Home Occupation](#)

“An accessory use conducted entirely within a dwelling, or as may be permitted by special exception in an existing accessory building that is incidental and secondary to the use of the dwelling for residential purposes, and does not change the residential character thereof, or of a neighborhood, which does not result in levels of noise, odor, or traffic which would disturb the reasonable enjoyment of properties in the area, which does not involve the storage or display of goods and equipment visible from Town or State roads, or from other properties, and which will not create a safety hazard to the public.”

Ms. Brown said that “So if this is going to be apartments it will be apartments forever”? Mr. Diehn said that someone could buy the building and convert the first floor back into retail space. Mr. Diehn said that the density does bother him, he would rather see four apartments and a special exception for parking underneath. He asked where snow will be put? Mr. Kelleher said that the state would not give him a curb cut, so having garages on the bottom would require a 20-point turn to enter them. Mr. Diehn said that light and safety are not a big concern for him. Mr. Kelleher said that the building would have a sprinkler system as well.

3 – Substantial justice is done.

Mr. Diehn said that he thinks substantial justice is done because you cannot do very much with this lot without violating setbacks. What Mr. Kelleher is asking to do is very much the same that others are doing in this area. Chair McLaughlin said that he felt with the shape and design of the land, trying to make the most use out of it for the benefit of both the developer, residents, and town is what they are looking for.

4 – The values of surrounding properties are not diminished.

Mr. Diehn said that he thinks values would be improved if anything.

5 – Literal enforcement of the provisions of the ordinance would result in unnecessary hardship. Mr. Diehn said that one of the defining characteristics of the lot is that it is so narrow and abuts a state right of way in the CB district. He said that he thinks Enfield wants harmonious relationships with developers. He wondered if 8 units were too many and suggested perhaps 6 units could be considered. Chair McLaughlin said that this would be a Planning Board discussion.

Chair McLaughlin moved to approve the variance. Ms. Aufiero said that she still felt that this did not fit in with the historic buildings in the area, or with the CB district. She felt the lot could be used for many other things. She reiterated her concern for the neighbors and that it is so different from what else is on Main Street. She did not feel that board members were paying attention to the ordinance and that the land would be overcrowded.

Chair McLaughlin MOVED to approve the variance as requested in the application in Land Use Case # Z22-04-02, variance relief from the Enfield Zoning Ordinance to construct a multi-unit apartment building within prescribed setbacks to the street and other lot boundaries.

Seconded by Ms. Brown

Roll Call Vote:

Ed McLaughlin (Chair), Madeleine Johnson (Vice-Chair), Susan Brown, Mike Diehn (Alternate Member) all voting Yea.

Cecilia Aufiero voted Nay.

None Abstained.

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

The board next discussed the special exception.

Chair McLaughlin said that Mr. Kelleher is also seeking a special exception to allow for ground-floor residential use. Mr. Diehn said that there are conditions on this that the board must follow. Ms. Aufiero said that she would abstain from this discussion and vote.

Mr. Taylor read the zoning ordinance:

[Section 403 Special Exceptions](#)

“The Zoning Board of Adjustment, upon application and after public hearing, shall have the power to permit the following special exceptions in accordance with the restrictions contained in Sections 401 and 402 of Article IV.”

Mr. Taylor reviewed the zoning ordinance for further detail on the special exceptions. Chair McLaughlin called a 5-minute break while Mr. Taylor located this information. At 8:45 PM Chair McLaughlin called the meeting back into session.

Chair McLaughlin asked Mr. Kelleher if he wished to add any commentary for the special exception. Mr. Kelleher said that he was aware that within the last few years the ZBA had approved two retail locations to have apartments on the first floor. Chair McLaughlin said that he believed the retail locations were vacant and unable to be rented for several years before the building owner asked for the special exception.

Chair McLaughlin said that to him a special exception is looking at is there a reason to allow alternate use for a given property. Main Street is a mixed-use environment, and the commercial viability has not happened in this area. Chair McLaughlin said that he could see no reason why they would not grant the special exception when they know other buildings have been unable to rent out retail space to businesses in this area. Ms. Brown and Mr. Diehn agreed. Vice-Chair Johnson said that she also agreed. She said that businesses don't come because there is space, but because there are clients and people. She said that she felt that allowing more people would be better than empty spaces that won't be rented. Ms. Aufiero said that she thinks the board should follow the zoning ordinance and she does not think this warrants a special exception.

Chair McLaughlin MOVED to approve the special exception.

Seconded by Vice Chair Johnson

Roll Call Vote:

Ed McLaughlin (Chair), Madeleine Johnson (Vice-Chair), Susan Brown, Mike Diehn (Alternate Member) all voting Yea.

Cecilia Aufiero voted Nay.

None Abstained.

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

Chair McLaughlin let Mr. Kelleher know both his variance and special exception were approved.

Mr. Degnan left the meeting at this time due to a prior engagement. Vice-Chair Johnson will remain for the final case.

4) Land Use Case # Z22-04-03, Peter and Patricia Hugo are seeking variance relief from the Enfield Zoning Ordinance to construct an addition to their home within the prescribed 50' setback to a lake (Crystal Lake). The subject parcel is 0.4 acres and is at 82 Hawley Drive (Tax Map 47, Lot 20) in the "R3" zoning district. It is owned by Peter and Patricia Hugo.

Mr. Taylor read the case. Mr. Girdwood introduced himself as the attorney for Mr. and Mrs. Hugo. He also introduced Mr. Dow and the Hugos. He said that he wished to point out that the agenda slightly mislabels what they are asking for. The agenda says they are asking for construction within the 50' setback to the lake, however, they are talking about the 50' setback from the wetlands. They are not asking for the construction within the wetland but within the 50' setback of the side wetlands. Chair McLaughlin clarified the case should be changed to say:

variance relief from the Enfield Zoning Ordinance to construct an addition to their home within the prescribed 50' setback to a lake (Crystal Lake)-wetland.

Mr. Dow introduced himself and provided larger printed maps for board members to review, in addition to their smaller copies and the projected copy that Mr. Taylor put on the screen. Mr. Dow said that they are looking to build a 420-square-foot addition for Mr. and Mrs. Hugo. Of the proposed addition, 392 square feet are within the setbacks, and 28 square feet would be outside of them. The addition would be two stories, with a total height of about 28'. The addition will make the home larger and livable as a retirement home for the Hugos.

Ms. Brown said that she had driven by, and the lot is very steep. Mr. Dow said that the lot is very flat and is not steep at all. He referenced the photo provided of the home. Mr. Dow said that the site map provides the elevation. Mr. Diehn said that the steepness of the lot is not something to worry about.

Mr. Dow explained the addition would be on the side of the house, with a stone drop path to help with drainage. DES has approved a shoreland permit. Mr. Diehn clarified on the map which setback they are over on. Mr. Down confirmed it was the side wetland setback.

Chair McLaughlin asked how much of the expansion is the impermeable surface? Mr. Dow estimated about 200+/- that is currently driveway. Chair McLaughlin said that they wish to then convert 200 square feet from permeable to impermeable. Mr. Dow said that for the shoreland permit, DES asked that they stay out of the 50' waterfront setback as much as possible. They adjusted an earlier (larger) version of the addition to accommodate this.

Chair McLaughlin asked for comments from abutters. Mr. Regan introduced himself and noted he is not an abutter, but part of the association and wished to speak. Chair McLaughlin asked Mr. Taylor to confirm that he could speak even if not an abutter, Mr. Taylor confirmed he could. Mr. Regan said that the title of the appeal stated they were within 50' of the lake, which is the reason he came to the meeting. He asked if they were originally within the 50' setback of the lake? Mr. Dow said that they were not within the 50' lakefront setback at any point, only the 50' side wetland setback. Mr. Regan said that he came only to weigh in on the 50' setback of the lake, so he did not feel he needed to speak to the side wetland setback. He did say that he felt residents of the lake all have a responsibility to preserve the lake in every way they possibly can. If there is a way to balance the impermeable surface being created, he said that he would respectfully request they look at every possibility there.

Mr. Girdwood reviewed the five criteria as outlined in the written application.

Criteria:

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

537 The applicant's position is that the request is not creating any sort of public hazard or increasing
538 any public expense. They are not adding bedrooms or increasing the use of the property. The
539 structure itself will be further away from the wetland than the existing section of the driveway
540 that will be removed. In addition, they will add drainage systems that are not currently in place.

541 2 – The spirit of the ordinance is observed.

542 Mr. Girdwood said that the ordinance is intended to protect the wetland and the health and safety
543 of the community. He said that they are not changing use; it will continue to be residential use.
544 They are not going to be building within a wetland, but within the 50' setback to the wetland
545 with the erosion controls in place around the building.

546 3 – Substantial justice is done.

547 Mr. Girdwood said that they are not asking for a significant change in use, and don't believe the
548 proposed addition will threaten the wetland. The design was intentionally pulled away from the
549 lake to avoid the shoreland area.

550 4 – The values of surrounding properties are not diminished.

551 Mr. Girdwood said that they do not see any way this would diminish surrounding property
552 values.

553 5 – Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

554 Mr. Girdwood said that there are special conditions on this lot with wetlands on both sides.
555 Drawing the 50' setback from each does not leave much space for development in this area
556 without the need for a variance.

557
558 Chair McLaughlin said that in the past there have been many variance requests for Hawley Drive
559 and usually they have many members of the community present to speak on concerns about
560 blocking views, etc. He is surprised that that is not the case tonight and said that it sounds like
561 there is not much objection to what the Hugos are trying to do. Mr. Dow agreed that they had
562 sent out 9 letters to abutters.

563
564 Mr. Girdwood said that they think that the design of the project has considered any impact on the
565 wetland and thinks the board should be able to find the criteria for a variance to exist in this case.

566
567 Chair McLaughlin asked for further explanation about the land and water runoff. Mr. Dow
568 explained there would be a drip path to help with water control around the eave edge drip path.
569 Currently, rainwater runoff goes toward the lake substantially, and this plan will improve that
570 significantly with the removal of the driveway on the wetland side (moving the driveway closer
571 to Hawley Drive).

572
573 Ms. Aufiero asked where does the water in the wetland go? Mr. Dow said that it would drain
574 toward the lake (the wetlands on both sides drain into the lake).

575
576 Mr. Diehn asked for the 50' setback areas on the projected map. Mr. Dow explained where they
577 were and showed the 28 square foot triangle in the corner that would be outside of the setback.

578
579 Mr. Diehn moved to approve the variance. Ms. Aufiero said that she would not be comfortable
580 with approving this along Crystal Lake. There are several lots along Hawley Drive like this and
581 what is happening is that everyone is building and covering the lots. The lots are small, and

runoff goes into the lake. Ms. Aufiero said that she did not think the amount of coverage of the lot was appropriate for the size of the lot. The more nutrients that go into the lake, the more it interferes with the habitats on the lakeshores. She is not in favor of the variance. Mr. Dow said that the location of the proposed addition is the best location on the site and will help improve runoff into the lake. He explained that it could not be along the other side since this is where the septic system is. Mr. Girdwood pointed out the way the drainage would be changed to create more of a barrier to water runoff into the lake.

Mr. Diehn MOVED to grant the application for a variance.
Seconded by Ms. Brown

Roll Call Vote:

Ed McLaughlin (Chair), Madeleine Johnson (Vice-Chair), Susan Brown, Mike Diehn (Alternate Member) all voting Yea.

Cecilia Aufiero voted Nay.

None Abstained.

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

Chair McLaughlin said that the Hugos were granted the variance.

Chair McLaughlin said that this was the end of the public hearings, and the board would move on to the new and old business at this time. Vice-Chair Johnson left the meeting at this time.

III. APPROVAL OF MINUTES: March 8, 2022

Chair McLaughlin moved approval of the minutes to the next meeting.

IV. NEW BUSINESS:

Ms. Aufiero said that she felt she needs to resign from the ZBA. She does not feel that she feels the same way other board members do and cannot continue to oppose the other board members at every meeting. Ms. Brown said that she hoped Ms. Aufiero would stay because it is important to have different opinions. Ms. Aufiero said that she felt she always has an opposing opinion. She does not wish to continue to spend the time.

Ms. Aufiero left the meeting at this time.

V. OLD BUSINESS:

None.

VI. NEXT MEETING: May 10, 2022

VII. ADJOURNMENT:

Ms. Aufiero MOVED to adjourn the meeting at 9:40 p.m.

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

628 *Note – the motion to adjourn was made just before Ms. Aufiero’s announcement that she wished*
629 *to resign from the board. After Ms. Aufiero left the meeting, Chair McLaughlin stated that the*
630 *meeting was adjourned.*

631

632 Respectfully submitted,

633 Whitney Banker

634 Recording Secretary

635