



Zoning Board of Adjustment

Enfield NH

Minutes of January 10th, 2017 Meeting, Approved June 27th, 2017

Call to Order

A regular meeting of the Enfield Zoning Board of Adjustment was called to order at 7:05 PM, January 10th, 2017 at the Enfield Public Works Building.

Attendance

Board and staff: Mike Diehn, Chair; Tim Lenihan, Vice-Chair; Kurt Gotthard, Clerk; Cecilia Aufiero; Ed McLaughlin; Tom Blodgett, Alternate; Scott Osgood, Zoning Administrator;

Guests: Robert and Lauri Malz of 17 Bridge Street; Roger Rodewald (South Sutton, NH) and Ruth Edwards (Sutton Mills, NH) of Riverside Ecological Design, LLC for the Malzs; Dan Corley, Esq. (Concord, NH) for the Malzs; William and Simin Batchelder of 19 Bridge Street. Atty. Barry Schuster of Schuster Buttrey & Wing PA, Lebanon NH, representing the Batchelders; Rick Sam, Enfield; Paul Currier, Enfield; James Bowman (Enfield Center) for Enfield TV.

Public Hearing – Malz Variance (Lake setback) continued

Continuation of Robert and Lauri Maltz [sic.] request for a variance from the Enfield Zoning Ordinance Article IV, Section 401.1 M; setbacks from seasonal high water marks of a Lake, at 17 Bridge Street, Map 32 - Lot 5 in the Residential 1 (R1) zoning district to locate a portion of a new home within the setback. An existing home already exists in the setback and will be removed to make way for a new building.

Roger Rodewald and Susan Edwards of Riverside Ecological Design, LLC. presented additional documents in support of the Malzs' request. The additional documents are pictures from the lake and from the street of each property along Bridge Street, a set of large plot diagrams and plat maps of the area, and overhead pictures from Google Earth overlaid with plot lines and roads. These illustrate well the properties and buildings on them in relationship to each other, to the lake, the lake setback, the road, and the lot lines.

Rodewald asserted that the 50 foot setback is great but it's 50 years too late. The real issue is the control of run-off into the lake and the plans for the new house and

32 landscaping will do more for the lake than leaving the land as it is. In support of this point,
 33 he shared a table Riverside created showing for each lake front lot along bridge street
 34 The numbers on the table below show the percentage of each lot covered by impervious
 35 surfaces, the percentage of lot area covered by the 50 foot buffer, and the percentage of
 36 buffer in each lot that is (or would be) covered by impervious surfaces.

BRIDGE STREET - LAKESIDE LOTS ANALYSIS

Property Lot (Address)	Total IMPACTED Area (SF)	Total LOT Area (SF)	Ratio of IMP/LOT	Total IMPACTED Area - 50' Setback (SF)	Total LOT Area - 50' Setback (SF)	Ratio of IMP/LOT - 50' Setback	Distance from Shoreline to IMPACT (LF)
Lot 32/7 (23 Bridge)	1,766	10,890	16%	1,766	8,490	21%	5
Lot 32/6 (19 Bridge)	4,037	6,875	59%	3,030	5,510	55%	9
Lot 32/5 (17 Bridge)	1,860	9,258	20%	1,550	5,315	29%	21
Lot 32/4 (15 Bridge)	1,260	7,121	18%	600	4,725	13%	26
Lot 32/3 (11 Bridge)	848	5,663	15%	848	4,000	21%	24
Lot 32/2 (BRIDGE)	0	3,049					
Lot 32/1 (3 Bridge)	2,583	13,050	20%	905	9,250	10%	14
AVERAGE			24.6%			24.8%	16.5

37 Rodewald and Edwards explained the point of this table: while the Malzs plans would have
 38 them covering more of the buffer in their lot, 29%, than the average for the lots in the area,
 39 24.8%, it would still be considerably less than the lot with the largest coverage of buffer at
 40 55%. Also, they show that the percentage of the entire Malz lot they'll be covering with
 41 impervious surfaces is 20%, below the average of 24.6% and well below the largest
 42 coverage at 59%.

43 Barry Schuster spoke briefly to re-iterate the Batchelders objections and to point out while
 44 the 50' buffer may be 50 years too late, it is still the law today.

45 Dan Corley responded to Schuster's remarks.

46 Mr. Batchelder presented to the board a letter he'd written entitled Batchelder Objectives,
 47 dated January 10th, 2017, in which he related history of the communications between the
 48 them and Malzs about this new house and then set forth their objectives in protesting the
 49 Malz's variance request:

- 50 1. locate the new house 20 feet further from our property than the existing house
- 51 2. that there be no garage at 17 Bridge Street
- 52 3. that there be no elevated deck
- 53 4. that there be no third story on the lake side of the new house because a third story
 54 on the lake side half would block our view and the morning sun.

55 Chairman Diehn asked if Mr. Batchelder believed the board could help with any of this and
56 Mr. Batchelder replied that he hoped the people in the room could, even if the board could
57 not. Chairman Diehn pointed out that the board cannot help with these objectives

58 The chair read from minutes of the Dec 13th meeting the list of facts found so far and
59 members of the board contributed to revision of the list, resulting in this list of facts found:

- 60 1. The Malzs have a Shoreland Impact Permit, No. 2014-02350, approved Nov 19,
61 2014 for this project.
 - 62 a) Conditions in the permit: no more than 4,982 s.f. may be disturbed during this
63 project,
 - 64 b) work is to be done in accordance with Riverside Eco. Plan dated Aug 6th, 2014,
65 received. by NH DES Sep 12th, 2014,
 - 66 c) no more that 20% of the area within the shoreland buffer may be covered by
67 impervious surfaces w/o add. Approval from NH DES.
- 68 2. Existing building is approx. 576 s.f. and is all within the setback.
- 69 3. Planned building would be approx. 1860 s.f. and 1,550 of that would be in the
70 setback.
- 71 4. The new house would increase the impact on the wetland setback by approx. 920
72 s.f.
- 73 5. Lot dimensions are 69' at the road, 72' at the shore, 85' on the west lot line, and 70'
74 on the east. Lot is approx. 0.13 acres.
- 75 6. This is a regularly shaped lot. There's nothing odd about it. It's quite similar to other
76 lots in the area.
- 77 7. Received from the Malzs Shoreland Site Plan drawn by Riverside Ecological dated
78 Aug 6th, 2014 2pp and Lot Line Adjustment Plan of Land by Christopher Paton, LLS.,
79 dated Jan 10th 2017, 2pp
- 80 8. There is between 7' and 15' of setback between the proposed house and the road.

81 Review and Discussion of Variance Criteria

82 All agree that granting this variance wouldn't lower *property values*.

83 Aufiero said she believes granting this variance would be *contrary to the public interest*
84 because it would add to the cumulative effect of overcrowding and is against *the spirit of*
85 *the ordinance* because it will reduce the air and light in the neighborhood. Gothardt agreed

86 Gothardt agreed with Aufiero and added that he believes the increase of approx. 950 s.f.

87 of impact to the buffer would have a negative effect on the land and environs and that
88 would not be a proper use of the natural resources and therefore granting the variance
89 would violate the *spirit of the ordinance*. Aufiero agreed

90 McLaughlin said the water management practices planned would reduce the runoff from
91 the road as well as from the lot itself and that would improve the conditions of the lake
92 [natural resource] and therefore granting the variance would be in keeping with the *spirit*
93 *of the ordinance* . Lenihan and Diehn agreed.

94 McLaughlin also pointed out that allowing this variance will improve the appearance of the
95 neighborhood by balancing the structure placements on the land and improving the quality
96 of the building on their lots.

97 Lenihan said that McLaughlin's points about aesthetics and balance and the increased
98 setback from the side lot-line are all in keeping with the harmonious development principle
99 *of the spirit of the ordinance*. All agreed.

100 On the matter of hardship, Lenihan pointed out that the 50 foot buffer covers well over half
101 the lot and the road and side setbacks cover most of what's left, leaving very little space to
102 build in compliance.

103 Diehn says he understands the main purposes of a wetlands buffer to be to control runoff
104 and to prevent habitual infringement into the wetlands by people during recreational or
105 maintenance activity. He says that along this part of the lake shore, the buffer has long
106 been largely compromised for those purposes and that while it's true the new building
107 would cover more of the buffer, he believes that the rain gardens and landscaping plans
108 will make up for that and go further to curtail the runoff from the road as well as the lot
109 itself, meaning this development won't go against the public interest or the spirit of the
110 ordinance principle of assuring proper use of natural resources.

111 Diehn says that in addition, as the buffer along the lake front is already well compromised,
112 it would serve no general purposes of the ordinance to enforce literally that provision of
113 ordinance to this property and so we should consider denial an *unnecessary hardship*.

114 At approximately 8:45, Chairman Diehn asked for a motion.

115 ***Motion: Ed McLaughlin moved that the board approve the Malzs' request for a variance***
116 ***from EZO 401.1 M to allow them to replace an existing structure in the fifty foot wetlands***
117 ***buffer of Mascoma Lake with a new, larger home, a portion of which would occupy more***
118 ***space in the setback than did the old building; the new home, the landscaping of the lot***
119 ***and all construction work to comply with restrictions set forth in NH DES Wetlands Permit***
120 ***2014-02350. Tim Lenihan seconded the motion.***

121 ***The motion passed with 3 in favor and 2 against.***

122 Public Hearing – Malz Variance (Minimum Lot Size)

123 Robert and Laura Maltz request a variance from the Enfield Zoning Ordinance Article
124 IV, Section 401.1 K; R1 Residential District regarding minimum lot size. They are
125 requesting a variance for a lot line adjustment between two non-conforming Lots 4 and
126 5 on Map 32 at 15 & 17 Bridge St. The adjustment will make Lot 4 less conforming to
127 the zoning area requirement and Lot 5 more conforming.

128 Roger Rodewald and Susan Edwards of Riverside Ecological Design, LLC. presented the
129 Malzs' request for a variance from EZO 401.1 K to allow them to move the lot line between
130 their 15 & 17 Bridge Street lots.

131 No-one spoke in opposition.

132 Findings of Fact:

- 133 1. The Malzs own both lot 4 and lot 5 on map 32 free and clear – there is no mortgage
134 on either property.
- 135 2. Lot 5 is presently 6,629 .s.f. and would become 9,254 s.f.
- 136 3. Lot 4 is presently 9.750 .s.f. and would become 7.121 s.f.
- 137 4. The change will make it possible for house planned for lot 4 to be sited respecting
138 the 15 foot side lot line setbacks.
- 139 5. The change moves the line between lots 4 and 5 30 feet to the southeast.

140

141 The board members discussed the five variance criteria briefly and found them met.

142 At approximately 8:52, Chairman Diehn asked for a motion.

143 **Motion: Tim Lenihan moved** the board approve the Malz's request for variance from
144 EZO 401.1 K in order to adjust the lot line between lots 4 and 5 on Map 32 and thereby
145 cause Lot 4 to be smaller than the minimum allowed in the R1 district. **Kurt Gothard**
146 **seconded** the motion.

147 No member asked for further discussion.

148 The **motion passed** with 5 in favor and none against.

149 Unfinished Business

150 None

151 Approval of Minutes

152 **Motion:** *Tim Lenihan moved that the board approve the draft minutes of the 12/13/2016.*
153 *Kurt Gotthard seconded.*

154 Discussion

155 Scott and Kurt asked for corrections at lines 22, 23, 49, 70. Kurt added names of
156 mover and seconder at 80 and 84 and corrected the vote record at 44 for Eastern
157 Propane Gas's S.E. request.

158 *Moved by Mike, seconded by Ed to amended motion to read "approve 12/13/16 minutes*
159 *as corrected. Motion to amend passed 5/0.*

160 *Motion before the board is shall the board approve the draft minutes of the 12/13/2016*
161 *as corrected?*

162 **Motion passed** as amended 5/0. **Minutes approved.**

163 Next Meeting

164 The next meeting will be Feb 14th, 2017 at 7:00 PM in the Enfield DPW building, subject to
165 change. Yes, that's Valentines day.

166 Adjournment

167 **Motion:** *Mike Diehn moved that we adjourn the meeting. Celie seconded. No discussion.*

168 **Motion passed** 5/0.

169 Meeting adjourned at 9:06 PM.