

**TOWN OF CENTER HARBOR  
ZONING BOARD OF ADJUSTMENT**

Meeting Minutes

**Monday, June 12, 2023  
7 p.m.**

**In attendance:** Chair Bernard Volz, Members George Lamprey, Karen Ponton, and Stephany Marchut Lavallee. Alternate Members Gregory Hime, Timothy Nefores, Alison Toates and Clerk Linda D'Auria and Helen Altavesta. Member Jean Meloney (Vice Chair), was absent without notice.

**Public attendance:** Wesley Hays (NorthStar Contractors), Maureen Criasia (Conservation Commission), Garrett & Susan Wein, Walter, Tiffany & Irene Spaulding, George Earl, Bruce Bond and Mike Pearson.

The meeting was called to order at 7:00 p.m.

Chair Bernie Volz asked everyone to introduce themselves. The Chair officially appointed Helen Altavesta to be the new Clerk per the ZBA bylaws and thanked Linda D'Auria for her help with the Zoning board for the last year.

The voting members will consist of the same persons who listened to the case on May 8, 2023 and were also present at the site visit on May 15, 2023.

**Voting Members for the continuation of case: 2023-0410.A-Garrett & Susan Wein-Tax Map 104 Lot 016-10 Mayo Shores Lane:** Bernard Volz, George Lamprey, Stephany Marchut Lavallee, Karen Ponton and Greg Hime.

Chair Volz elects to move past item I, the approval of the May 8, 2023 minutes and May 15, 2023 site walk minutes until after the scheduled hearing.

Chair Volz states that there is only one public hearing for two variances Article 5:3:1 and 5:11:2 for the Wein property located Map 104 lot 016. Chair Volz just summarized that any testimony we have tonight the petitioner speak, favors speak and then whoever is opposed speak and go back and forth until we deliberated efficiently and until we and the public get all the information we need. The Zoning board did conduct a site visit and the Chair thanks the property owners for allowing them to visit the site and to Wesley Hays for marking where the boundary lines of the buildings will be located. The other activity since the meeting was that the Planning Board did rule on the status of the boundary dispute because of the wetlands. The determination from that Planning Board meeting was that there are wetlands on the lot and

that the GIS maps will eventually be updated to show the new information. The determination from this will cause new setbacks to be considered along with the variances.

Wesley Hays asked to interrupt because they would like to ask for a continuance until next month's meeting on July 10<sup>th</sup>. The property owners have hired an Engineer, William Evan Engineering and wetland scientist to work on remapping the property in detail and getting plans for repair of the culvert. Hopefully the information will be available for the meeting on July 10<sup>th</sup>.

Motion to continue meeting: Karen Ponton motion to continue the hearing to July 10, 2023 at 7.00 PM. Seconded by Stephany Marchut Lavallee.

Q – Gregory Hime, Alternate, has a formal request been submitted to the state about a driveway like your neighbors on to Waukegan Road?

A – Wesley Hayes, NorthStar Contactor, no, have not formerly submitted a request for a permit at this time.

Chair Volz said that while we are all here, we should take time to talk a little longer. Chair Volz mentioned he did some research of right away and easements because it was brought up in the last meeting. This information is for your information only. A right of way is one type of easement; there are lots of easement types. The original subdivision on file in the Belknap Registry of Deeds shows "right-of way".

From <https://www.sulloway.com/news-events/nh-supreme-court-reviews-common-law-rule-regarding-rights-of-servient-landowners/> it appears that NH Supreme Court "declined the invitation to change its long-standing rule, and reaffirmed that, without the consent of the easement holder, a servient landowner may not unilaterally relocate an easement across the servient landowners property" (October 2018)

Chair Voltz states it is not a ZBA issue; it is for your information only. With that said, we have the motion - Any discussion regarding the motion?

Q – Maureen Criasia, she serves on the Conservation Commission but is not representing the Conservation committee at this meeting. Two Questions:

Q 1: If Bill Evans is going to remap the wetland, will the remapped wetlands map need to go back to the Planning Board to update the town map?

A – Chair Volz, if we receive an updated map, it would be wise to bring it back the Planning Board.

Q 2: Wes mentioned culvert repairs, will there be some sort of formal storm management plan?

A – Wesley Hayes, when the property owners do the formal landscaping plan their will also be a storm management plan at that time.

Garrett Wein, property owner, asked to address the board. He wanted to state that he loves the lake and they want to improve things. Whatever they need to do with the septic system it will be an improvement for the lake. They want to fix the water issue for their property and the whole road. Their family has owned this property for around 100 years and they are the only one of the neighbors that haven't renovated. They understand there are requirements and they appreciate that and their goal is to have a year-round home and something to pass on to future generation. He mentions he has to fix the water problem and he plans on doing whatever it takes. Wesley Hays is engaged with a Soil scientist and their intent is to come back next month with an updated map and plan.

Q – Gregory Hime, has there been any formal request been made to road and drainage system across the history?

A – Garrett Wein, back in 2008 my parents sent a letter to the state to help mitigate the water issues but I do not see documentation that the state responded.

Q – George Lamprey, if there is a determination that they are wetlands will there be a new wetland mapping for the record? The board would want to indicate what the new references will be for the Zoning ordinance?

A – Chair Volz said yes, we will need to consider all new setbacks.

Maureen Criasia explained in 2014-2016 the town stratified the wetlands into 3 different categories.

1. Wetlands
2. Designated wetland
3. Non-designated wetlands

At least 3 of the 7 criteria to stratify wetlands to either designate or non-designated.

1. **>2 ac.** Provides a Yes (Y) or No (N) answer to whether or not the designated wetland is greater than 2 acres, as set by the Town
2. **Str. Or Pond** Indicates whether or not the wetland is associated with a Designated Stream or a Great Pond (i.e., >10 acres)
3. **WAP** indicates whether or not the wetland lies within a high-ranked habitat according to the State's Wildlife Action Plan (WAP); this includes both state and regional high-ranked habitat
4. **NWI Class** indicates whether or not the wetland has high interspersions of cover class types, thereby indicating better wildlife habitat and water quality function
5. **Rare or Exemplary** indicates whether or not the wetland contains documented rare species of exemplary natural communities

6. **SEA** indicates if the wetlands falls within one or more Signifigant Ecological Area according to the Center Harbor NRI (2014 revision)
7. **Adj. to Prime** indicates whether or not the wetland falls within 200 feet of a Prime Wetland

Maureen took it upon herself to compare these criteria to this wetland map using the NRI and other conservation resources. These wetlands documented by Randal J. Shuey do not meet any of the above criteria. Maureen would consider these non-designated wetlands per her experience being on the Conservation Commission for many years and working with these documents.

Chair Volz mentioned the Zoning Ordinances **10.6:3:2 Natural Woodland Buffer Improvement and Maintenance Standards**, page 52-53:

1. Woodland buffers  $\frac{1}{2}$  acre or more in size must remain in an unaltered state excluding impervious surfaces.
2. Lots that contain less than  $\frac{1}{2}$  acre between the reference line and landward 150' from the reference line, at least 25 percent of the area between 50 feet and 150 feet from the reference line must remain in an unaltered state.

Chair Volz also suggested to the Wein's that they update the application to reflect any other variances. The septic and the garage have been approved but it might be in their best interest to do an updated/revised application for the two also so that the Zoning Board can give the variances to make it cleaner.

Q – Wes, do we need to do a separate application and send out registered letters for the abutters and start all over?

A – Chair Volz, you can just revise your application. It will just make it cleaner for the Zoning Board to know what you want.

Q – Karen Ponton, I just wanted to make sure the applicant is aware that they will need a storm management plan. **10:3:11 Stormwater Management Plan: a plan certified by a licensed engineer designed to promote stormwater infiltration, minimize erosion and minimize the concentration of stormwater.**

A – Chair Volz, says that they do not have to present this to the board for the variance but the Board could make this a condition of the variance.

Q – Chair Volz said they were not planning on submitting with the application and asked Wesley Hays if that was correct?

A – Wesley Hays, they would not be submitting the storm management plan for a house that they could not build. This is why we are here for a variance to see if we can build the house and then we would submit a storm management plan in the future.

Q – Karen Ponton, commented will wetlands permit need to be filed with the State DES?

A – Wesley Hays, they will do what they need to do with the state after the plans are remapped and they are advised to do so.

Q – Tim Defores. It is our understanding the wetlands are non-designated wetland?

A – Chair Volz, yes as of now that is what was determined by the map submitted.

Susan Wein owner just asked for where the definition for the right of way was located on the internet. They took a photo of the PowerPoint with that information.

Motion to do a continuance to July 10<sup>th</sup> meeting, if it is not ready then we will continue to the following month. Previously Motioned by Karen Ponton. Seconded by Stephanie Marchut Lavallee. The vote was unanimous.

The hearing ended.

Review of the prior meetings of May 8, 2023 meeting and site visit on May 15, 2023.

#### MINUTES:

Approval of the May 8, 2023 meeting

Motion: George Lamprey, member motions to approve the minutes with the three corrections. Seconded by Karen Ponton. All were in favor.

Approval of the May 15, 2023 site walk

Motion: Karen Monton, member motions to approve the minutes with the corrections. Seconded by Greg Hime. All were in favor.

#### ADJOURNMENT

Motion to adjourn by Chair to adjourn the meeting. Seconded by Karen Ponton. All were in favor. Meeting adjourned at 7:45 p.m.

Next meeting scheduled for July 10th at 7 p.m.

Submitted by Helen Altavesta.