

ENFIELD ZONING BOARD OF APPEALS  
REGULAR MEETING  
**AGENDA**  
MONDAY SEPTEMBER 27, 2021 7:00 PM  
ENFIELD TOWN HALL – COUNCIL CHAMBERS  
820 ENFIELD STREET – ENFIELD, CT

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1. Call to Order
2. Roll Call
3. Fire Evacuation Notice
4. Pledge of Allegiance
5. Town Attorney Report (*None*)
6. Old Business
7. Legal Notice
8. New Business
  - a. ZBA# 2021-07-13 – 56 Highland Park – Variance request from Section 4.10.3 – to allow for up to 6% increase in lot coverage; Jeffery Magee, owner/applicant; Map 33/Lot 37; R-33 Zone.
9. Approval of Minutes
  - a. June 28, 2021 – *Regular Meeting*
10. Correspondence / Staff Reports
11. Other Business
12. Adjournment

**Note:** Application information is available for review in the Enfield Planning Office or online at <https://www.enfield-ct.gov/711/Zoning-Board-of-Appeals>.

You may watch the ZBA meeting on YouTube (no participation) at: <https://youtu.be/MDJWKT-RIT8>

The next regular meeting of the Zoning Board of Appeals is **October 25, 2021**

*Maurice LaRosa, Chairman*  
*Mary Ann Turner, Secretary*



## OFFICE OF THE TOWN ATTORNEY

TO: Chair Kenneth Nelson, Members, PZC  
Chair Donna Corbin-Sobinski, Members, IWWA  
Chair Maurice Larosa, Members, ZBA

FROM: Mark J. Cerrato, Assistant Town Attorney *MJC*

DATE: August 26, 2021

RE: Town Attorney Report

1. *128 Moody Road LLC v. Town of Enfield Zoning Board of Appeals* – As per the Scheduling Order, the Certified List is due on September 15, 2021 and the Return of Record is due on September 30, 2021.
2. *Jarmoc Farms LLC v. Town of Enfield Zoning Board of Appeals (69 Broad Brook Road)* – See above.
3. *Enfield PZC et al. v. Joseph C. Liquore, et al. (117 North Street)* – An Administrative Review Team (ART) meeting is scheduled for September 1, 2021 at 10:00 a.m. The next status conference is scheduled for September 21, 2021 at 10:00 a.m.
4. *Enfield IWWA et al. v. Joseph C. Liquore, et al. (117 North Street)* – See above.

c: James Tallberg, Town Attorney

K: Planning/Town Attorney Updates/2021August



# TOWN OF ENFIELD

## ENFIELD ZONING BOARD OF APPEALS STAFF REPORT & DRAFT RESOLUTION

**VARIANCE STATEMENT:** A variance can be granted where such grant will not affect the overall purpose of the Zoning Ordinance, and where strict interpretation of the Ordinance will result in a hardship. A hardship exists where the Zoning Ordinance uniquely affects a parcel of land differently from other properties, and where use of the property or reasonable use of the land would be impossible without the variance. Self-imposed or financial hardships cannot, by law, be considered as a reason for granting a variance.

<b>Application #</b>	ZBA# 2021-07-13	<b>Meeting Date:</b>	
<b>Address:</b>	56 Highland Park	<b>Prepared By:</b>	J.Pacacha
<b>Applicant:</b>	Jeffrey Magee		
<b>Property Owner:</b>	Jeffrey Magee	<b>Wetlands/Watercourses:</b>	None
<b>Zone:</b>	R-33	<b>Aquifer Protection Areas:</b>	None
<b>Current Use:</b>	Residential	<b>Flood Zones:</b>	None
<b>Proposed Use:</b>	Residential	<b>Variances:</b>	None
<b>Map/Lot:</b>	33/37	<b>Applicable Zoning Regulations:</b>	See Below

### PROPOSAL:

The owner of the property purchased 56 Highland Park in 2002 in its present condition which is over the maximum lot coverage allowed in an R-33 Zone (20%). The applicant would like to install a hot tub beneath the deck that exists on the rear of the home. The installation of the hot tub will not result in an increase in lot coverage, however the ZEO would not feel comfortable signing off on a building permit as the addition of the hot tub would intensify the present violation of the lot coverage. The variance request would be to section 4.10.3 – Special Requirements for Legal Non-Conforming Properties Under 33,000 Square Feet.

The property is .12 acres, or 5,227.20 square feet. The maximum lot coverage would be 20% of that, or 1,045.44 square feet. According to the Assessor's Card, the house is 870 square feet with a deck that is 120 square feet and a front porch that is 60 square feet. The property also has a shed which is 120 square feet and a detached garage which is 180 square feet. In total, the current lot coverage is 1,350 square feet, which is 25.83% lot coverage. This puts the lot coverage at 305 square feet, or 5.83% over the maximum allowed.

The property is very undersized compared to what the R-33 lot size and frontage requirements are. The R-33 Zone requires 33,000 square feet of lot area and 150 feet of frontage. This property is just over 5,000 square feet with 51.5 feet of frontage, which makes it just barely a buildable lot. This is consistent with the entire subdivision. Most likely these homes were built before the regulations changed to require 33,000 square feet of lot area and 150 linear feet of frontage.



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## TOWN OF ENFIELD

The hot tub is proposed to be located under the existing deck. The hot tub will not violate any setback requirements

Per **Section 11.00 Powers and Duties B.**, the ZBA shall have the authority to vary or adjust the strict applications of these Regulations in those cases where the unusual size, shape or topography of a lot or other unusual physical conditions pertaining to it or to any building situated thereon make it impossible to strictly apply a specific provision of these Regulations to such lot without resulting in exceptional difficulty or unusual hardship, so that substantial justice shall be done and the public health, safety and welfare secured.

### **ADJACENT USES:**

North: R-33

South: R-33

East: R-33

West: R-33

### **PICTURES**



### **PROPERTY HISTORY**

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Department of Development Services  
*Building/Community & Economic Development/Planning & Zoning*  
820 Enfield Street  
Enfield, Connecticut 06082

Telephone (860) 253-6507  
Fax (860) 253-6310

[www.enfield-ct.gov](http://www.enfield-ct.gov)



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## TOWN OF ENFIELD

There are no previous PZC or ZBA applications or approvals for this property.

### DECISION CRITERIA

#### Section 11.20 Decision-

A. No variance shall be granted by the ZBA unless it finds:

- i. That there are special circumstances or conditions, fully described in the findings of the ZBA, applying to the lot or structure for which the variance is sought, which are peculiar to such lot or structure and do not apply generally to lots or structures in the neighborhood and which have not resulted from any willful act of the applicant subsequent to the date of adoption of the regulation from which the variance is sought, whether in violation of the provisions herein or not;
- ii. That, for reasons fully set forth in the findings of the ZBA, the aforesaid circumstances or conditions are such that the particular application of the provisions of these Regulations would deprive the applicant of the reasonable use of the lot or structure, that the granting of the variance is necessary for the reasonable use of the lot or structure, and that the variance as granted by the ZBA is the minimum adjustment necessary to accomplish this purpose;
- iii. That the granting of the variance shall be in harmony with the general purposes, and intent of these Regulations and the Town's Plan of Conservation and Development, and shall not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare

Per **ZBA Bylaws Article X Order of Business Section 3-** All actions taken by the Board on application before them shall be implemented by a motion of a positive nature and voting accomplished by raising of hand(s). Reasons for approval/disapproval of such actions shall be described and identified.

#### DEPARTMENT COMMENTS:

**Engineering Department –**

**Health Department –**

**Building Department –**

**Water Pollution Control Authority –** The WPC has comments at this time.

**Police Department –** Approved in ViewPoint software

**Fire Department –** Approved in ViewPoint software

7/13/21

Detailed Narrative

I, Jeffrey Magee would like to install a small semi portable therapeutic spa hot tub on a pre-existing concrete slab that supports the second floor deck on my property at 56 Highland Park. It is required to provide relief for my disabled partner's treatment of fibromyalgia and chronic degenerative arthritis. My building permit, which is a request to allow the Spa sales company Teddy Bear Pool and Spa to deliver the Spa was denied because I am presently over the allowable lot coverage size of 20%. All the structures on the property (house, deck, garage and shed) including the cement slab on which I would like to have the spa placed, existed long before I purchased the property in 2002. I am seeking relief from the strict enforcement of Section 4.10.3 governing the amount of lot coverage on an R-33 zoned lot. The project would not increase lot coverage.

Jeffrey Magee

2021 JUL 13 PM 4:46  
RECEIVED  
HIGHLAND PLANNING DEPT

PROPERTY:  
56 HIGHLAND PARK  
ENFIELD, CT 06082

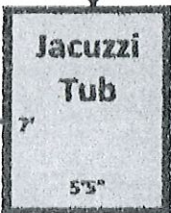
Jacuzzi Tub will be placed on existing  
concrete slab below 2<sup>nd</sup> floor wood deck  
on rear of house, as shown on sketch.

48'6" from  
Property Line

10' from Property Line

34'6" from Property Line

WDK  
PTO



EXISTING 2<sup>ND</sup> FL DECK W/ CONCRETE SLAB ON GROUND LEVEL

FUS  
BAS  
BSM

EXISTING HOUSE

FOP  
EXISTING  
PORCH

RECEIVED  
ENFIELD PLANNING DEPT.  
2021 JUL 13 PM 4:46

ENFIELD ZONING BOARD OF APPEALS  
REGULAR MEETING  
**MINUTES**  
MONDAY, June 28, 2021 7:00 PM  
ENFIELD TOWN HALL – COUNCIL CHAMBERS  
820 ENFIELD STREET – ENFIELD, CT

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**Call to Order**

Chairman Maurice LaRosa called the meeting to order at 7:05 p.m.

**Roll Call**

Commissioner Turner took the roll and present were Commissioners Maurice LaRosa, Charles Mastroberti, Mary Ann Turner and Alternate Commissioners Catherine Plopper and Robert Kwasnicki. Absent were Commissioners Richard Stroiney, Kelly Davis and Andrew Urbanowicz.

Also present was Jennifer Pacacha, Assistant Town Planner and Ricardo Rachele, Zoning Enforcement Officer.

Chairman LaRosa seated Alternate Commissioners Plopper and Kwasnicki.

**New Business**

- a. **ZBA# 2021-05-28** – 19 Barrett Road – Variance Application to Section 3.30.1 – Projections into Front Yards and Section 4.10.3 – Special Requirements for Legal Non-Conforming Lots to accommodate a front deck; Jessica Hayes, owner/applicant; Map 55/Lot 67; R-33 Zone.

Chairman LaRosa explained how the meeting will be run and provided the definition of a variance.

Jessica Hayes, 19 Barrett Road, addressed the Commission along with Joe Frangiamore. Ms. Hayes asked why a deck is not allowed to go into the setback but a porch is. Chairman LaRosa stated that they will have to ask the Planning & Zoning Commission (PZC) why the rules are written that way.

Ms. Hayes stated that she is trying to get some answers because the Zoning Department keeps sending her to the Building Department, which keeps sending her back to the Zoning Department. She stated that the sidewalk was crumbling and it was becoming a safety issue for her disabled mother. Ms. Hayes stated that she wanted to put in a handicap ramp and reiterated that she has not been able to get answers from the Building or Zoning Departments.

Ms. Hayes stated that she tried to follow the rules but the town hall had been closed due to COVID. She stated that she is currently at a standstill and would like to get it taken care of and add the ramp for her mother if possible.

Mr. Frangiamore explained that it is an L-shape from the front door to the side door and covers both stairways into the house and the walkway around.



Chairman LaRosa asked what was required to make this work. Mr. Rachele explained that the applicant submitted an additional application for the roof, which was corrugated plastic and does not satisfy the requirements of the Building code. He stated that they have to submit documents to construct a roof that satisfies the Building code.

Chairman LaRosa asked if they can put a ramp on once it has a roof, to which Mr. Rachele replied that they can put a handicap ramp in at any time. He stated that the front portion is supposed to be covered by a roof.

Commissioner Turner stated that ADA rules allow for a ramp to be added. Mr. Rachele stated that this is the first he has heard of a ramp, to which Ms. Hayes replied that they discussed this on June 13 when he came out to her house. Mr. Rachele stated that he does not recall this being part of the conversation.

Commissioner Turner stated that the town hall was closed but there was no reason for the applicant not to get a call back as Staff is returning phone calls.

Commissioner Turner asked how wide a ramp can be, to which Mr. Rachele replied that a normal ramp is 5 feet wide, but that would fall under the Building code requirements. Commissioner Turner stated that taking the wood apart would mean they do not need a roof or a variance.

Chairman LaRosa explained that they can have a deck on the side of the house uncovered; they just cannot have it in the front of the house. He stated that the applicant can solve the issue by changing the front part to a ramp.

Mr. Rachele stated that they will still have to go to the Building Department and make sure everything is permitted correctly.

Ms. Hayes stated that she would like to withdraw her application for a variance.

**Motion:** Commissioner Mastroberti made a motion, seconded by Commissioner Kwasnicki, to accept the withdrawal.

The motion passed with a 5-0-0 vote.

**Votes: 5-0-0**

- b. **ZBA# 2021-06-10** – 8 Lake Drive – Variance Application to section 4.10 – Area & Bulk Requirements to allow a 5-foot variance of the 10-foot side yard setback requirement to accommodate a house and garage addition; Elizabeth Beninato, owner/applicant; Map 98/Lot 10; R-33 Zone.

Jay Ussery of JR Russo & Associates addressed the Commission as a representative for Elizabeth Beninato. Mr. Ussery provided the Commission with a history of the property, explaining that Ms. Beninato needs to add some handicap accessibility for a disabled relative living with her. He

stated that the neighbor who was going to convey a part of their property changed their mind, so the applicant now requires a variance.

Mr. Ussery utilized a site plan to point out the house and garage. He stated that the garage is larger than a normal garage in order to allow for the handicap ramp on the van to come down. He stated that the result is a corner of the garage encroaching into the ten foot side yard, which is the reason for the variance application.

Mr. Ussery went over the hardships on the property, including the nonconforming parcel, shape of the property and need for handicap accessibility to the house. He stated that the neighbors on either side of the property signed a letter indicating that they are in support of the application.

Commissioner Turner asked if the house is two stories, to which Mr. Ussery replied that it is not. Mr. Ussery stated that the house is a tiny cottage and explained how the plans give the applicant the space she needs for handicap accessibility. He stated that there is a loft area but no second floor.

Commissioner Turner asked who owns the fence on the property. Mr. Ussery pointed out the fencing on the site plan and stated that the one tied to the house belongs to the applicant. He stated that he is not sure who owns the fence on the other side.

Commissioner Turner asked how they will get in the back to build it. Mr. Ussery stated that once the detached garage is gone there is room to get back there.

Commissioner Turner asked if there is a basement under the addition. Mr. Ussery stated that there will be some basement storage space and pointed out the hatchway on the plan.

Commissioner Turner asked if the Building Department has looked over these plans yet. Mr. Ussery stated that the applicant has been talking to the Building Department but they have not applied for a permit as they do not have all of the necessary approvals yet.

Ms. Pacacha stated that the Building Department is aware of the application and if they have no comments they typically do not say anything. Mr. Rachele stated that as long as it follows the Building code, the Building Department will be satisfied. Mr. Ussery stated that they will not be able to see that until they see the actual structural plans.

Commissioner Turner asked how deep the garage is. Mr. Ussery described the dimensions of the garage, stating that it is similar in size to a handicapped parking space which allows the ramp to come down for the wheelchair to come out.

Chairman LaRosa asked if the addition gets closer to the property line on the other side, to which Mr. Ussery replied that it does not. He stated that the regulations allow them to expand as long as they are not creating a further nonconformity, which is what they have in this case.

Commissioner Kwasnicki asked what the width of a handicap accessible van is. Mr. Ussery stated that the vehicle itself with both doors open is probably about 8 feet.

Commissioner Kwasnicki stated that the garage width is not excessive at all considering the width of a handicap parking space in a public parking lot.

Commissioner Turner asked for clarification on whether the applicant wants 5 feet or 5.25 feet. Mr. Ussery stated that it is 5.25 feet from the property line to the corner, so he is asking for 3 inches extra for fluff.

**Motion:** Commissioner Turner made a motion, seconded by Commissioner Plopper, to close the Public Hearing.

The motion passed with a 5-0-0 vote.

**Votes: 5-0-0**

Commissioner Turner stated that it is a reasonable request and will be an improvement to the area. Commissioner Kwasnicki agreed that it is a reasonable request based on the topography and layout of the property.

Commissioner Turner stated that she is curious who owns the fence.

Commissioner Kwasnicki asked if they can offer the variance for the specific thing and not just in general. Ms. Pacacha stated that they can make a motion specific to that portion of the house.

Chairman LaRosa stated that the hardship is the shape of the land.

Commissioner Kwasnicki asked if there are any wetlands associated with this property. Ms. Pacacha stated that the wetlands are farther back toward the lake.

**Motion:** Commissioner Turner made a motion, seconded by Commissioner Mastroberti, to approve ZBA# 2021-06-10.

The motion passed with a 5-0-0 vote.

**Votes: 5-0-0**

### **Approval of Minutes**

- a. May 24, 2021 – *Regular Meeting*

**Motion:** Commissioner Turner made a motion, seconded by Commissioner Mastroberti, to approve the minutes from the May 24, 2021 meeting.

The motion passed with a 5-0-0 vote.

**Votes: 5-0-0**

**Correspondence / Staff Reports**

Ms. Pacacha stated that there are no new applications at this time they expect to receive some.

Ms. Pacacha stated that they have been working on the Plan of Conservation & Development (POCD) & Zoning Regulations updates.

Commissioner Turner asked if they will meet in August, to which Ms. Pacacha replied that they will not. Chairman LaRosa stated that they are willing to meet if they have to in order to avoid making people wait.

**Other Business**

- a. Review of Application Forms

Commissioner Turner requested that this be put it on the agenda for the next meeting. Chairman LaRosa stated that they will look them over and email any changes to Staff.

**Adjournment**

Commissioner Kwasnicki made a motion to adjourn. The meeting was adjourned at 7:55 p.m.

Prepared by: Elizabeth Bouley, Recording Secretary

Respectfully Submitted,

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Mary Ann Turner, Secretary