



Town of Middleton

182 Kings Highway, Middleton, New Hampshire 03887

Zoning Board of Adjustment

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/@townofmiddleton9741/streams> for a limited time for reference purposes.

Middleton Zoning Board of Adjustment Minutes of August 20, 2024 Meeting Old Town Hall 200 Kings Highway

Members Present: Charles Therriault (Chair)
Jim Keegan (Vice Chair)
Linda Adamo
Lorri Gunnison
Dan Saliga
Tim Cremmen (BOS Liaison)

Members Absent: Joe Varga (Alternate)

Public Present: See Meeting Sign in Sheet

Meeting Called to Order by Chair Therriault at 6:30 p.m.

Pledge of Allegiance

Invocation

Roll Call

Chair Therriault opened the Public Hearing at 6:35 p.m.

Application for Variance

ZBA 2024-04

Paul and Lucia Gagnon

30 Shore Drive

Map 5, Lot 104

C. Therriault said the board met with counsel prior to the meeting because they had some questions about how to apply the law in this situation. He said the attorney verified that if the garage had been built 30 feet from the right of way, the request for an Equitable Waiver of Dimensional Requirements would be appropriate. However, because that distance appears to be incorrect, the board must see a survey to determine how to proceed. He said the Gagnons do not need to survey the entire property, but they do need to survey the two front corners, where the town property ends and their property begins, and the two front corners of the garage. He said there is no way to grant any application because they don't know where the boundaries are. The middle of the street is not necessarily the boundary of the right of way. If the survey shows the garage is set back 30 feet from the right of way, the board can consider the Equitable Waiver. If it is not 30 feet, the Gagnons need to request a variance.

L. Gunnison said if the survey does not match what's in the permit application that was approved, they have to go back to the variance request.

C. Therriault said they need a four-point survey.

C. Therriault showed **P. Gagnon** what he was referring to on the sketch plan. He said to have the surveyor stamp the drawing.

P. Gagnon said the Code Enforcement Officer came up with 22 feet and he came up with 23.

C. Therriault said that's from the road.

C. Therriault said once you have that survey come in and talk to us.

J. Keegan said they don't really know that there is not 30 feet because the road could settle in either direction. You need to know where the right of way is and then measure that to your garage. You will need to have the surveyor stamp it.

C. Therriault said whoever surveyed the neighbor's property already has some of that information and that may help save some money.

L. Gunnison said the equitable waiver is for when the structure is already built. So if it's already built and there was a mistake made in the permit approval they could grant the waiver, but it had to have been built exactly as it says in the approval.

C. Therriault said the contractor is at fault because he did not build the garage according to the permit. It could fall back on his insurance.

J. Keegan said the waiver would have been the better way to go for the applicant and the town, but in order to use that, you had to have built it according to your plan. The CEO was wrong to give you a permit saying you could build the garage 30 feet back from the right of way. He should have told you to get a variance because it's supposed to be 50 feet. That mistake could be rectified with the equitable waiver. Then the question came up whether it is in fact 30 feet from the garage to the right of way.

T. Cremen said if they find out they need to apply for a variance the town will waive the fee for the appeal.

J. Keegan said that most of the development has a 30 foot right of way, but some of it has 25 feet. It appears the 25 feet is down at the end of Pinkham where it gets more narrow.

C. Therriault said there are roads that were actually built on people's property. They did that to straighten out the road.

J. Keegan asked if the Gagnons thought it was 30 feet when it was being built.

P. Gagnon said yes.

P. Gagnon said so you need to know specifically what the distance is before we go to a variance.

C. Therriault said the new variance request can be filled out just like the first one but you'll have the exact footage that you're asking for the variance on.

There was some discussion about the need for a new hearing if the equitable waiver cannot be granted. The law requires the applicant to go through the process again if they are requesting a different variance.

ZBA 2024-05
Danielle Duguay
John Furber
5 Sunrise Drive
Map 4, Lot 217

T. Drake said they thought they were abutters, but they did not get a notice of the hearing.

The Administrative Clerk said since they are not directly across the street from 5 Sunrise Drive, rather they are diagonally across and down the street, so they are not abutters.

There was some discussion about hearing posting requirements and abutters notices.

D. Duguay said the CEO told them they need a variance to build a home on their corner lot. They told the board members what they thought were the obstacles to getting a building permit but were unclear as to exactly what type of appeal they were requesting and for what ordinance. She said they have a state approved septic plan.

C. Therriault asked if they had a copy of the building permit denial.

D. Duguay said the CEO said it was denied but did not give her a letter or any paperwork saying why.

L. Gunnison asked how big the house they want to build is.

D. Duguay said 22 x 32.

C. Therriault says that's what the plan shows.

L. Gunnison said it looks like they would need a 15-foot variance.

D. Duguay said they need a 15-foot variance from Silver Street and a 12-foot from Sunrise Drive.

C. Therriault said from the plan it looks like they will be 28 to 30 feet from the right of way. He said they need the denial letter saying why the building permit is being denied and it should indicate the setbacks.

D. Duguay said she has requested a letter several times.

J. Keegan said the board members have to know exactly what ordinances they are requesting variances from, and they have to be specific. The board has to base their decisions on exactly what is submitted. He said he's assuming there is enough property to get the setbacks, but the ledge is making it difficult.

There was discussion about the lot and the slope of the land.

There was discussion about the size of the lot, the size of the house and where it may fit.

C. Therriault said they may be able to change the design and meet the setbacks by moving the location of the well and septic.

J. Keegan made a motion to schedule a site visit for ZBA members to meet with the septic designer (McConkey) and to continue the public hearing to September 17, 2024 at 6:30 p.m.

L. Gunnison seconded.

Motion passed.

Respectfully submitted

Robin Willis
Administrative Clerk

Approved 2024-09-17



Zoning Board of Adjustments Meeting
6:30PM
Middleton Old Town Hall
200 Kings Hwy, Middleton, NH 03887

- I. Call Meeting to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Regular Business
 - A. Gagnon Public Hearing
 - B. Duguay Public Hearing
- V. Approval of Minutes
- VI. Adjournment

August 20, 2024

Next Meeting Regular Scheduled
Zoning Board of Adjustments Meeting
6:30PM
September 17th, 2024
Middleton Old Town Hall



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DRAFT: These minutes are strictly a draft copy and are awaiting amendment or approval at a subsequent, duly noticed public meeting. Amendments to these minutes will be noted in the minutes of said meeting. This draft is available for public review and the approved copy will be posted on the Town of Middleton website.

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