

## **February 20, 2021 ZBA MINUTES FOR SITE WALK**

**Approved**

### **Re: 236 Point Road**

Present at the site walk:

Victor Vinagro, George Frothingham, Don Stewart, Annie Robbins, Jim Miller, Duane Bishop, Elliot Edwards and his partner Erin Francios, Donna & Dennis Badman and Natalie Kelly.

THE SITE WALK STARTED AT 10:00 am. Mr. Edwards said they are proposing a 24x24 garage. He pointed out where they wanted to build the garage. Dr. Badman wants to keep all his trees and they are proposing transplanting some of them behind the garage. The garage doors will be facing the driveway. The 14' setback is from the overhang of the building. Chairman Frothingham closed the site walk at 10:07.



TOWN OF WAKEFIELD, NEW HAMPSHIRE  
ZONING BOARD OF ADJUSTMENT  
HELD IN PERSON AND ON ZOOM  
Monday, February 22, 2021  
Approved

George Frothingham, Chairman	X	Doug Stewart (present)	X	Victor Vinagro, Land Use Clerk & Code Enforcement Officer	X
Don Stewart Vice Chairman	X	Robert Baxter		Rick Sager, Town Counsel	
John Crowell		Natalie Kelley		Site Walk	X
Judi DesRoches	X			Public Hearing	X
Annie Robbins	X				

**Others present for the ZBA meeting**

Alternate Robert Baxter, Alternate Natalie Kelley, Dr. Dennis Badman, Elliot Edwards, Erin Francios and Jim Miller with Clearview Community TV.

**Pledge of Allegiance & Call the meeting to order**

The meeting was called to order at 7:00. Introductions were made.

**Seat Alternates as necessary**

Alternate Doug Stewart sat in for John Crowell.

**Public Hearings**

**Variance Application:** submitted by Elliot Edwards and Erin Francois for property owned by Dennis Badman 236 Point Road, Tax Map 5-35. The applicant is seeking an approval of a Variance Application from the Town of Wakefield Zoning Ordinance Article 3, Table 2- Minimum Setbacks in order to place a residential garage 14 feet from the street, setback is 20 feet.

Mr. Vinagro stated that the Application is administratively correct, fees have been paid, the notice has run and the abutters have been notified.

**Mr. Don Stewart made a motion, seconded by Mr. Doug Stewart to proceed with the hearing. Roll call vote (5-0)**

Elliott Edwards said Dr. Badman wants to build a garage and place it 14 feet from the road in order to save his hardwood trees. The two front trees will be transplanted behind the garage. The dripline and driveway will both be addressed with stone. Mr. Frothingham said the requirement for the setback from the road is twenty feet. They will be asking for a variance for six feet. The five Criteria presented by the applicant will become part of the record. (see attached) Mrs. Robbins wondered where the setback is measured from. Mr. Frothingham said this is a private road and that doesn't apply in this case. Mr. Don Stewart said on a private road ownership goes to the center. He asked how are we assured there is an appropriate measuring point for the building. Mr. Vinagro read the ordinance on measuring. Table 2 number 2: Measured from the edge of the right-of-way corridor or from the edge of the traveled way, whichever measurement provides the greatest distance from the centerline of the traveled way. Mrs. Robbins asked if the Town is liable if the building isn't correctly sited if there was a dispute? No correspondence was received by Mr. Vinagro. Mr. Frothingham received an email from the Morrison's and they are very much in favor of the applicant. He spoke with a neighbor at the site walk and she also was in favor of this. Mr. Doug Stewart recommended adding a condition saying the building to be built 14 feet from the property line. Mr. Vinagro said the applicant fills out and signs a sheet marking the distance of the building from all property lines. Mr. Vinagro suggested state permitting also be a condition.

There was no comment from the public. Mr. Frothingham closed the public hearing at 7:17.

**Mr. Don Stewart made a motion to grant the variance to the applicant subject to one or two conditions.** He suggested they go through the five criteria. **Mr. Stewart withdrew his motion.**

**Mr. Don Stewart made a motion, seconded by Mr. Doug Stewart, to go through the five criteria and treat them as one. Roll call vote (5-0)**

Mrs. Robbins felt they should go through each one of the five criteria.

**Criteria 1** The proposed use would not diminish surrounding property values

**Mr. Doug made a motion, seconded by Mr. Don Stewart, that the criteria has been met. Roll call vote (5-0)**

**Criteria 2** Granting the variance would not be contrary to the public interest

**Mr. Don Stewart made a motion, seconded by Mrs. DesRoches, that the criteria has been met. Roll call vote (5-0)**

**Criteria 3** Granting the variance would do substantial justice

**Mr. Doug Stewart made a motion, seconded by Mr. Don Stewart, that the criteria has been met. Roll call vote (5-0)**

**Criteria 4** The use is not contrary to the spirit of the ordinance

**Mr. Don Stewart made a motion, seconded by Mrs. DesRoches, that the criteria has been met. Roll call vote (5-0)**

**Criteria 5** Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

**Mrs. Robbins made a motion, seconded by Mr. Don Stewart, that the criteria has been met. Roll call vote (5-0)**

Mr. Vinagro said Dr. Badman could put his garage closer to his house but has chosen to put it further away to save the trees.

**Mr. Doug Stewart made a motion, seconded by Mr. Don Stewart, to approve the variance with the following conditions: 1. The building will be built no less than fourteen feet from the property line. 2. The applicant will obtain State Permit by Notification from DES. Roll call vote (5-0)**

The variance has been granted and any interested party could appeal this within thirty days.

## **Board Business**

### **Member Alternate Renewal**

Mr. Frothingham said two member and two alternates terms are up this year. All are willing to be reappointed for the next three years. They will all fill out the applications.

**Mr. Doug Stewart made a motion, seconded by Mr. Don Stewart, to forward the applications to the Selectmen for approval when signed. Roll call vote (5-0)**

### **Election of Officers**

**Mrs. Robbins made a motion, seconded by Mr. Don Stewart, to nominate Mr. Frothingham as chairman for the upcoming year. Roll call vote (5-0)**

**Mrs. Robbins made a motion, seconded by Mr. Doug Stewart, to nominate Mr. Don Stewart as vice chairman for the upcoming year. Roll call vote (4-0-1)**

### **Approval of Minutes of September 21, 2021**

**Mrs. Robbins made a motion, seconded by Mr. Doug Stewart, to approve the minutes of September 21st. Roll call vote (Vote 4-0-1)**

Mrs. Robbins told the Board that there will be an online zoom conference for planning and zoning on Saturday May 15th from 9-12. Mrs. Robbins will send the information to all members and alternates.

### **Set Next Meeting Date**

None as of yet.

### **Adjournment**

**Mrs. Robbins made a motion, seconded by Mrs. DesRoches, to adjourn the meeting at 7:44. Roll call (Vote 5-0)**

Respectfully submitted for approval at the next ZBA meeting,

Priscilla Colbath,  
ZBA Secretary