



**TOWN OF
BROOKLINE, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT**

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**BOARD OF ADJUSTMENT
MINUTES**

**Wednesday, October 12, 2016
7:30pm**

Present: George Foley, Member, Chairman
Webb Scales, Member, Clerk
Marcia Farwell, Member (recused herself from case 399)
Kevin Visnaskas, Member
Charlotte Pogue, Alternate (voting for Marcia)
Jill Adams, Alternate (Voting for Peter)

Absent: Peter Cook, Vice Chairman

Marcia said she would be recusing herself from Case 399.
George asked Charlotte to vote for Marcia. Charlotte agreed.
George asked Jill to vote for Peter. Jill agreed.

Case 398

George said at the last meeting in September they had continued the case to tonight's meeting. George read the hearing notice for case 398 "Applicant Katherine Connors is requesting a Special Exception under Section 2000 of the Brookline Zoning Ordinance to allow an Accessory Dwelling Unit. Lot H-46 located at 15 Main Street consisting of .50 acres."

George said they have received a letter via email from the applicant stating that she wished to withdraw the application.

Minutes

Marcia made a motion to approve the minutes of July 13, 2016 as corrected. Webb seconded.
Vote yes 4-0.

Webb made a motion to approve the September 14, 2016 minutes as amended. Marcia seconded.
Vote yes 4-0.

Case 399

George read the hearing notice "Applicant Gerald Farwell is requesting a Special Exception under Section 1106 of the Brookline Zoning Ordinance to allow the construction of a 15'x24'garage attached to the existing house within the wetlands buffer. Lot L-12 house located at 17 Lake Potanipo, Lot L-12-5."

George asked if fees have been paid and abutter notified. **Kristen** said yes to both. **George** read the letter submitted from Clarence and Marcia Farwell "Clarence and Marcia Farewell, the land owners and building owners respectively have no objections to the Special exception requested by Gerald Farwell to add a garage onto Lot L-12-5, 17 Lake Potanipo."

Jerry said he would like to add a 25x30 garage to the existing house. This will be a 1 car garage with storage area underneath with a door to the bedroom which will provide a seconds means of egress. At the moment they only have a small window in the bedroom. There is a shed next to the house right now that will be removed to construct the garage. The house was built in 1961. **Jerry** read Section 1106 of the Zoning Ordinance which states "Section 1106

"a. Additions to existing structures may be permitted by special exception within the buffer zone as long as all these conditions apply:

1. Permitted to expand within the buffer zone up to 600 square feet beyond the footprint that existed on March 9, 1999.
2. The expansion may only be permitted to occur away from the edge of the wetland or high water mark, except if a finding made in accordance with Section 1103.11 determines that there will be no negative impact on the wetland and a previous disturbance prior to the adoption of this Ordinance is documented, then the expansion or disturbance may occur to within 25 feet."

Jerry said this garage will be a total of 278.64 square feet into the setback. Less than 5 feet into the setback. **Jerry** reviewed the plan with the Board. The Bedroom is in the back corner of the building he would like to put an egress door in the bedroom to the storage area. Only means of egress at the moment is a small window. Per the fire code you cannot have a means of egress into a garage but this will be a storage area below the garage. The fire code also states you will need at least 5 feet between each building and this puts them at ten feet to the next building. He is in the process of getting the Shoreland permit finished and sent to the state for approval. **Webb** asked if they needed anything from the ZBA to go along with the application. **Jerry** said he didn't believe so. **George** read section 1106.01 of the Brookline Zoning Ordinance "Evidence to support the request for a special exception shall be submitted in writing to the Zoning Board of Adjustment, with fees for proper notification, accompanied by written review of findings of fact from the Conservation Commission. The Planning Board, at its discretion, may also submit a written finding of fact on the application. The Conservation Commission may require review by the Natural Resources Conservation Service, upon submission of applicable fees by the applicant for this service. The Zoning Board of Adjustment via special exception in other matters, after proper public notice and public hearing, may grant permission for the following uses within the Wetland Conservation District and buffer, provided the proposed use does not conflict with the Wetland Conservation District and is otherwise permitted by the Zoning Ordinance, and following review and findings of fact from the Brookline Conservation Commission."

Webb asked **Jerry** if he was able to go to the Conservation Commission yet. **Jerry** said he was on the agenda last night but was unable to make it to the meeting. **George** said the Zoning Board of Adjustment will need the input of the Conservation Commission or we could make a decision contingent upon their findings. **Webb** said half of the existing building is in the wetlands currently. **Webb** read section 1103.11 "Reduction of the Wetland Conservation District Buffer Zone: A special exception for a reduction of the buffer zone may be granted by the ZBA if all the following conditions are met:

- a. A Wetland Functions and Values Assessment (using the New Hampshire Method for the Evaluation of Wetlands) be performed by a Certified Soil Scientist or Certified Wetland Scientist, at the applicant's expense.

- b. The results of this assessment indicate that the wetland is of such value that the proposed use will not conflict with the purpose of this Ordinance.
- c. Under no circumstances shall this apply to any designated Prime Wetland.

Webb said he is having a hard time getting past "Under no circumstances shall this apply to any designated Prime Wetlands. The lake is a prime wetland and it states there shall be no construction in the buffer. We as a Board are not allowed to reduce the buffer around a prime wetland. **Jerry** said the State may have him remove the concrete patio that is in the buffer and reduce the amount of impervious surface in the buffer to allow the garage to be built 5 feet into the buffer. **Jerry** said he may end up removing that anyway they don't use it anymore. **George** said if you were to remove the concrete pad that would be an improvement.

Charlotte made a motion that the Zoning Board finds that 1103.11 is satisfied because the buffer is being increased. **Kevin** seconded. Vote yes 4-0 **Webb** abstained.

Webb said he believed they should get the comments from the Conservation Commission before they make a decision.

Jerry said he is willing to wait until the next Conservation Commission meeting for comments and then come back to the Zoning Board.

Kristen said the Conservation Commission will be meeting again on the 25th of October and can add this discussion to the agenda.

Webb made a motion to continue case 399 to the November 9, 2016 meeting. **Kevin** seconded. Vote yes 5-0.

Adjourn

Kevin made a motion to adjourn at 8:30 pm. **Jill** seconded. Vote yes 5-0.

George Foley, Member, Chairman _____

Webb Scales, Member, Clerk _____

Marcia Farwell, Member, _____

Kevin Visnaskas, Member _____

Charlotte Pogue, Alternate (voting for Marcia) _____

Jill Adams, Alternate (voting for Peter), _____

Minutes submitted by **Kristen Austin**

