



# Town of Middleton

182 Kings Highway, Middleton, New Hampshire 03887

## ZONING BOARD OF ADJUSTMENT MINUTES Meeting and Hearing

Middleton Old Town Hall  
200 Kings Highway  
Middleton, NH 03887

**July 16, 2024 at 6:30 p.m.**

These minutes serve as the legal record of the meeting and are in the form of an overview of the Zoning Board of Adjustment meeting. It is neither intended nor is it represented that this is a full transcription. A recording of the meeting is available online at <https://www.youtube.com/@townofmiddleton97411/streams> for a limited time for reference purposes.

***Meeting Called to Order*** by Chair Therriault at 6:27

***Pledge of Allegiance***

***Invocation***

***Roll Call***

**Members present:** Charles Therriault (Chair), Jim Keegan (Vice Chair), Linda Adamo, Lorri Gunnison, Dan Saliga, Tim Cremen (BOS Liaison)

**Members absent:** Joe Varga (Alternate)

**Also present**

Carl Roy, Code Enforcement Officer  
Paul Gagnon  
Lucia Gagnon

**Attachments**

Sign in sheet  
Proposed updated Application  
Proposed updated Rules of Procedure  
Paul and Lucia Gagnon Application for Appeal  
Danielle Duguay Application for Appeal

***New Business***

***Application for Variance***

Paul and Lucia Gagnon  
30 Shore Drive  
Map 5, Lot 104

C. Roy said he measured 22.5 feet from the edge of the pavement to the structure.

**J. Keegan** said it's incumbent upon the person building the structure to get their land surveyed and know where the property line is.

**P. Gagnon** said all the ¼ acre lots on the lake have the same problem in that there is no way possible to meet the 50-foot setback requirements.

**J. Keegan** said you're right, which means you can request a variance, but there are no guarantees it can be built.

**C. Therriault** said the CEO verified the garage is 15 feet too close to the road. He said it's unfortunate, but he has had to push many buildings over because they were out of code.

**J. Keegan** said under the circumstances in this case, counsel suggested they re-apply for an equitable waiver of dimensional requirements instead of a variance. He said because we will have to have another hearing, if that's what you choose to do, we will ask the BOS to waive the cost of the fees.

**P. Gagnon** said Carl gave him the permit, he had the garage built and then Carl came back and said you need a variance.

**J. Keegan** started reading the list of requirements for the equitable waiver of dimensional requirement out loud.

**L. Gagnon** said they were told to get the permit from the state first, which they did. They thought they did not have to check any further.

**J. Keegan** said there may be other garages on the small lots around the lake, but they were most likely built before these ordinances came into effect. He said going forward, people are going to want variances for set-back requirements, and they can request them. However, there is a list of criteria that must be met, and if they don't meet them, the board cannot approve the variance. In your case, the garage was already built.

**C. Therriault** said we need to have a survey.

**J. Keegan** said in the future when someone comes in to request a variance, they will need a survey.

**J. Keegan** finished reading the criteria for an equitable waiver of dimensional requirements. He said you can go forward with your request for a variance right now or reapply for the equitable waiver of dimensional requirements. It's up to you.

**L. Gunnison** said your structure is already in place. That's why we have the equitable waiver, because this happens to a lot of people. This is a smoother process.

**J. Keegan** said I just read the criteria, you have to decide what's best for you.

There was some discussion about making sure the permit is correct and the safety of where the garage is located.

There was some discussion about going forward with the public hearing.

**L. Gunnison** said a variance is something that you apply for before the structure is in place and a waiver is after the fact.

**L. Adamo** said the equitable waiver of dimensional requirements is Section 4 on the application.

**C. Therriault** said make sure your measurements are right.

There was some discussion about whether they need a survey.

**L. Adamo** said if your neighbor had their property surveyed, they had to find their points too.

**D. Saliga** said our question to you is would you like to go ahead and apply for the equitable waiver of dimensional requirement.

**L. Gagnon** said yes.

### ***Review of Minutes***

**L. Adamo** made a motion to approve the minutes of June 18, 2024.

**D. Saliga** seconded the motion

Motion carried

### ***Old Business***

### ***Proposed updated ZBA Application, Instructions, and Rules of Procedure***

**L. Adamo** had some suggestions for updates and corrections.

**L. Gunnison** suggested the front page of the proposed Rules of Procedure, #3 say three years instead of one and it should also specify all members remain in office until successors have been appointed. She said it should also say every member should take the oath of office based on RSA 42:1 and a record must be kept in the Town Clerk's office.

There was some discussion about the importance of making sure all town board and committee members are up to date with their Oath of Office and know when their tenure expires.

**J. Keegan** suggested they start with the application first and work on the rules of procedures after that.

**L. Gunnison** said on the first page of the application it should clearly say there are four different types of appeals.

**L. Adamo** said there should be more consistency on the Rules of Procedure document with titles and capitalization.

It was decided that **L. Adamo** and the Administrative Clerk would get together to make some revisions. An updated proposed version of the Application will be presented at a future meeting and the updated proposal for the Rules of Procedure will follow.

**J. Keegan** said the small lots in the village district were initially created as part time camps. Many have since developed into year-round homes and rental properties. These changes and congestion are now, in some instances, a safety concern. That's one of the reasons the setback requirements exist. In the future, if a lot does not meet the dimensional requirements and a variance does not meet the criteria, there cannot be a building permit issued.

**C. Roy** said he understands.

There was discussion about the need to work with the Planning Board to be sure the Zoning Ordinance is updated and revised to meet the town's current needs.

**C. Roy** said for example, they may decide to have different requirements for non-conforming lots. He also said the ordinance needs to be clear and consistent throughout.

**L. Adamo** read from Article 5A – Base Zoning District Uses, #3 about setbacks for non-conforming lots.

There was discussion about state requirements for impervious surface limitations under the Shoreland Water Quality Protection Act.

**L. Adamo** said she would hesitate to make any changes to the Zoning Ordinance in the Lake District in order to allow more. She said years ago Realtors would sell lots and say they were "buildable" and now the people who live there have to bear the brunt of it.

**L. Gunnison** said she has a non-conforming structure and was told she could rebuild it with the same footprint.

**C. Roy** said if it only needs roof repairs, she may only need to apply for an equitable waiver of dimensional requirements.

There was discussion about the process to change the ordinance and how it is time consuming and cumbersome.

There was discussion about changing the ordinance regarding fences to be consistent, clear and reasonable.

There was discussion about what requirements need to be met for a lot to be buildable.

### ***Adjournment***

**D. Saliga made a motion** to adjourn at 7:25 p.m.

**L. Gunnison** seconded the motion

Motion carried

Respectfully submitted,

Robin Willis  
Administrative Clerk

Approved 2024-09-17