

**UNAPPROVED MINUTES  
Town of Auburn  
Zoning Board of Adjustment  
February 23, 2021**

**Present:** Mark Wright, Chairman. Mike DiPietro, Vice-Chairman, Kevin Stuart, Dennis Vieira, Members of the Board. Patrick Bergeron, Alternate Member of the Board. Minutes recorded and prepared by Denise Royce.

**Also, Present:** Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer. Jason Long, Daniel Conley, Michele Buzderewicz, Roger & Doris Malo, Jason Guinesso.

**Absent:** Stephen Carroll, Member. Shawn Matte, Alternate.

Mr. Wright called the meeting to order at 7:09 p.m.

Mr. Wright began by reading the Meeting Preamble During COVID-19 Emergency which is as follows:

**MEETING PREAMBLE DURING COVID-19 EMERGENCY**

Good Evening, as Chairman of the Zoning Board of Adjustment, I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that any public gathering of people may pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19 and is reinforced by Emergency Order #16 issued by the Governor on March 23<sup>rd</sup>. In concurring with their determination, I also find that this meeting is imperative to the continued operation of Town government and services.

Governor Sununu issued Emergency Order #12 on March 23<sup>rd</sup> which provides local government boards the ability to conduct business using technology to hold remote meetings and not provide a public place of meeting but provide for the public's ability to listen to the meeting. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote as required by RSA 91-A:2, III (e).

At this time, I welcome members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply.

Let us start the meeting by taking a Roll Call attendance. When each member is called please state your name, and also please state if there is anyone in the room with you during this meeting, which is required under the Right-to-Know law (RSA 91-A:2, III (c) and whether you agree to your voice being recorded.

Mr. Wright welcomed everyone to the Zoning Board of Adjustment meeting tonight and moved on to the roll call of attendees and began with the Board members as follows:

Mr. Wright indicated that no one else was in the room with him and that he also consented to this meeting being recorded.

Mr. Wright called on Mr. Michael DiPietro. Mr. DiPietro indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright moved on to call on Mr. Kevin Stuart. Mr. Stuart indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Mr. Dennis Vieira. Mr. Vieira indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Patrick Bergeron. Mr. Bergeron indicated that no one else was in the room with him and that he consented to this meeting being recorded.

Mr. Wright called on Mr. Stephen Carroll. Mr. Carroll was not present.

Mr. Wright called on Shawn Matte. Mr. Matte was not present.

Mr. Wright called on Ms. Denise Royce. Ms. Royce indicated that she was in a room by herself and consented to this meeting being recorded.

Mr. Wright called on Mrs. Carrie Rouleau-Cote. Mrs. Rouleau-Cote stated that she was in a room by herself and consented to this meeting being recorded.

Mr. Wright called on Jason Long. Mr. Long indicated that he was in a room by himself and consented to this meeting being recorded.

Mr. Wright called on Daniel and/or Gina Conley. Mr. Conley indicated that he was in the kitchen and that his wife was walking around the house and that they both consented to being recorded. Mr. Wright stated that, if Gina does pop in to just have her provide her own consent. Mr. Conley stated that he could right now. Gina Conley stated that she consented to being recorded.

Mr. Wright moved on to Doris and Roger Malo. Roger and Doris Malo both consented to being recorded and stated that they were in their house together.

Mr. Wright moved on to anyone else that he has not called out to state whether they were alone and if they consented to being recorded. Michele Buzderewicz of Juniper Circle stated that she was alone and that she consented to being recorded.

Jason Guinesso of Pingree Hill Road consented to being recorded and stated that he was in a room alone.

Mr. Wright thanked everyone for their patience and explained tonight's procedure to everyone present. Mr. Wright elevated Patrick Bergeron as a full voting member for this case in the absence of Steve Carroll. With that said, Mr. Wright asked Ms. Royce to read the first case into the minutes for the record. At this time, Ms. Royce read the first case.

#### **Case #21-01**

#### **Daniel & Gina Conley**

#### **66 Juniper Circle – Tax Map 8, Lot 25-12**

#### **Zoned Residential Two**

*Applicant is requesting a Variance to allow a deck structure to be less than 60 feet from structure on abutting lot within a cluster subdivision in a Residential Two zone. (Article 4, Section 4.04(4))*

Mr. Wright asked Mr. or Mrs. Conley to read their application into the minutes for the record and to begin at Section #3. Mr. Conley read his application for the Board. Mr. Conley explained that, the deck was only 18 inches short where the ordinance requires 60 feet from structure to structure and they plan to plant some trees to give the abutter as well as their family some privacy. Mr. Conley stated that, the neighbor on the adjoining lot have signed a document of which the Board should have in their packets. Mr. Wright pointed out that, there were two (2) more factors that Mr. Conley did not answer and asked Mr. Conley to answer those two at this time. Mr. Conley answered both of those questions by stating that substantial justice would afford him the ability to extend this deck whereby the original deck was a little bit small. Mr. Conley commented that, it is consistent with the spirit of the zoning ordinance because the deck does not jet out the side of the house as it is directly behind the house and it is only because of the way the

houses are angled that it encroaches into the 60 feet by a foot in a half. Mr. Wright thanked Mr. Conley for his presentation.

Mr. Wright asked Mrs. Rouleau-Cote, the Code Enforcement Officer if she had any questions or comments. Mrs. Rouleau-Cote began by saying that, the property owner was advised that the construction of the deck need to comply, and he had already begun construction of the deck so we had to have him stop until he could come before the ZBA to seek relief. Mrs. Rouleau-Cote stated that, although we did not have a surveyor out there that it did appear that he did not meet the 60 feet so that is why the Variance was necessary.

Mr. Wright asked the applicant if he was certain in terms of the measurement that the deck is within the required 60 feet by a foot in a half. Mr. Conley explained that he measured it with a tape measure many times and it is on a hill and he has come up with 58½ inches each time.

Mr. Wright turned to the Board members and called them out one by one and began with Mr. DiPietro for any questions or comments. Mr. DiPietro began by pointing out page #9 of the applicant's paperwork that shows the deck attached to the house and believed that they could say that it cannot exceed past the edge of the house that they could use that as documentation. Mr. Wright moved on to Mr. Stuart and Mr. Stuart had nothing else to add. Mr. Wright asked Mr. Vieira and Mr. Vieira did not have anything further to add. Mr. Wright asked Mr. Bergeron and Mr. Bergeron did not have anything to add but commented that, it was well presented, and Mr. Bergeron also thanked Mr. Conley for his service.

Mr. Wright asked if there were any abutters present who had any questions or comments. Ms. Buzderewicz stated that she lives across the street and had no concerns. Mrs. Rouleau-Cote wanted to make a suggestion on Mr. DiPietro's comment about the dimensions. Mrs. Rouleau-Cote commented that, if you would like to word your motion as such as to say a 14 by 32-foot deck off the deck extension at the closest point because the house makes the 60-feet and it's the 14-foot deck off the back of the house that is a little bit shy. Mr. Wright agreed and added that, if they wanted to say "an approval of a 14 by 32-foot deck as depicted on the drawing so that way that dimension is set, and it's also approved as presented. With that, Mr. Wright indicated that, he would entertain a motion to vote on this application with a few of those comments that, Mrs. Rouleau-Cote, Mr. DiPietro and myself made.

***Mr. DiPietro made a motion to vote on the application as presented and as depicted in the drawing presented at this meeting to be no greater than 14 by 32 feet as shown on the plan. Seconded by Mr. Bergeron.***

Mr. Stuart thought they should make a friendly amendment to include the two steps shown on the drawing. A brief discussion ensued with regard to the steps and was determined to be covered by including it in the plan. The motion moved along.

***Mr. Bergeron voted to Grant, Mr. Vieira voted to Grant as he believes all the factors have been met, Mr. Stuart voted to Grant finding all factors have been met, Mr. DiPietro voted to Grant finding all five (5) factors have been met, and Mr. Wright also voted to Grant finding all five (5) factors of the Variance have been met. A vote was taken and, all were in favor and the motion passed.***

Mr. Wright informed the applicant that the Variance has been granted and further informed the applicant about the 30-day appeal period.

**Case #21-03**

**Jason Long**

**On Behalf of Eldon & Susan Long**

**620 Pingree Hill Road, Tax Map 2, Lot 44-1**

**Zoned Rural**

*Applicant is requesting a Special Exception to allow an Accessory Dwelling Unit, and a Variance to allow addition (ADU) to be within the 50-foot building setback in a Rural zone. (Article 4, Section 4.05(4))*

Mr. Wright heard a chime in or out and asked whoever was joining in on the hearing to please state their name. Carl Hoffman of Juniper Circle stated his name to everyone present. Mr. Wright informed Mr. Hoffman that, the Board just handled that case and that the case was Granted to allow the homeowner to put the deck on. Mr. Hoffman thanked the Board and signed off on the call.

Mr. Wright moved on to Case #21-03, Jason Long, 620 Pingree Hill Road and elevated Mr. Bergeron to full voting member for this case as well. With that said, Mr. Wright asked Mr. Long to go through his application for the Board members. Mr. Long introduced himself and stated that he was Mr. Eldon Long and Susan Longs son. Mr. Long read his application into the minutes for the record.

Mr. Wright explained that, the Board was in receipt of a signed consent letter to allow Mr. Long to present on their behalf. Mr. Wright began by asking Mrs. Rouleau-Cote if she had anything else to add. Mrs. Rouleau-Cote stated that, this property is located in the Rural zone which requires all setbacks from property lines shall be 50 feet from front, rear and sides so that does create a little bit of a hardship for this property because this lot was most likely created prior to this zoning going into place. That area is 3 acres and 300 feet of frontage so there are some hardships with regard to the layout of the property itself which makes it difficult to meet the setbacks based on the configuration of the lot. Mrs. Rouleau-Cote further added that, she has been on-site and that they have done test pits and that a septic design has been prepared as well. Mr. Wright thanked Mrs. Rouleau-Cote for the background information.

Mr. Wright talked with Mr. Long about the existing buffer between the property lines and asked if there was anything that would be removed to make way for this ADU. Mr. Long stated that, there will be a few smaller trees that will need to be removed and there are a couple of dead trees that will have to come down as well but that the buffer will stay intact.

Mr. Wright turned to the Board members for questions or comments and began by asking Mr. DiPietro. Mr. DiPietro commented that, based on the distance from the property line that if they reference the drawing and its relationship to the house and the size of the addition that it should cover everything.

Mr. Wright asked Mr. Stuart. Mr. Stuart believed that the septic system was located in the back of the house which would deter them from putting the ADU on the back of the house. Mr. Long stated that, that was correct, the septic was located at the back of the house and that on the other side of the house was where the well was located. Mr. Long also pointed out that, the idea was to make sure that there were no stairs for his parents to climb.

Mr. Wright turned to Mr. Vieira. Mr. Vieira stated that, all of his questions have already been answered.

Mr. Wright asked Mr. Bergeron. Mr. Bergeron brought up the deck and the carport and asked if that was part of the exception. Mr. Long said yes, that when the septic designer was drawing it up that he asked if there were any possible future decks or anything and he suggested that they throw them in at the same time. Mr. Wright believed that was an excellent question and asked if there would be any lot coverage issue and asked Mrs. Rouleau-Cote if they include the carport and deck. Mrs. Rouleau-Cote stated that she would quickly calculate it out and stated that the deck would not be included in the calculation for lot coverage because it was only things with a roof. She would do a quick calculation, but it was a 2-acre lot. While waiting, Mr. Wright pointed out that it was a 50-foot setback and asked Mr. Long if the carport or the deck encroached into the setback as well. Mr. Long commented that they both overlap into that setback but no closer than the closest corner of the ADU. Mr. Wright believed that, they would need a Variance for the ADU and the deck. Mrs. Rouleau-Cote came back and stated that, lot coverage would not be an issue as it was under the 5% (*current lot coverage is 1.98% and the proposed lot coverage with the ADU & Carport would be 3.29% where 5% is allowed*).

With that said, Mr. Wright asked the Board members if there were any further questions or comments if they include the carport and deck and asked the applicant to amend his application to reflect that. Mr. Long so noted and the application was amended. Mr. DiPietro believed they should have it in the record that it was for the Accessory Dwelling Unit, Deck and Carport. Mr. Stuart did not have any further questions or comments. Mr. Vieira also agreed with Mr. DiPietro. Mr. Bergeron asked if the carport would be a temporary structure or a permanent structure. Mr. Long said that it was a permanent structure.

Mr. Wright turned to abutters and began with Doris and Roger Malo. Mr. and Mrs. Malo both stated that they were fine with what was being proposed. Mr. Guinesso also stated that he had no problem with what was being proposed. Mr. Wright asked if there were any other abutters that may have joined us who had any questions or comments. None were noted.

Mr. Wright stated that, he did not hear a lot of concern or issues raised by Zoning Board Members or abutters or with our Code Enforcement Officer that would lead me to believe that we would need to go into deliberations for this case. Mr. Wright pointed out that, the Board should vote on the Special Exception for the Accessory Dwelling Unit separately and when they get to the Variance should reflect that our motion and the approval that in addition to the ADU that is requested 25 feet by 30 feet as presented on the plan. Mr. Wright went on to say that, the applicant is requesting the proposed carport and the deck as well. Unless someone makes a motion to enter into deliberation, he is going to open this up for a motion to start voting on the application as presented and amended.

***Mr. Vieira made a motion to vote on the application for Special Exception as presented. Seconded by Mr. DiPietro.***

Mr. Wright asked if there was any discussion. None was noted. Hearing none, Mr. Wright moved to a roll call vote.

***Mr. Bergeron voted to Grant as it has met all four (4) requirements, Mr. Vieira voted to Grant as he believes all four (4) factors have been met, Mr. Stuart voted to Grant finding all four (4) factors have been met, Mr. DiPietro voted to Grant finding all factors have been met for a Special Exception, and Mr. Wright also voted to Grant finding all four (4) factors for a Special Exception have been met. A vote was taken and, all were in favor and the motion passed.***

Mr. Wright moved on entertain a motion to vote on the Variance.

***Mr. DiPietro made a motion to vote on the Variance as presented and amended and as shown on the plan January 25, 2021 which Variance will include the proposed ADU, Carport and Deck to be no closer to the property line as shown on the plan presented tonight for 620 Pingree Hill Road, Tax Map 2, Lot 44-1. Seconded by Mr. Vieira.***

Mr. Wright asked if there was any discussion. None was noted. Hearing none, Mr. Wright moved to a roll call vote.



***Mr. Bergeron voted to Grant as he believes it meets all the five (5) factors for a Variance, Mr. Vieira voted to Grant as he believes all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. DiPietro voted to Grant finding all five (5) factors have been met, and Mr. Wright also voted to Grant finding all five (5) factors of the Variance have been met. A vote was taken and, all were in favor and the motion passed.***

Mr. Wright informed the applicant that the Variance has been granted and further informed the applicant about the 30-day appeal period. With that said, Mr. Wright informed Mr. Long that he believed he was all set. Mr. Wright indicated that, that concluded this case and that everyone was welcome to remain on the line and asked the Board Members to remain on the line while they conducted further business.

## **Minutes**

Mr. Wright moved on to the approval of the minutes of January 26, 2021.

***Mr. Vieira made a motion to approve the minutes of January 26, 2021, seconded by Mr. Stuart.***

Mr. Wright conducted a roll call vote to approve the meeting minutes for January 26, 2021.

***Mr. Bergeron voted to approve the minutes, Mr. Vieira voted to approve the minutes, Mr. Stuart voted to approve the minutes, Mr. DiPietro voted to approve the minutes, and Mr. Wright also voted to approve the minutes. A vote was taken and, all were in favor and the motion passed.***

## **New Business/Other Business**

Mr. Wright began by informing the Board members that, Mrs. Phillips submitted her resignation yesterday to Ms. Royce and that he sent Mrs. Phillips an e-mail thanking her for her time on the Board and her valuable input that she had. Mr. Wright also welcomed Mr. Patrick Bergeron to the Board as an alternate member of the Board.

Mr. Wright believed we needed at least one more alternate and asked Mr. Stuart if he recalled how many alternates we could have. In the "Rules of Procedure" it is noted that, ***"up to four alternate members shall be appointed by the Board of Selectmen, for 3-year terms."*** Mr. Wright also asked how many Board members the Board needed in order to make a quorum. It is noted that, in the "Rules of Procedure" for the Zoning Board of Adjustment it states that, ***"A quorum for all meetings shall be three members, including alternates sitting in place of members."*** A brief discussion ensued between the Board members regarding a quorum and alternates on the Board. Also noted is, ***"If there are less than five members (including alternates) present, the chair shall give***



***the applicant the option to proceed or to continue the hearing until the next date at which five members can be present. Should the applicant choose to proceed with less than five members present, that shall not constitute the sole grounds for a rehearing or appeal should the application fail.***” Mr. Wright could not recall a time where only three members showed up but now, they know that they can proceed if it ever did happen in order to be able to approve an application.

Mr. Wright moved on to ask the Board members if they had anything else to add or any new business before he moved on to ask Mrs. Rouleau-Cote and Ms. Royce what we had on the horizon for cases in March. None were noted. Mr. Bergeron commented that, he has been tracking about 10 new Bills at the State level that pertain to Zoning that could do a lot of changes and would like to update those at the next meeting. Mr. Wright stated that, they welcome that and will make sure that they have a little time at the end of the next meeting to discuss those.

Mr. Wright talked about Governor Sununu and possibly opening up schools and meetings in person and some were opposed to that and that we have been remote since March or April and asked if anyone heard anything about what should be occurring about holding remote meetings. Mr. Bergeron commented that, the Governor is looking to extend the order but there are two Bills of which one is from the Senate and one is from the House that is basically that, there is no more extending the order. So, the House will determine what is going to happen. Mr. Wright stated that, they will see how this plays out and pointed out how the Planning Board did not meet for quite some time during the beginning of the order and gave credit to the ZBA for having our meetings and making it work. With that said, Mr. Wright thanked Ms. Royce and Mrs. Rouleau-Cote for putting everything together and getting everything to the Board members and believed that the Board will see where the next few months leads us and thanked Mr. Bergeron for his input. A brief discussion ensued with Governor Sununu’s State of Emergency Order. Mr. Wright commented that, his sense and preference is to remain remote so long as the Emergency Order is in place unless we are required to meet in person then of course we will with the proper precautions put in place.

Mr. Wright asked if there was anything else. Ms. Royce pointed out that, as far as cases in March, we had two cases, but they did receive another case today with the deadline being March 1<sup>st</sup>, so we have three so far. Mrs. Rouleau-Cote stated that she knew of two more possibilities and recalled that, Mr. Wright in the past had said that he wanted to limit it to four so we may potentially have to let one know that they will be heard in April. A brief discussion ensued between Mr. Wright, Ms. Royce and Mrs. Rouleau-Cote regarding case load.

Mr. Wright thanked everyone and stated that, he would entertain a motion to adjourn.

## Adjourn

***Mr. DiPietro made a motion to adjourn, seconded by Mr. Stuart.***

***Mr. Vieira voted to adjourn, Mr. Stuart voted to adjourn, Mr. Bergeron voted to adjourn, Mr. DiPietro voted to adjourn, and Mr. Wright also voted to adjourn. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 8.23 p.m.***

Mr. Wright again thanked everyone, and the meeting stood adjourned.

**The Zoning Board of Adjustment next scheduled meeting would be for March 23, 2021 at 7:00 pm. Due to Governor Sununu's Emergency Order #12 on March 23<sup>rd</sup>, all meetings will be held via teleconference until further notice.**