

Newton Zoning Board of  
Adjustment  
2 Town Hall Road  
Newton, NH 03858  
(603) 382-4405 X315



## NOTICE OF DECISION

The application submitted by **125 Development NH Corp of Plaistow** for a **Variance** to

**SECTION XXVII WETLAND ZONING ORDINANCE** (Added March 1980)

8. OTHER CONDITIONS, BUFFER ZONES (Amended March 1992)

- b. No building activity requiring a building permit shall be permitted within 50 feet of any poorly or very poorly drained soil except as provided in subsection (c) of this section. (Added March 2000)

Allowing Wetland Buffer Zone impacts on their land off Rte. 108 (**Tax Map 14, Block 1, Lot 27-3**). It was denied due to the applicant's failure to meet the criteria for a variance. The denial was by a unanimous vote of the Zoning Board of Adjustment on **June 1<sup>st</sup>, 2022**, due to the following reasons:

Criteria 1. Granting the variance would be contrary to the public **interest** because the applicant has not met the requirements due to the sensitivity of the wetlands and the aquifer. While some of areas that the applicant requested for a variance may have met the requirements, the plan as a whole is contrary to the public interest because of the extreme number and size of areas that are being requested under an all-encompassing variance. The plan does not limit incursions into the wetland buffer to those areas required for development of the site.

Criteria 2. If the variance were granted, the **spirit** of the ordinance would not be observed because of the amount of area being disturbed, the spirit of the ordinance being to protect the wetlands. The ZBA found that this plan does not adequately do that.

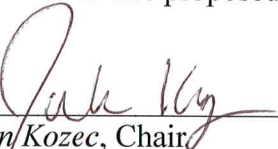
Criteria 3. Granting the variance would not do substantial **justice** because of the endangerment of the wetlands which the ordinance was established to protect.

Criteria 4. If the variance were granted, the **values** of the surrounding properties would be diminished. The applicant gave no evidence of non-diminishment while the opponents gave clear referenced examples of decreasing values.

Criteria 5.i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because the property is in excess of 150 acres and other plans could be developed. While some of areas that the applicant requested for a variance may have met the requirements, the plan as a whole does not constitute an undue hardship because of the extreme number and size of areas that are being requested under an all-encompassing variance.

- and -

5.ii. The proposed use is an unreasonable one because the hardship is self-inflicted.

  
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John Kozec, Chair

Newton Zoning Board of Adjustment  
June 2, 2022

Any person affected has a right to appeal this decision. If you wish to appeal, you must act within thirty (30) days of this notice. The necessary first step, before any appeal may be taken to the courts, is to apply to the Board of Adjustment for a rehearing. The motion for a rehearing must set forth all the grounds on which you will base your appeal. See New Hampshire Statutes, RSA Chapter 677, for details.

cc:

**125 Development NH Corp % Barry Gier, Jones, and Beach Engineering**

Building Department	Fire Department	Police Department	Health Department
Conservation Commission	Board of Selectmen	Assessor's Office	ZBA Files
Planning Board	Rockingham County Registry of Deeds		