

Enfield Zoning Board of Adjustment Minutes, May 9, 2023

Enfield Zoning Board of Adjustment – Meeting Minutes
DEPT OF PUBLIC WORKS/MICROSOFT TEAMS
May 9, 2023

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

ZONING BOARD OF ADJUSTMENT MEMBERS ABSENT: Tim Lenihan

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

GUESTS: Faith Goodness, Brian Goodness, Holly West (MTD Building Contractors), Matt Dow (MTD Building Contractors).

I. CALL MEETING TO ORDER:

Chair Diehn called the meeting to order at 7:00 p.m. and took attendance. Chair Diehn excused Mr. Lenihan's absence. Chair Diehn elevated Mr. McLaughlin to a voting member for this meeting.

II. NEW BUSINESS:

Board Reorganization (elect officers for 2023)

Mr. Diehn asked for nominations for Chair.

Ms. Brown MOVED to nominate Mr. Diehn as Chair.

Seconded by Ms. Johnson

Mr. Diehn said that the town has asked for the chair to rotate yearly. Ms. Brown said that she felt Mr. Diehn should be the chair again. Mr. McLaughlin said that going several years in a row seemed to be OK, but not to have a chair for a very long time.

Mr. Diehn asked for further nominations for Chair. There were none.

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

Chair Diehn asked for nominations for Vice Chair.

Mr. McLaughlin MOVED to nominate Ms. Johnson as Vice-Chair.

Seconded by Mr. Diehn

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

44

45

46 **III. PUBLIC HEARINGS:**

47 **Land Use Case # Z23-05-01, Brian and Faith Goodness are seeking variance relief from the**
48 **Enfield Zoning Ordinance, Article IV, section 401.1, paragraphs L&M to construct a**
49 **storage shed within the prescribed setbacks to the street and a river. The subject parcel is**
50 **3.3 acres and is located at 1120 NH Route 4A (Tax Map 40, Lot 14) in the “R1” Residential**
51 **zoning district. The subject parcel is owned by Brian and Faith Goodness.**

52

53 Chair Diehn elevated Mr. McLaughlin as a full board member for this meeting. Chair Diehn
54 invited Mr. and Mrs. Goodness to present their case and opened the public hearing.

55

56 Mr. Goodness said that they are hoping to build a shed on their property, and with the location of
57 the river and their property, there is no spot to put a shed that meets the setbacks. Ms. Goodness
58 said that they plan to get a pre-built shed with a hard pack put down, and then the building will
59 be delivered.

60

61 ***Mr. McLaughlin MOVED to approve Land Use Case # Z23-05-01, Brian and Faith***
62 ***Goodness are seeking variance relief from the Enfield Zoning Ordinance, Article IV,***
63 ***section 401.1, paragraphs L&M to construct a storage shed within the prescribed setbacks***
64 ***to the street and a river.***

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

66

67 Chair Diehn opened the discussion of the motion.

68

69 Ms. Brown asked if the Goodness’s own property across the Knox River. Mr. Goodness
70 explained that they do. Mr. Taylor projected the property on the town’s GIS map.

71

72 Chair Diehn asked what the terrain was like in the wooded area across the river. Mr. Goodness
73 said that it stays relatively dry.

74

75 There is access to the land across the river only by footbridge.

76

77 Chair Diehn said that there was nothing unique about the property that would qualify it for
78 hardship. He asked the Goodness’s to explain why they could not put the shed on the other side
79 of the river. Ms. West (MTD Building Contractors) said that she believed the terrain would
80 impact runoff, and the equipment needed for the footings would greatly disturb the river. DES
81 permitting would be required to build a bridge suitable to get the equipment across to build the
82 shed. Ms. West estimated that this access could easily cost \$150,000 to build the 10x12’ shed.

83

84 The board debated the bridge costs and DES requirements and whether these and putting the
85 shed across the river on the back part of the property constitute a hardship.

86

87 Vice-Chair Johnson asked why they chose the proposed shed location versus the other side of the
88 house. Ms. Goodness explained that there is a septic leach field in that area, along with a slope
89 toward the fire station and a fire hydrant. Ms. Johnson said that the existing barn already appears
90 close to the lot line. Mr. Goodness said that the scale on the map needs to be corrected; there is
91 more land between the barn and the lot line than appears on the map.

92 The proposed shed location is closer to the river than the house as there is a flat spot in that area,
93 and it does not get runoff from the road.

94

95 Mr. McLaughlin asked Mr. Goodness, as a professional landscaper, if he thought this was the
96 best location for the shed. Mr. Goodness confirmed. Ms. West said that from a building
97 perspective, getting the shed closer to the barn would be less favorable for both structures to
98 allow for structural repair for a barn of that age.

99

100 Chair Diehn said that he did not feel the location on the property mattered to the board but was
101 still determining if they could satisfy the hardship requirement. Mr. McLaughlin said that having
102 the river run through the property seemed to be a unique characteristic of how the other buildings
103 and septic are located.

104

105 Ms. Aufiero said that the town has a 50' setback from the bodies of water for a reason. She felt
106 that additional construction and material along the river would not be helpful to the body of
107 water. Ms. Aufiero said that she felt approving the variance would set a precedence for buildings
108 close to bodies of water, which goes against the intent of the zoning ordinance. She said that she
109 felt the shed should be closer to the road.

110

111 The shed would sit on 6x6 beams on stabilization cloth on hard pack.

112

113 Mr. McLaughlin said that he had asked Mr. Goodness, a landscaper, for his opinion that the shed
114 location is the best area for the shed and felt that it was a well-thought-out presentation.

115

116 Ms. Brown asked if part of their yard was the dam's location for the former mill pond. Ms.
117 Goodness said that she believed so due to the location of some old structures along the river.
118 There are two mill foundations on the property.

119

120 Vice-Chair Johnson said that her understanding from work on her property with similar issues is
121 that there are also questions about the ratio of impermeable surface as part of the lot. Mr.
122 McLaughlin said that a lot assessment includes the entire lot. He thought this would be fine since
123 they have a large amount of land on the other side of the river.

124

125 Chair Diehn said that he was still looking for a way to satisfy the hardship requirement.
126 However, he said that he felt he could not see that adding a shed to the location would make
127 things worse for the river.

128

Mr. Taylor recommended that the Chair start a list of the findings of fact.

The property owners were not required to have flood insurance to obtain the mortgage for their property.

Findings of Fact:

1. -The proposed location of the shed is a high point in the land.
2. The distance from the river to the road (Route 4A) is 72', but the proposed shed is 16' from the river.
3. -The lot is completely covered by setbacks.
4. -The proposed shed will have gutters and rain barrels to collect water and control runoff from the roof and native plantings around the perimeter.
5. -Applicant is a professional landscaper who opines this location is best.
6. -There is no building permit required for a shed of this size.
7. -Placing a shed on the other side of the Knox River would be considerably more expensive and disruptive to the land/river.
8. -This property is not unique to the characteristics of the immediate neighborhood.
9. -Allowing this would encourage others to attempt similar growth.
10. -In the town, few lots are as oddly shaped as those along the Knox River.

Chair Diehn closed the public hearing at 7:45 PM.

The board began deliberation.

Criteria:

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

Ms. Aufiero felt that it would be because it would contribute somewhat to the detriment of the river and set precedence.

2 – The spirit of the ordinance is observed.

Ms. Aufiero said that she did not feel it was. Mr. McLaughlin said that he felt that although the letter was not observed, the spirit would be observed. Ms. Brown said that she felt the spirit of the ordinance would be observed. The property owners do not have control over the geography of the lot.

3 – Substantial justice is done.

Board members had no objections.

4 – The values of surrounding properties are not diminished.

Board members agreed they would not be.

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

Ms. Brown said that she felt literal enforcement would result in unnecessary hardship, the property's geography is unique, the property pre-dates zoning, and Enfield Center is largely non-

conforming. Vice-Chair Johnson agreed that the ordinances are created for normal situations rather than for these odd lots. Chair Diehn said that he could see no problem with this criteria.

Chair Diehn called a 10-minute recess at 7:55 p.m.

Chair Diehn called the hearing back into session at 8:05 p.m.

Chair Diehn reminded board members that the question before them is whether to approve the variance.

There has been concern about the suitability of the soil and proximity to the river to support a structure. Ms. Aufiero has concerns about the water body protection zones.

*** The Vote on the MOTION was denied (2-3).**

Ms. Goodness said that she would like to state for the record that the section of the property where they are proposing the shed is a section of the property that does not flood. The pictures they provided are on the other side of the property where water collects.

Ms. Brown respectfully suggested that all members visit the site. Chair Diehn said that they do not have an expert on the board who could provide guidance on the soil and flooding. Chair Diehn said that if the board chose to continue the hearing, the applicants would not need to pay another fee or have significantly different information for a second hearing.

Chair Diehn said that he would look for an expert to confirm that the soil can support the proposed shed, as well as that, given the history of the Knox River in this location that there won't be a future flood or change in the course of the river that would impact the proposed shed.

Ms. Goodness said that she worked at Dartmouth College with climate scientists at the Engineering school and asked if those individuals would be allowed to study the property or if it would be a conflict of interest. Chair Diehn said that he would not find that to be a conflict of interest if there were an expert from Dartmouth who could do the work.

Mr. and Ms. Goodness agree with the continuation of the hearing.

Mr. Dow asked for clarification if they were looking for the soil test results or just a certified letter that a structure could be supported in the location.

The board is looking for a report of the soil composition in this location, that the area of the proposed shed is suitable for a building, a report of the drainability of the location, and a FEMA flood map.

Chair Diehn asked that the applicants connect with Mr. Taylor after the meeting. He asked that Mr. Taylor look for something and/or someone that can satisfy the general questions of the

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board: how likely the location is to flood, is the soil suitable for building, and what type of soil is it.

Mr. McLaughlin MOVED to continue the hearing at the next meeting of the ZBA.
Seconded by Ms. Brown.

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

Chair Diehn adjourned the hearing.

IV. OLD BUSINESS:

None.

V. APPROVAL OF MINUTES: April 11, 2023

Amendments:

-Line 72 – change the language to be that they are seeking grant funding.

-No roll call votes – change vote recordings to who moved, that it was seconded, and what the vote was.

***Note – amendments to the minutes were discussed; there was no vote to approve.**

VI. NEXT MEETING: June 13, 2023

VII. ADJOURNMENT:

Ms. Brown MOVED to adjourn the meeting at 8:32.

Seconded by Chair Diehn

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

Respectfully submitted,

Whitney Banker

Recording Secretary