



# Newton Zoning Board of Adjustment

## Public Meeting Minutes

February 7<sup>th</sup>, 2024



The Newton Zoning Board of Adjustment public meeting was called to order at 7:00PM.

Present were Mr. Kozec, Mr. Silvia, Mr. Hamel, Ms. McCarthy and Alternate Ms. Riordan  
Also James Doggett – ZBA AA Via Zoom was Alternate Ms. White

Chairman Kozec led the Pledge of Allegiance.

Chairman Kozec seated Ms. Riordan for the excused Mr. Gibbs

### 1. Preliminary Review

***James Ryan of 2 Laura Lane is requesting a Public Hearing for relief from Article XXVII, section 8, b, Building within the 50 feet of any poorly or very poorly drained soil, for a garage. The lot is referenced as Tax Map 5, Block 5, Lot (1-2).***

Mr. Kozec invited Mr. Ryan to present the basics of his application.

Jim Ryan (Applicant, 2 Laura Lane) presented his application.

The Board discussed the application's completeness and requested that the applicant fill in sections 3 and 5.ii which he agreed to do. They found the plan needed the stamp of the soil scientist who flagged the wetlands. The Board discussed having a sitewalk to view the property as well as time and dates for it.

Mr. Silvia **MOVED** to have a site walk at 2 Laura Lane on Friday, February 16<sup>th</sup>, at 9:00AM to view the lay of the land. Ms. McCarthy seconded the motion.

Mr. Silvia – Aye Mr. Kozec- Aye Ms. McCarthy- Aye Mr. Hamel- Aye  
Ms. Riordan- Aye The VOTE was **UNANIMOUS**

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Mr. Silvia **MOVED** to take the application to a public hearing on March 6<sup>th</sup>, 2024, with the above stipulated requirements, Mr. Hamel seconded the motion.

Mr. Silvia – Aye Mr. Kozec- Aye Ms. McCarthy- Aye Mr. Hamel- Aye  
Ms. Riordan- Aye The VOTE was **UNANIMOUS**

## 2. Public Hearing

***Anne Myers of West Newbury MA requests a Public Hearing for relief from Section XIV of Zoning (specifically to be allowed to live in her existing home while building a new one on the same property) The property is referenced as Tax Map 12, Block 2, Lot 17.***

Mr. Kozec opened the Public hearing at 7:23 PM.

Mr. Kozec asked if any Board members had questions. There were none

Mr. Kozec asked if there was any public comment. There were none.

The Board deliberated on possible conditions for approval of the criteria.

Mr. Kozec closed the public hearing.

Mr. Hamel MOVED to condition any variance on the requirement of a \$10,000 performance guarantee to cover costs associated with removing the present dwelling on the property. Any letter of credit would need to extend 180 days after the permit was granted, Mr. Silvia seconded the motion.

A.A. Doggett polled the Board: Ms. Riordan – yes, Ms. McCarthy -yes, Mr. Hamel – yes, Mr. Silvia - yes, Mr. Kozec – yes. The **VOTE** was **UNANIMOUS**.

Mr. Kozec asked A.A. Doggett to read the criteria and poll the Board.

Criteria #1. Granting the variance would not be contrary to the public interest.  
Ms. Riordan - yes, Ms. McCarthy – yes, Mr. Hamel – yes, Mr. Silvia – yes, Mr. Kozec – yes.

Criteria #2. If the variance were granted the Spirit of the ordinance would be observed.  
Ms. Riordan - yes, Ms. McCarthy – yes, Mr. Hamel – yes, Mr. Silvia – yes, Mr. Kozec – yes.

Criteria #3 Granting the variance would do substantial Justice. Ms. Riordan - yes, Ms. McCarthy – yes, Mr. Hamel – yes, Mr. Silvia – yes, Mr. Kozec – yes.

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Criteria #4. If the variant were granted the values of surrounding properties would not be diminished. Ms. Riordan - yes, Ms. McCarthy – yes, Mr. Hamel – yes, Mr. Silvia – yes, Mr. Kozec – yes.

Criteria #5-i. Owing to the special conditions of the property that distinguish it from other properties in the area denial of the variance would result in unnecessary hardship. Ms. Riordan - yes, Ms. McCarthy – yes, Mr. Hamel – yes, Mr. Silvia – yes, Mr. Kozec – yes.

Criteria #5-ii. The proposed use is a reasonable one. Ms. Riordan - yes, Ms. McCarthy – yes, Mr. Hamel – yes, Mr. Silvia – yes, Mr. Kozec – yes.

A.A. Doggett stated, Mr. Chair all criteria have been met.

Mr. Hamel **MOVED** to grant the relief from **Section XIV** of Zoning (specifically to be allowed to live in her existing home while building a new one on the same property) for the property at 69 South Main Street, having found the following facts concerning the application:

1. **That the plans fall within the scope of the prevue of the Zoning Board of Adjustment.**
2. **That Justice would be served by approving the applications with one condition:**

**That the applicant, prior to receiving the occupancy permit for the new house, shall supply a \$10,000.00 performance guarantee to raze the existing building no more than 90 days after receiving the occupancy permit for the new house. The bond can be either cash (passbook) or letter-of-credit (a letter-of-credit must not expire before 180 days following the issuance of the occupancy permit for the new house).** Mr. Silvia seconded the motion.

A.A. Doggett polled the Board: Ms. Riordan – yes, Ms. McCarthy -yes, Mr. Silvia - yes, Mr. Kozec – yes. The **VOTE** was **UNANIMOUS**.

### **3. Rehearing Request**

Mr. Hamel recused himself from this matter.

Chairman Kozec seated Ms. White for the recused Mr. Hamel.

Mr. Kozec read ***Laurie Mancinetti as President of the Greenfield Hill Estates Homeowner's Association requests a rehearing of the Zoning Board of Adjustment's decisions for variances on 125 Development NH Corp's requesting for 13 variances from Article XXV, section 1, Location on Lot for a private roadway***

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Mr. Kozec informed the parties that at this meeting the Board would decide if there was any new evidence to warrant a rehearing. The Board would be taking no evidence at this meeting but would instead deliberate as a Board on the matter. Should the Board decide a rehearing is warranted they will make a motion to grant it. The Board must decide whether the argument put forth in the abutter's paperwork rises to the level of new evidence or a compelling argument that should be further explored. If so then a rehearing is in order, if not then there is no reason to hold a rehearing.

The Board discussed the matter briefly.

Chairman Kozec asked A.A. Doggett to poll the Board.

Mr. Hamel rejoined the Board; Ms. White was no longer a voting member.

a. Acceptance of minutes of the 1/3/24 meeting

A.A. Doggett polled the Board: Ms. Riordan – yes, Ms. McCarthy -yes, Mr. Hamel – yes, Mr. Silvia - yes, Mr. Kozec – yes. The **VOTE** was **UNANIMOUS**.

Mr. Hamel **MOVED** to approve the manifest in the amount of **\$63.33** Ms. Riordan seconded the Motion.

A.A. Doggett polled the Board: Ms. Riordan – yes, Ms. McCarthy -yes, Mr. Hamel – yes, Mr. Silvia - yes, Mr. Kozec – yes. The **VOTE** was **UNANIMOUS**.

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## **2. Adjourn.**

Chairman Kozec adjourned the meeting at: 8:37PM.

Respectfully submitted.

James L. Doggett  
ZBA Administrative Assistant

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