



## **ZONING BOARD OF ADJUSTMENT**

**Town of Greenland • Greenland, NH 03840**

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### **MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING**

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Tuesday, July 21, 2020 – 6:30 p.m. – Town Hall Conference Room

*Members Present:* Steve Gerrato, Ron Gross, David Sandmann, Leonard Schwab

*Members Absent:* Lindsey Franck

*Staff:* Jack Shephard – Building Inspector

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Chair Gross opened the Board of Adjustment meeting at 6:33 p.m. and a roll call was taken. A checklist to ensure meetings are compliant with the Right-to-Know Law during the State of Emergency was read into the record by Chair Gross. He stated this was a Zoom meeting and was being recorded.

Roll call attendance: S. Gerrato – present, L. Schwab – present, D. Sandmann – present, R. Gross – present.

**1. 368 Breakfast Hill Road – Residential Zone**

Request for a Variance

Owner/Applicant: Patrick St. John

The owner/applicant is seeking a Variance from Article IV – Dimensional Requirements, Section 4.1.1 of the Greenland Zoning Ordinance, to extend the porch 8 ft. into the 30 ft. front setback.

Patrick and Melissa St. John joined the meeting. The existing house is approximately 22 ft. from the road. They would like to add a porch on the front of the house that will not extend beyond the existing building, which would be 8 ft. into the setback.

Chair Gross asked P. St. John to review the application with the Board; the applicant did not have a copy of the application. M. St. John stated that the porch will be the same style/period of the house, going across the entire length of the house. She noted that the house was 22 ft. off the road and understood the front setback was 30 ft. A Variance was needed in order for the porch to be on the front of the house. She stated it would increase the property value.

There was a brief discussion if the application was required to be read into the record (the applicant did not have a copy of the application). Chair Gross stated the Board could move forward because the Board had a copy of the application.

Chair Gross opened the hearing to public comments. Responding to a question from S. Gerrato, P. St. John stated there are no wetlands involved. The porch will be 8 ft. wide and the length of the house. M. St. John clarified that the porch will be 22 ft. from the road (8 ft. into the front setback). L. Schwab questioned the slope of the roof; the roof will slope away from the house but will be angled on the ends (similar to a gable roof). Chair Gross clarified it was a hip roof. J. Shephard asked if there were gutters

around the edges. P. St. John explained that the picture indicated there was some overhang on the sides; the extent of the roof would be the house.

There being no further comments or questions, Chair Gross closed the public hearing and returned to the Board for discussion. The septic system was located on the other side of the house. It was not included on the plan because it was not of consequence to the Variance. J. Shephard stated that aesthetically the porch would add value and character to the home and fit with the period of the house. D. Sandmann agreed with J. Shephard adding it would add value to the neighborhood. L. Schwab agreed, adding that he appreciated people maintaining some of the history of the Town. He noted that the house was 220 years old and the homeowner is trying to preserve what they have; he thought it was a great idea. Chair Gross confirmed that the porch would be an open porch and the homeowner did not intend to enclose it in the future. J. Shephard confirmed that structurally it could not be anything other than an open porch.

MOTION: D. Sandmann moved to grant the Variance for 368 Breakfast Hill Road, extending the porch 8 ft. into the 30 ft. front setback. Second – L. Schwab

DISCUSSION: The Variance is acceptable because the porch does not exceed the footprint of the house which is 22 ft. from the road; this would not exceed that. It would add value to the house, the property and community. Granting the Variance would not be contrary to public interest; it would meet the spirit of the Ordinance by not encroaching on the road; it would increase the value of the property; there is no hardship.

MOTION: D. Sandmann moved to grant the Variance for 368 Breakfast Hill Road, extending the porch 8 ft. into the 30 ft. front setback. Second – L. Schwab; roll call vote: S. Gerrato – yes, L. Schwab – yes, D. Sandmann – yes, R. Gross – yes. All in favor. MOTION CARRIED

2. 188 Newington Road – Residential  
Special Exception  
Owner/Applicant: Beatrice Family Revocable Trust  
The owner/applicant is seeking a Variance from Article XVIII – Wetlands Protection Ordinance, Section 18.10 – Special Exceptions Granted by the ZBA for Residential Uses, for a driveway in the wetlands buffer zone.

Steve Haight, Civilworks New England and representing the owners/applicants, joined the meeting. J. Shephard stated that he had spoken to S. Haight; stormwater was included in a minor note on the plan. J. Shephard had questioned S. Haight if there were 45,000 sq. ft. of the uplands and not within the wetland area. S. Haight stated that it was an approved lot and the State had approved the septic system many years ago.

S. Haight stated this was a lot of record created in 1997 and the lot is 9.39 acres. In 1997, Civilworks received septic system approval from the State. The owners had not built on the land and the property was sold to the current owners. The septic approval lapsed and a reapproval was submitted to the State and has been approved. They would like to build a house in the same location that was approved in 1997. S. Haight described the buildable lot area. There are no wetland impacts proposed; there are wetland setback impacts. The house will be approximately 1,100 ft. off the road to get to the buildable land area. The proposed driveway will be off the shared driveway that accesses the house and lot to the north. They have spoken to Mark Fougere, Planning Board Consultant, about stormwater management; silt socks and silt logs will be used around the perimeter of the disturbed area. The stormwater

management plan is part of the approved septic system design plan. Of the total lot area of 9.39 acres, the contiguous land area of the house is 30,000 sq. ft. The driveway and grading around the septic would encroach within the wetland buffer. The house and septic system with its components will not be in the buffers—only the grading for the septic system and side of the house and the driveway to the house will be in the buffers. The driveway access was created prior to current zoning. The lot has public water; there is no well on site.

S. Haight clarified that there is 48,600 sq. ft. of contiguous land area outside the wetlands. The buildable land area outside of the 75 ft. buffer will be for the house and septic system (30,000 sq. ft.). The driveway will be located in the contiguous land. S. Haight reviewed the application with the Board. The soil scientist verified all the wetlands when doing the septic system design. S. Haight stated that the same gravel driveway is being built that was cut in previously; there are no wetland impacts being proposed. When a wetlands crossing is done, different mitigation areas are looked at for the least impactful area. The State approved the septic system because wetlands are not are being impacted with the construction of the driveway, house, or grading. The wetland buffers only are being impacted. S. Haight further clarified that the wetland marks are on the side of the wetlands; anything between those marks is not wetlands. The driveway was originally cut in 1997 and the land area cleared for the house (was not built). A wetlands permit was not applied for or granted at the time. The driveway is a compacted gravel area; the applicant would like to pave the proposed driveway.

The area on the plan noted with a hash mark ('x') is the proposed impact to the wetland buffer. The driveway is located within that area; along the right-hand side there is a fill extension for the septic system. On the south side of the building there is a fill extension around the house. S. Haight described the driveway location to the edge of pavement. For clarity, the area within the buffer is hashed.

There was a lengthy discussion about snow removal and storage; snow would be pushed between the 25 ft. and 50 ft. wetland buffer. S. Gerrato asked if it was possible to relocate the driveway. S. Haight responded it was not possible; there is a wetland area along the driveway. The only place for the driveway is the original location in 1997 without impacting any wetlands. The 50 ft. wide common easement on the plan is the recorded easement for the lots. There will be a shared driveway with 192 Newington Road to a certain point; it would then diverge to the lot being discussed (188 Newington Road). It is shared outside the wetlands, further back towards the road. S. Haight explained that on this lot (9.39 acres) the area for the house is the only land area available to build a house. A subdivision plan would need to go to the Planning Board for approval.

Chair Gross stated that the area for this house is 'tortured space'. He assumed the owners realized that there was not a lot more that could be done on that lot. S. Haight stated he has discussed the issues with the homeowners; they have significantly decreased the size of the house to fit in the building envelope. The house does not encroach in the setbacks and the homeowners are aware of the limited nature of the lot. Chair Gross noted there was not a deck on the house. S. Haight responded that anything done with the house will be done in the buffer setbacks; that is the buildable land area without requiring any additional relief.

Chair Gross noted the leach field was 'pretty big'; over time, they potentially fail. S. Haight stated it is a raised bed. Based on soils that was the smallest they could make the leach field and it is not a large system for a four bedroom home and is sized by criteria from the State. If the system failed, it would have to be replaced in the same location. S. Gerrato commented that digging the foundation would be invasive to the wetlands. S. Haight responded that the house is well over 75 ft. from any wetlands. They are not building within the buffer; only grading will be done: soil around the building would be

impacting the buffer. Construction would have no impact on the buffer. The water line will come down the middle of the driveway and into the house.

L. Schwab questioned the intent of the application: was it for a Special Exception for the driveway or is it the factors involved in the house and the grading? S. Haight explained that those are part of the request: the driveway and fill extensions inside the buffer. There was a discussion about the contour lines and the uplands. S. Haight stated they would not need relief to build the house with the exception of the grading and fill extensions.

Chair Gross asked if rotating the plan clockwise 15 to 20 degrees would make a difference. S. Haight responded that it would increase the impact of the driveway. They moved the house for the least amount of impact on the lot within the buffers. Rotating the house 15 degrees to the northeast, the driveway would move further into the buffer. The septic system cannot be located closer to the house due to septic rules.

Square footage of the house: approximately 2,800 sq. ft. of living space (does not include the garage which is oversize). Chair Gross noted it was a small house for a large lot with a small building envelope. S. Gerrato stated that the wetlands are a filter for our water and we need to protect the wetlands. S. Haight noted that approximately 3,900 sq. ft. is the driveway and grading for the driveway, 500 sq. ft. for the septic system, and 1,100 sq. ft. for grading around the house for frost protection.

Chair Gross closed the public hearing and returned to the Board for discussion. S. Gerrato stated Greenland did not have a lot of buildable land. D. Sandmann stated the snow removal was critical in terms of where the snow goes and how it drains. L. Schwab stated if a motion was passed it should be only for the driveway per the posting. Chair Gross reviewed Sections B and F, Special Exception Criteria; the application addresses what the applicant is requesting. L. Schwab noted the Building Inspector denied the driveway in the buffer zone. S. Haight noted he had dealt with the Interim Building Inspector during the initial part of the process. L. Schwab stated that any motion should be clear that the Special Exception would be for the entire lot.

Chair Gross stated that the driveway is a permeable surface and in the buffer zone. The portions potentially impacting the buffers will be grass; fill is needed for the slope and building of the house. The actual impact in the buffer is approximately 4,000 sq. ft. It is a lot of record with 9.39 acres, which is over 400,000 sq. ft. and virtually all wetlands. If they are looking at paving 4,000 sq. ft., that is 1% of the lot. Chair Gross considered that a small amount, has been approved by DES and there is a driveway cut. There are plenty of homes in Town that have gravel driveways. A paved driveway with snow storage would be better than a compacted driveway. Chair Gross stated it was a 'tortured site' but they have DES septic approval (April 2020) and there is a driveway. The further impact would be insignificant.

S. Gerrato suggested a motion stating no further building can take place on the lot—'you've got what you've got'. Chair Gross stated they would have to go through the process again.

**MOTION:** S. Gerrato moved to deny the Special Exception for 188 Newington Road. Second – D. Sandmann

**DISCUSSION:** Chair Gross stated the applicant met all the criteria for a Special Exception and it is an allowed use. The use of the land is limited. A stormwater management plan was provided. S. Gerrato realized that, adding that is what is going to be happening in the future. S. Haight stated it was a lot of record and pre-dated current zoning and setbacks. Chair Gross reviewed the criteria: the lot is an official

lot of record, the new structure is not otherwise prohibited, it is a residential zone, the use cannot be feasibly carried out on a portion or portions of the lot which are outside that (this is the only location for the driveway and the cut is there), no reasonable and economically viable use of the lot can be made without the exception (DES approval has been granted), a stormwater management plan has been submitted as part of the septic plan, and the design and construction of the proposed use will be practical to the maximum extent. There are 9.39 acres on this lot and a small portion is being affected.

S. Gerrato withdrew his motion; D. Sandmann withdrew his second. Board members were concerned about snow storage and wetlands. S. Gerrato stated snow storage must be marked on the plan. Chair Gross stated the plan was for a Special Exception; it will also need to go through the Planning Board process. A motion can be made requiring building plans to include locations (example: snow storage).

MOTION: D. Sandmann moved to grant the Special Exception for 188 Newington Road for a driveway and other impacts around the house in the wetlands buffer zone. Further, designated areas for snow removal gravel pads off the driveway must be included on the plan. Second – L. Schwab

DISCUSSION: D. Sandmann understood the wetlands were critical and needed to be maintained the best we can. The house will be on a small portion of the property. The Board needs to move forward.

MOTION: D. Sandmann moved to grant the Special Exception for 188 Newington Road for a driveway and other impacts around the house in the wetlands buffer zone. Further, designated areas for snow removal gravel pads off the driveway must be included on the plan. Second – L. Schwab; roll call vote: S. Gerrato – no, L. Schwab – no, D. Sandmann – yes, R. Gross – yes; two in favor, two against (S. Gerrato, L. Schwab). MOTION DENIED

Chair Gross apologized: at the start of the meeting he did not make applicants aware since only four members were present there would need to be a majority vote in favor to pass. The vote was a tie and not a majority: the Special Exception was denied. D. Sandmann asked if it could be tabled until the next meeting when five members could be present to vote. Chair Gross agreed, adding that should have been offered at the beginning of the meeting.

MOTION: D. Sandmann moved to rescind his motion and the vote. Second – L. Schwab; roll call vote: S. Gerrato – yes, L. Schwab – yes, D. Sandmann – yes, R. Gross – yes; all in favor. MOTION CARRIED

MOTION: D. Sandmann moved to table consideration of the Special Exception for 188 Newington Road to the meeting on Tuesday, August 18, 2020. Second – L. Schwab; roll call vote: S. Gerrato – yes, L. Schwab – yes, D. Sandmann – yes, R. Gross – yes; all in favor. MOTION CARRIED

S. Haight will update the plans and include erosion control and gravel areas for snow removal.

### 3. Approval of Minutes

The minutes from August 20, 2019 will be corrected as follows: page 3: .....“a plan that was not on record. L. Schwab clarified that 51,286 sq. ft. was the total perimeter” to read “a plan that was not on record. L. Schwab clarified that 51,286 sq. ft. was the total area”.

MOTION: S. Gerrato moved to approve the minutes of August 20, 2020 as amended). Second – L. Schwab; roll call vote: S. Gerrato – yes, L. Schwab – yes, D. Sandmann – abstain, R. Gross – yes; three in favor, one abstain (D. Sandmann). MOTION CARRIED

MOTION: D. Sandmann moved to approve the minutes of Tuesday, June 16, 2020. Second – S. Gerrato; roll call vote: S. Gerrato – yes, L. Schwab – yes, D. Sandmann – yes, R. Gross – yes; all in favor. MOTION CARRIED

4. Other Business

S. Gerrato stated the Board needed an alternate.

5. Adjournment

MOTION: S. Gerrato moved to adjourn at 8:30 p.m. Second – D. Sandmann; roll call vote: S. Gerrato – yes, L. Schwab – yes, D. Sandmann – yes, R. Gross – yes; all in favor. MOTION CARRIED

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| NEXT MEETING |
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Tuesday, August 18, 2020 – To be Announced

Submitted By: Charlotte Hussey, Administrative Assistant

Approved: