

Enfield Zoning Board of Adjustment – Meeting Minutes
DEPT OF PUBLIC WORKS/MICROSOFT TEAMS
PLATFORM
November 8, 2022

ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT: Mike Diehn (Chair), Susan Brown (Vice Chair), Brian Degnan, Madeleine Johnson, Cecilia Aufiero, Tim Lenihan (Alternate)

ZONING BOARD OF ADJUSTMENT MEMBERS ABSENT: Ed McLaughlin (Alternate)

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

GUESTS: Calvin and/or Theresa Hunnewell (187 Algonquin, Enfield, via Microsoft Teams), Bill Crenson (Sunset Walk, Enfield), Mary Jane Acito (Sunset Walk, Enfield), Louise and Robert Ostroski (93 Algonquin Rd, Enfield).

I. CALL MEETING TO ORDER:

Chair Diehn called the meeting to order at 7:00 p.m. and took attendance of members present.

Chair Diehn asked the board to consider a change in procedure. He asked that they consider adjourning the hearing and rendering their decision at the following meeting. A recent piece of legislation requires wording for the rationale of the decision to be very clear. Mr. Degnan asked if there was a guideline for appropriate language. Chair Diehn said that they would need to ensure they record the findings of fact clearly and refer to the findings of fact in the motion to support the decision.

Chair Diehn will write down the findings of fact for each case. Ms. Banker will incorporate them into the minutes for each meeting. Board members will review the minutes from the prior meeting to review the facts of the case before the next meeting. Board members may not discuss the case between meetings. Once the public hearing is closed, the board cannot consider any new evidence unless they open another public hearing.

Mr. Lenihan said that in other cases, he has seen the board let the applicant know if they are leaning yes or no, then write the official decision at the next meeting. Chair Diehn suggested the board discuss the language of the motion after the public hearing is closed but vote on it at the next meeting. Ms. Aufiero said that she agreed with Chair Diehn's suggestion to think about the motion and then write and vote on it at the next meeting. Vice-Chair Brown asked how much of an inconvenience to the applicant it is to hold up the final decision for another month. She also

asked if this must be done every single time or if they could write it up at the meeting to simplify things.

Chair Diehn said that they did not have to do this every time. Sometimes, they may say they wish to think about the decision and come back with better wording at the next meeting. If needed, the board could also publish a notice of another public meeting in a shorter timeframe. Mr. Lenihan said that the legislature says that boards need to include findings of fact that are relevant to the decision for both approved and denied cases. Chair Diehn said that the applicants present the facts of the case, and the findings of fact support the board's decision to approve or deny each fact.

Mr. Taylor said Town Manager Morris offered to have Town Counsel meet with the ZBA (virtually or in person) to explain the legislation around case hearings and the findings of fact included in the board decisions. Chair Diehn said that this would be great and asked if he could include samples to share. Town Manager Morris and Mr. Taylor will work together to organize this class/training for the board.

II. PUBLIC HEARINGS:

A. Land Use Case # Z22-11-01, Robert and Louise Ostroski are seeking variance relief from the Enfield Zoning Ordinance Article IV, section 401.2(L & M) to locate a screened gazebo and temporary carport within the prescribed setbacks to the street side lot boundaries and/or waterfront buffer. The subject parcel is 0.034 acres and is located at 193 ALGONQUIN RD (Tax Map 43, Lot 18) in the "R3" Residential zoning district. The subject parcel is owned by Robert and Louise Ostroski

Mr. Taylor read the case.

Chair Diehn asked Mr. Taylor to ensure future applications include tax map and lot numbers.

Chair Diehn said that it is up to the applicant to present proof to the board that they have met each of the five criteria. He said that he did not think the application included this information and asked if they would like to postpone and add to the application to present at a future meeting. He said that he did not feel the facts written addressed the criteria as he understood them. Mr. Ostroski said that he thought the reasoning was clear. The proposed gazebo would be the only source of shade on the property and would look better in the location of the current storage shed. Vice-Chair Brown said that she did not understand the written facts for the second criteria (the spirit of the ordinance is observed). She said that the home and neighboring home are very close together with minimal space. She asked if they wished to put the new screen house where the plastic tool shed is. Mr. Ostroski confirmed on pictures of the property where the tool shed is.

Ms. Aufiero asked if this included the removal of trees. Mr. and Ms. Ostroski said that the trees must come down, as they were trimmed too low, and all died. This has caused them to lose all

83 shade.

84
85 Mr. Taylor projected the property on the screen to review the side lot boundaries. He explained
86 the location of the tool shed, the temporary carport, and the trees to be removed for board
87 members to understand the size of the lot. Vice-Chair Brown said that the cottages are very close
88 together.

89
90 The setbacks for the R3 zone are 30' from the road, 20' from the side, and 50' from the
91 shoreline.

92
93 Chair Diehn said that setbacks cover the entire property's land. The board would not allow
94 someone to build on a home on a lot this size today.

95
96 The house was built in 1966, before the current zoning ordinance.

97
98 Mr. Taylor said that he heard from an abutter that owns lots 19 and 24 on this tax map. Ms. Deb
99 Gillespie has no objection to the variance.

100
101 Mr. Degnan said that he would likely approve the variance, given the right language, as there is
102 no proper place on this tiny lot.

103
104 Ms. Johnson suggested they go through the criteria.

105
106 Vice-Chair Brown said that she understood why they wanted to obtain this variance.

107
108 Mr. Lenihan asked if putting a structure onto the lot across the street (a separate lot) requires a
109 separate variance. Chair Diehn said that there would have to be two different variance requests.
110 The first variance request would be for the screened porch on lot 18. The second variance request
111 would be for the shed on the other property. Town Manager Morris said that the carport is also a
112 separate variance. Mr. Taylor clarified that the carport resulted in a zoning enforcement letter.

113
114 The Ostroskis will need three total variances:

115 Variance 1 – Tax Map 43, Lot 18 for the 9'x9' screen house within the setbacks. The
116 setbacks for this lot are 30' from the street, 25' from the side lot line, and 50' from the shoreline.
117 The screen house would be 2.4 feet from the side lot line.

118 Variance 2 – Tax Map 43, Lot 24 for the 7'x7' shed within the setbacks. The setbacks for
119 this lot are 30' from the street and 25' from the side lot line. The shed would be 7' from the side
120 lot line.

121 Variance 3 – Tax Map 43, Lot 24 for the 12'x20' carport within the setbacks. The
122 setbacks for this lot are 30' from the street and 25' from the side lot line. The carport is 7' from
123 the street.

124

125

126

127 Findings of Fact:

128 1. Lot 18 is .034-acres in R3, tax map 43. Lot 24 is 0.11 acres in R3, tax map 43.

129 2. Lot 18 setbacks are 30' from the street, 20' from the side lot line, and 50' from the lake. There
130 is no area that is not in the setbacks on either lot.

131 3. Lot 18 house was built in 1966 and, predates zoning, is legally non-conforming.

132 4. The screen house is 9'x9'

133 5. The shed is 7'x7', and the carport is 12'x20'.

134 6. Three variances are needed: the carport on lot 24, the shed on lot 24, and the gazebo on lot 18.

135 7. Shed would be 7' from the sideline. The gazebo would be 2.5' from the sideline. The carport
136 would be 7' from the road line.

137 8. These are temporary structures.

138 9. Moving the shed to lot 24 will declutter lot 19.

139 10. The gazebo is currently on the property line; moving it will make it less non-conforming.

140 11. The carport will protect the wellhead during the plowing season.

141 12. The changes will not lower the property values because they are in keeping with the
142 neighboring structures and will not change the character of the neighborhood.

143 13. The carport was placed six years ago and didn't require a permit.

144 14. A letter of support was received from the owners of lot 19.

145

146 Chair Diehn asked if the other lots were similarly crowded and sized. Vice-Chair Brown and
147 Town Manager Morris said that they are. Mr. Degnan, Ms. Aufiero, and Ms. Johnson agreed that
148 they seemed to be.

149

150 Chair Diehn said that moving the shed to lot 24 would declutter lot 18.

151

152 Town Manager Morris said that the current gazebo sits almost on the property line, and the
153 screen house would increase the setback to the side lot line in this location.

154

155 Mr. Lenihan said that the carport cover will protect the wellhead during snowplowing. Mr.
156 Degnan agreed that having the wellhead be without cover in the middle of a substantial storm is
157 a hardship.

158

159 Chair Diehn asked if they could write a motion to cover each variance. Mr. Degnan said that he
160 believed they would need to be individual. Mr. Lenihan agreed and suggested the order be to
161 move the carport, move the shed, and add the screenhouse.

162

163 **(1) Vice-Chair Brown MOVED to grant the application for a variance to place a 12'x20'**
164 **temporary carport within the setbacks on tax map 43, lot 24 because the Ostroskis have**
165 **met all five criteria: all area on this lot is covered by setbacks, and denying a variance**
166 **would not serve the public interest, but would be a hardship, and this structure is similar to**

167 **others in the area and will not reduce property values or change the character of the**
168 **neighborhood.**

169 ***Seconded by Mr. Degnan***

170
171 Chair Diehn asked if there was further discussion. There was none.

172
173 **Roll Call Vote:**

174 Mike Diehn (Chair), Susan Brown (Vice Chair), Brian Degnan, Madeleine Johnson, Cecilia
175 Aufiero, **all voting Yea.**

176 **None voted Nay.**

177 **None Abstained.**

178
179 **** The Vote on the MOTION was approved (5-0).***

180
181 **(2) Chair Diehn MOVED to grant the variance to place a 7'x7' plastic tool shed within the**
182 **setbacks on tax map 43, lot 24 because the Ostroskis have met all five criteria: all area on**
183 **this lot is covered by setbacks and denying a variance would not serve the public interest**
184 **but would be a hardship, and this structure is similar to others in the area and will not**
185 **reduce property values or change the character of the neighborhood.**

186 ***Seconded by Vice-Chair Brown***

187
188 **Roll Call Vote:**

189 Mike Diehn (Chair), Susan Brown (Vice Chair), Brian Degnan, Madeleine Johnson, Cecilia
190 Aufiero, **all voting Yea.**

191 **None voted Nay.**

192 **None Abstained.**

193
194 **** The Vote on the MOTION was approved (5-0).***

195
196 **(3) Vice-Chair Brown MOVED to grant the variance to move the 9'x9' gazebo to the former**
197 **site of the plastic tool shed, within the setbacks on tax map 43, lot 18, because the Ostroskis**
198 **have met all five criteria: area on this lot is covered by setbacks, and denying a variance**
199 **would not serve the public interest, but would be a hardship, and this structure is similar to**
200 **others in the area and will not reduce property values or change the character of the**
201 **neighborhood.**

202 ***Seconded by Ms. Johnson***

203
204 **Roll Call Vote:**

205 Mike Diehn (Chair), Susan Brown (Vice Chair), Brian Degnan, Madeleine Johnson, Cecilia
206 Aufiero, **all voting Yea.**

207 **None voted Nay.**

208 **None Abstained.**

209
210 *** The Vote on the MOTION was approved (5-0).**
211

212 Chair Diehn said that the variances were approved. Chair Diehn closed the hearing at 8:15 pm.
213

214 Chair Diehn called a 10-minute recess.
215

216 **B. Land Use Case # Z22-11-02, Mary Jane Acito and William Crenson are seeking variance**
217 **relief from the Enfield Zoning Ordinance Article IV, section 402(N) locate a modular**
218 **storage shed within the prescribed setback to the street, side lot boundaries, and waterfront**
219 **buffer. The subject parcel is 0.65 acres and is at located at 1 SUNSET WALK (Tax Map**
220 **51, Lot 77) in the “Conservation (Eastman Subdivision)” zoning district. The subject parcel**
221 **is owned by Mary Jane Acito and William Crenson.**
222

223 Mr. Taylor read the case.
224

225 Chair Diehn asked the applicants if they wished to make a presentation. Ms. Acito said that, from
226 the road, they are looking at putting a shed where there is an existing turnout. They cannot put
227 the shed in front of the home because of the septic system, and they cannot put it to the left
228 because of an incline and stream.
229

230 Ms. Acito said that the abutter, Ms. Holzer, who owns lot 78, had previously said they would
231 agree to the shed by email. She said that the shed would be between 6’ and 8’ from the property
232 line. The shed will be done by The Carriage Shed in White River Junction. It will have the same
233 peak as the home and will be a matching color to the house.
234

235 Ms. Acito said that they have formal approval from the Eastman community for this plan, as
236 long as they also receive approval from the Enfield ZBA.
237

238 Vice-Chair Brown said that it appears any usable area is all done on fill, and the shed will be as
239 well. Mr. Crenson said that they did not put the shed closer to the driveway because of the fill
240 and the weight, which may cause issues with the support for the fill.
241

242 Ms. Johnson asked for an explanation of where the shed will be located. Ms. Acito explained the
243 outline of the turnout, but the shed itself is 18’x20’ in that location.
244

245 Chair Diehn said that Eastman’s covenants cover this property and are generally stricter than
246 Enfield zoning. He said that he thinks this could be a simple decision with this finding of fact.
247

248 Ms. Aufiero said that she would like to make the board aware that this is a conservation district
249 of the town and that there are setbacks.
250

251 The setbacks are 20’ from the street and 15’ to the side lot boundaries in the Eastman subdivision

(closer to the R1 standards). The board agreed that the setbacks to the lake are not required.

Chair Diehn said that he felt that the applicant met the criteria for Eastman covers the criteria.

Unique characteristics of the property: the property slopes from the house site down to Cherry Lane. There is a seasonal wetland in this area. A septic system on site reduces the space for this building.

From the property line to the back of the shed is 5'.

Ms. Aufiero asked what the attached deeds (to the application) are telling the board. Ms. Johnson said that it is standard to include the deed(s) as part of an application. Ms. Aufiero said that she also wished to raise the possibility of putting the building closer to the gardens. Ms. Acito said that this is where the septic leach field is. Ms. Aufiero asked if they could move the shed farther from the property line. Mr. Crenson said that they would not be able to maneuver in the driveway if this was done.

Vice-Chair Brown MOVED to approve the variance to allow placement of a new, modular, 18'x20' shed within 5' of the west sideline; by having obtained approval from Eastman, the applicant has demonstrated meeting the first four criteria – Eastman's covenants are considerably stricter than Enfield's Zoning Ordinance – and because the lot is fully used and denying this placement of the shed would needlessly make hardship.

Seconded by Ms. Johnson

Chair Diehn asked for any further discussion. Ms. Aufiero asked what the setback to the wetland is (referring to the seasonal stream). Mr. Degnan said that there is a 75' setback from the septic to the wet area, so he estimated it would be at least 50'.

Roll Call Vote:

Mike Diehn (Chair), Susan Brown (Vice Chair), Brian Degnan, Madeleine Johnson, Cecilia Aufiero, **all voting Yea.**

None voted Nay.

None Abstained.

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

The variance was granted.

Findings of Fact:

1. This is a 0.65-acre lot in a conservation zone, and setbacks are 20' from the road, 15' from the side, no wetland buffer.

2. Shed is 18'x20'x11' and would be placed 5' from a sideline.

3. House and lot predate zoning but are subject to Eastman covenants.

4. Abutter Holzer (lot 78) supports this request.

5. Shed will be constructed in compliance with Eastman's covenants – it will look good and fit the area.

6. Eastman has already approved this plan, and their covenants are more restrictive than the Enfield Zoning Ordinance and demonstrate meeting public interest, spirit, property values, and justice.

7. All other locations on the lot have a steep grade, stream, and septic system.

8. Shed would be placed on the existing hardpack, not a slab. No other site prep is needed.

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

None.

V. APPROVAL OF MINUTES: October 11, 2021

Chair Diehn said that they would review the minutes at a future time. Ms. Banker will meet with Vice-Chair Brown and/or Ms. Johnson for corrections. Chair Diehn asked if board members would be ok with delegating minute review to Vice-Chair Brown and Ms. Johnson. Board members agreed.

VI. NEXT MEETING: December 13, 2022

VII. ADJOURNMENT:

Vice-Chair Brown MOVED to adjourn the meeting at 9:03 p.m.

Respectfully submitted,

Whitney Banker

Recording Secretary