



**Zoning Board of Adjustment Members**

George Bailey, Acting Chair  
Ray Desmarais, Vice Chair  
Tracy Hardekopf  
Paul Thibodeau  
David Whitten

**Meeting Minutes  
Zoning Board of Adjustment (ZBA)  
March 16, 2022 at 7:00p.m.**

**CALL TO ORDER**

G. Bailey called the meeting to order at 7:00 p.m.

G. Bailey will be acting temporary moderator until such time all members are present and will have an election of officers at that time.

G. Bailey discussion that there are presently three voting members. G. Bailey gave notice to the applicant a choice to postpone and continue with a continuance due to only three members present and entitled to have five voting members. J. Huckins clarified the way the state statute set up, it's a five-member board and you got to be the majority of the board, not the majority of the Members present. Mr. Tobin Farwell, Farwell Engineering Services, for applicant, Cynthia & Leon Adams on Long Shore Drive said he understood and would like to move forward with the Case.

Pledge of Allegiance was led by G. Bailey.

**ROLL CALL**

**Members Present:** George Bailey, Paul Thibodeau, Tracy Hardekopf, Dave Whitten

**Members Not Present:**

Raymond Desmarais

**Staff Present:**

Town Administrator: Conner MacIver, Town Planner: Vanessa Price, Code Enforcement Officer: John Huckins

After roll call, Member Dave Witten entered the meeting.

**ACTION ITEMS**

G. Bailey discussion that there are presently four voting members. G. Bailey gave notice to the applicant a choice to move forward. Applicant confirmed to move forward with the request for a variance.

G. Bailey gave a brief description of the application.

1. [103-64-21-ZBAVar \(Owner: Cynthia & Leon Adams\)](#) Request by applicant for a variance from Article 4, Section 4.1.1 Table 2 of Dimensional Standard to allow 16.9' and 26.5' from the east side and 26.2' and 27.4' from the west side of the property where 30' is required on Long Shore Drive on a 0.3-acre lot in the General Residential Zoning District. BY: Tobin Farwell, Farwell Engineering Services, LLC; 265 Wadleigh Falls Road; Lee, NH 03824

Tobin Farwell from Farwell Engineering Services, LLC represented Cynthia & Leon Adams. Mr. Farwell explained that this lot was on Long Shores Drive Map 103, Lot 64. Mr. Farwell explained that they are before the Board because the applicant could not meet the side setbacks. Mr. Farwell explained that they are proposing a 14' by 66' two-bedroom house and was 26.2' of the west side and 16.9' of the easterly property line where 30' was required. Mr. Farwell explained that they are requesting a variance for both sides. Mr. Farwell supplied the Board with photos showing that this was currently an undeveloped lot.

G. Bailey asked the applicant to read the five criteria for the variance.

Mr. Farwell read the following five criteria for a request for a variance below:

**PART IV – If this is a JUSTIFICATION FOR VARIANCE**

The Zoning Board of Adjustment may not authorize a zoning ordinance variation unless ALL of the following criteria are met. Please provide evidence that the requested Variance complies by addressing the issues below.

☐ 1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.  
There is no compliant area on the lot  
\_\_\_\_\_

☐ 2. Granting the variance would be consistent with the spirit of the Ordinance.  
A variance would allow for a single family residence to be built on the lot  
\_\_\_\_\_

☐ 3. Granting the variance will not result in diminution of surrounding property values.  
A new residence will not lower surrounding values  
\_\_\_\_\_

☐ 4. Granting of the variance would do substantial justice.  
Would allow the land owner to use the land as it is zoned, single family residence.  
\_\_\_\_\_

☐ 5. Granting of the variance would not be contrary to the public interest.  
Would allow a use allowed in the zoning district  
\_\_\_\_\_

P. Thibodeau asked if this was going to be a stick built.

Mr. Farwell expressed that he was not sure how it is going to be built.

P. Thibodeau asked if there was going to be a foundation under the building.

Mr. Farwell stated that there would be a concrete foundation under the building.

D. Whitten asked about the zoning for a mobile home.

John Huckins explained that mobile homes are allowed anywhere in Town. Other than the Town Center.

T. Hardekopf asked about the abutter on the westerly side was a mobile home and asked what the structure on the other side of the property was.

T. Hardekopf asked if the other property had a full foundation also and was it a manufactured home or a stick-built home.

Mr. Farwell explained that he believed that the home on the easterly side was a stick built.

T. Hardekopf asked to show where the well and nearest body of water was.

Mr. Farwell showed the location of the well and explained that there was a wetlands outback.

T. Hardekopf asked what the driveway material would be.

Mr. Farwell expressed that at this point the driveway would be gravel.

G. Bailey opened public comment for anyone against the project.

G. Bailey closed public comment against the project.

G. Bailey opened public comment for anyone for the project.

G. Bailey closed public comment for anyone for the project.

G. Bailey reopened public comment.

Jeffrey Estes President of the Long Shores Lot Association explained that they sent a email and wanted to make sure that the email was received.

John Huckins explained that the email was received, and the issue was that the association dues were not paid to date and that was a Select Board there is a requirement for the private road policy. John explained that the Zoning Board does not address those type of issues.

G. Bailey closed the public comment.

*A motion was made by T. Hardekopf and seconded by P. Thibodeau to accept to grant the variance for the side setbacks as illustrated on the Farwell Engineer blueprints for the 103-64-21-ZBAVar.*

Roll Call:

George Bailey-Acting Chair-Aye

Dave Whitten-Aye

Paul Thibodeau-Aye

Tracy Hardekopf-Aye

2. **121-30-GR-22-Var (Owner: Richard Townsend)** Request by applicant for a variance from Article 4, Section 4.1.1 Table 2 to allow setbacks from two road frontages 18.7' and 27.3' from Hall Road and 27.3' and 21.8' from Rosemary Lane where 40' is required and 23.2' from the side where 30' is required on a .24-acre lot in the General Residential Zoning District.

G. Bailey gave a brief description of the application.

G. Bailey discussion that there are presently four voting members. G. Bailey gave notice to the applicant a choice to move forward. Applicant confirmed and wanted move forward with the request for a variance.

Mr. Townsend gave additional documents for the Board and staff for the case file and to review.

G. Bailey asked Mr. Townsend to discuss the project then move to Article 4.

Richard Townsend of 119 Hall Road represented himself for the Hall Road variance. Mr. Townsend explained that he has a lot that was non-conforming in size, and he are applying for a variance to place a home within the setbacks. He explained that the request was conforming to and consistent with the surrounding properties. Mr. Townsend explained that the size of the home would be 38' by 28' residential single-family home on a non-confronting 100' by 100' lot that was a larger lot than the surrounding properties. Mr. Townsend explained that Rosemary Lane adjacent to this private was private road and that the plan that he gave them has blue and red sketch lines over the Berry Survey he added for potentially be an advantage to Rosemary Lane in the future because there was a problem coming in and out of Hall Road line of site is lousy.

Mr. Townsend proposed that by situating this home diagonally that would lend itself to having a future radius on the edge of Rosemary Lane in the future if it was accepted by the association there. Mr. Townsend showed the location of where the well and septic would be and stated they meet the state requirement. Mr. Townsend supplied quick claim deed on page three of the handout on the Ivan Fogarty on the Rosemary Lane.

Mr. Townsend referred to Page 3 of the handout given to the Board tonight, there's a quick claim deed on the Rosemary Lane Rd. He has stated there's been a lot of problems; everybody has been in this town knows an awful lot of problems with multiple surveys.

P. Thibodeau asked Mr. Townsend to direct which handout he is talking about. Asking if it's a quick claim deed.

Mr. Townsend confirmed it's a quick claim deed.

D. Whitten questioned the additional information passed out by Mr. Townsend this evening.

P. Thibodeau confirmed this information was not in the original package.

D. Whitten questioned the process of receiving new information.

G. Bailey addressed D. Whitten if you don't want to accept it and you make a motion and it won't be accepted for the original package.

J. Huckins addressed the board: The concept here I [think is] the issue is there's some contention to give receipt to the setback you got to agree to those true property lines. there's going to be information presented by Mr. Thompson tonight and then by some of the abutters is on what those. But I am not an attorney.

D. Whitten questioned on we've been asked to vote on it. On a setback, file a variance that may or may not be accurate.

G. Bailey That's correct. That is what we have to determine tonight.

Mr. Townsend stated it's not true.

G. Bailey asked Mr. Townsend to wait a minute.

D. Whitten stated he would like that to be resolved. Determine whether or not to accept that variance requirement.

G. Bailey asked John Huckins if anyone had the latest survey plot plan for the Board.

Mr. Townsend pointed to the packet handout that he submitted tonight that that is the boundary.

D. Whitten Inquired to Mr. Townsend, "The Survey that says not a boundary survey?"

Mr. Townsend stated we are not disputing this boundary.

T. Hardekopf reiterated by asking "You don't dispute the boundary?" to Mr. Townsend.

Mr. Townsend stated we do not dispute this boundary.

G. Bailey the only one we have is the one he handed to us tonight. Dave, if you have a problem with you, you could motion that we go for a continuance.

John Huckins explained that the Board may want to hear the information that Mr. Townsend has.

G. Bailey asked D. Whitten if he would hold the motion until further input.

D. Whitten agreed.

P. Thibodeau asked to make a motion that they don't go over the deeds. We have no purview over its way over our heads in order to be able to make a decision.

Mr. Townsend explained that the deed information was only for representation to demonstrate an argument that was not going to be argued.

P. Thibodeau asked making a motion that we do not hear any discrepancies, entities that was only for representation to demonstrate an argument that is not going to be argued.

G. Bailey stated There's a motion on the table.

*A motion was made by P. Thibodeau and seconded by D. Whitten that the Board would not review the deeds or any discrepancies in the deeds.*

T. Hardekopf asked if there was an actual boundary survey that has been certified?

Mr. Townsend stated yes.

T. Hardekopf asked besides the one that reads not for boundary purposes.

G. Bailey directed question at J. Huckins if we have a boundary survey?

J. Huckins referred to the file. No.

*A motion was made by D. Whitten and seconded by T. Hardekopf to continue the application until April 20, 2022, waiting to get a boundary survey.*

T. Hardekopf An incomplete package without the certified survey. We need to review the materials before public comment.

P. Thibodeau expressed that he felt that if the abutters want to talk about anything except survey and deeds, he felt that they should get a chance to speak. But cannot vote on the application.

J. Huckins addressed the Board that there are abutters present that would like to give be public comment.

G. Bailey clarified from Mr. Huckins to agree to not talk about surveys and deeds if we allow the public to speak. If you have a discrepancy on that, you can talk, you can ask them. Technically, the reason for the abutters to speak, they might have information in the area that you should know in order to make their decision that we might not have is probably sound better or the applicant brought forward.

T. Hardekopf said that if the abutters want to talk about anything except survey and deeds, she felt that they should get a chance to speak.

D. Whitten and T. Hardekopf rescinded their motions to hear from the public first.

*A motion was made by D. Whitten and seconded by T. Hardekopf to continue the application until April 20, 2022, to allow the applicant an opportunity to provide the necessary material that will allow us to move forward with his request and that's excluding hearing the public tonight. waiting to get a boundary survey for a complete application.*  
*Vote 3/1*

Roll Call:

D. Whitten-Aye

P. Thibodeau-Nay

T. Hardekopf-Aye

G. Bailey-Aye

*A motion was made by T. Hardekopf and seconded by P. Thibodeau to open public comment.*

Roll Call:

T. Hardekopf-Aye

P. Thibodeau-Aye

D. Whitten-Aye

G. Bailey-Aye

Matt Niswender president of the Rosemary Lane Road Association. Mr. Niswender explained that the applicant Richard Townsend has asked to get a driveway off the road of Rosemary Lane. Mr. Niswender explained that they have concerns that they would like to share with the Board. Mr. Niswender explained that he has letters that were written to the Town of Barrington and four different departments from there attorney against allowing the driveway permit off Rosemary Lane.

G. Bailey explained that he could present the letter to Conner MacIver or Vanessa Price to add to the packet.

Mr. Niswender explained that they also have a problem with the Berry Surveying plan.

G. Bailey explained that was not discussed now because that has been set for the packet.

Mr. Niswender explained that it has a Hall Road number so they felt the driveway should come off Hall Road and not off Rosemary Lane. Matt explained that they have had problems with Mr. Townsend's other corner lot at the top of there hill that he did the house up there building a lot.

G. Bailey explained that they need to stay with this application.

Mr. Niswender explained that both corner lots are owned by Mr. Townsend the first house impacted Rosemary Lane they had washouts and problems with the road. Mr. Niswender explained that the lot the Mr. Townsend wants to build on was a very low line lot and this road was private not maintained by the Town. Mr. Niswender expressed that he wanted to Board not to consider a building there because the property was so low and drains naturally. Mr. Niswender explained that the association had a drainage

system put in that they had approved by the previous Road Agent. Mr. Niswender explained that they had expressed their concerns with the current Road Agent, and he was aware of the situation. Mr. Niswender explained that the association cannot afford to redo their drains. Mr. Niswender explained that they have concerns with the egress Mr. Townsend mentioned that the egress to help the road and people that live on the road get out. Mr. Niswender explained that they got a package put together and voted they don't want egress, no driveway their letter went out in October to the Town departments done by their lawyer. The association voted 100% agreed not to have anything to affect their road. Mr. Niswender explained that Berry Surveying explained to them that the boundaries and road may not be 100%.

G. Bailey asked Matt if he had a statement from Berry Surveying?

Mr. Niswender explained that he has a verbal statement that was given to himself and one other general man.

G. Bailey asked if there was a written statement from Berry Surveying?

Mr. Niswender explained that he did not.

G. Bailey requested that if he could get a written statement from Berry Surveying.

Luzi Pantano from 168 Hall Road explained to the Board in 2007 she hired David Vincent surveyor and found out that David Newhall was on her property and should hire a lawyer. Ms. Pantano explained that the survey was done by Berry Surveying, and they had three surveys. Ms. Pantano explained the following three surveys:

- 1975 property line went straight down.
- 1996 done by Berry Surveying property line straight down.
- 2000 David Newhall went to build a house the property line was wrong. They encroach that was supposed to be 8' but now it turns out to be 18'.
- 2007 Ms. Pantano was going to get lawyer she and David Vincent said don't do it, yet time passed and didn't get a lawyer and she said that she never agreed with the boundary line.
- 2021 During the summer Mr. Townsend came to her and he said her driveway was his. Ms. Pantano explained that he said don't be stupid enough for David Newhall wants to give you the right of way and you don't be stupid you better take it.

Ms. Pantano expressed to Mr. Townsend that half the driveway was hers 30 years later David Newhall the answer was no for half of her driveway.

G. Bailey thanked Ms. Pantano for her comments.

Terrance Stibbards from 160 Hall Road explained that he lives on the other side of Rosemary Lane from the property that Richard Townsend owns. Mr. Stibbards explained that he was in favor of the home be constructed and diagonal placed this makes the visual lines between lots.

Steve Slovensky explained to the Board that his concern was that there was more than one survey and smart to wait until you get all the information including all the surveys and determine which one was accurate. (Mr. Slovensky representing Luzi Pantano). Mr. Slovensky explained that if this can't be handled in would need title action with the courts things before a final decision can be made.

G. Bailey explained to Steve Slovensky that they are not talking about the survey when a boundary line was presented to the Board his recommendations would be part of the considerations.

Richard Townsend stated the documents were not for an argument they were to represent that he was there to make life better for people that had arguments. Mr. Townsend explained since 1934 the person that just testified that he created problems since 1934 Loretta Gretchell that was her family property every year the road washed out. Mr. Townsend explained until he fixed it and has not washed out since. He wants to fix problems for everybody.

Matt Niswender explained that he has lived on Rosemary Lane for 22 years and explained that the association has installed over eight thousand dollars in drainage drains and had the road good before Mr. Townsend's work began at the other property. Mr. Niswender explained if a driveway was going on Rosemary Lane the association was not notified.

John Huckins explained only the abutters were notified not the association by State statue.

G. Bailey closed public comment.

### **3. REVIEW AND APPROVAL OF MINUTES**

A. Review and approve minutes of the February 16, 2022, 7:00pm meeting

*A motion was made by D. Whitten and seconded by P. Thibodeau to approve the minutes of February 16, 2022. Vote 3/1*

Roll Call:

T. Hardekopf-Abstained

G. Bailey-Aye

D. Whitten-Aye

P. Thibodeau-Aye

### **4. ADJOURN**

*Without objection the meeting adjourned at 7:57 p.m.*

Roll Call:

T. Hardekopf-Aye

G. Bailey-Aye

D. Whitten-Aye

P. Thibodeau-Aye

The next meeting will be held April 20, 2022, at 7:00 p.m. at the ECLC 77 Ramsdell Lane.

**\*\* Please note that all votes that are taken during this meeting shall be done by Roll Call vote. \*\***

#### **Visitor Orientation to the Zoning Board of Adjustment Meeting**

Welcome to this evening's Zoning Board of Adjustment meeting.

Copies of agendas and a sign-in sheet are available for visitors.

#### **Meeting Access**

##### **In-Person**

Early Childhood Learning Center (ECLC)

Multi-Purpose Room

##### **Remote Meeting Participation**

Video: [barrington.nh.gov/zbmeeting](https://barrington.nh.gov/zbmeeting)

Call in: [+1 603-664-0240](tel:+16036640240) and Conference ID:



Meeting Materials

Additional details regarding each agenda item and all supporting documentation can be found online at <https://www.barrington.nh.gov/zoning-board-adjustment>. Please contact the Land Use department with any questions via phone at (603) 664-5798 or email at [planning@barrington.nh.gov](mailto:planning@barrington.nh.gov). Files on the applications and items, above, including the full text of any proposed ordinances, regulations, or other initiatives are available for inspection in the Land Use Department Office, Monday through Thursday from 8:00 a.m. to 3:00 p.m.

Special Accommodations

The Town of Barrington requires 48 hours' notice if the meeting must be modified for your participation or if special communication aides are needed. Please submit requests to the Land Use Department office via phone at (603) 664-5798 or email at [planning@barrington.nh.gov](mailto:planning@barrington.nh.gov).