



**Stratham Zoning Board of Adjustment
Meeting Minutes
April 2, 2024
Stratham Municipal Center
Time: 7:00 pm**

Members Present: Drew Pierce, Chair
Frank MacMillan, Member
Brent Eastwood, Vice Chair
Bruno Federico, Member
Jameson Paine, Member
Lucy Cushman, Alternate

Members Absent: None

Staff Present: Mark Connors, Director of Planning and Community Development
William Dinsmore, Building Inspector and Code Enforcement Officer

1. Call to Order/Roll Call

Mr. Pierce called the meeting to order at 7:00 pm and took roll call.

2. Approval of Minutes & Finding of Fact:

a. March 5, 2024

Mr. Federico said that there were several references to his last name misspelled and requested that corrections be incorporated to the spelling. Ms. Cushman said that she did not see anywhere in the minutes when she was appointed a voting member though she knew it did occur. Mr. Pierce confirmed that he did appoint Ms. Cushman a voting member. Mr. Connors said that the staff would review the recording and add when Ms. Cushman was appointed a voting member by the Chair.

MOTION by Mr. Paine to approve the March 5, 2024, meeting minutes as adjusted. Mr. Pierce seconded the motion. All voted in favor and the motion passed 3-0-2. Mr. Macmillan and Mr. Eastwood abstained.

b. Case #677 (325 Portsmouth Ave) Findings of Fact

MOTION by Mr. Pierce to approve Case #677 Findings of Fact. Mr. Paine seconded the motion. All voted in favor and the motion passed.

3. New Business:

a. Request for Rehearing. The Zoning Board will determine whether to grant a rehearing,

requested by the Select Board, of the following application on January 9, 2024:

Case #674: Green & Company (Applicant), Boulders Realty Corp. (Owner), 13 & 15 Stoneybrook Lane, Tax Map 4, Lots 1 & 7, Zoned Special Commercial. Request for a variance from Table 3.6, Table of Uses, to permit the development of single-family dwelling units in a district where the use is not permitted. The applicant proposes 59 single-family dwellings on a single property under a condominium form of ownership.

Mr. Pierce stated this is a public meeting and not a public hearing. The Zoning Board of Adjustment (ZBA) will internally discuss and make a determination on the motion for rehearing but will not accept any new public testimony. The Board has received written materials from the applicant for the motion for rehearing, the Stratham Select Board, as well as comments from the applicant's representatives in the decision being complained of represented by Attorney Kevin Baum. Mr. Pierce noted that the Board received one e-mail from a member of the public that he would like Mr. Connors to address.

Mr. Connors stated the Town received an email today from a member of the public in this matter. He does not recommend the ZBA accept it as public testimony because the town's attorney recommended not to accept any public comments for the ZBA deliberation on the rehearing request. If the rehearing is granted, there will be a new public hearing and the public would have the opportunity to comment but at this stage, it is only a decision on whether to grant the rehearing or not. Mr. Connors' recommendation is for the ZBA not to accept the public comments, though he could provide them if the Board disagreed.

Mr. Pierce replied that he agrees with not accepting the comments and asked the ZBA members if there are any objections to not hearing the email. No members raised any objections.

Mr. Pierce stated that Zoning Board Rules of Procedures do not address whether alternate members can participate in discussions for rehearing requests. Mr. Pierce said the Board should vote on whether or not to allow the alternate members to participate in the deliberations.

MOTION by Mr. Eastwood to allow alternates to have input in the discussion for the rehearing. Mr. Paine seconded the motion. All voted in favor and the motion passed.

Mr. Pierce stated that not all board members at this rehearing discussion were present at the Zoning Board meeting in which the original case was decided on January 9, 2024. He asked those members not present if they had the opportunity to review the application materials, meeting minutes, and associated materials and do you feel comfortable participating in the discussion. Mr. Paine, Mr. Eastwood, and Ms. Cushman all replied yes.

Mr. Pierce said the Board can now engage in the discussion. He asked the ZBA members if anyone sees a reason to or not to grant a rehearing. Mr. Eastwood replied that he appreciates the information about the parcel they received from the Select Board and believes that there are potential areas that the ZBA did not understand or consider and that may be a reason to discuss it further.

Mr. MacMillan stated that according to RSA 677:3, a rehearing is granted only if the petitioner has new relevant evidence to submit; new relevant legal issues that were not considered; or a prejudicial, technical, or legal error in the original decision. He reviewed the response from the Select Board petition, and also from the rebuttal from the applicant and is not sure that the first two standards apply. Mr. MacMillan asked whether the ZBA made a technical error related to one of their findings, which

94 was that housing is a permitted use and he believes that the ZBA needs to discuss that.
95

96 Ms. Cushman stated that she has been in the town a long time and while she was not involved with
97 writing this particular zoning district, she has been involved with many others. Ms. Cushman stated
98 that the decision to allow single family housing is not taken lightly. She believes there was a lot of
99 discussion about having a residential development in that District and the challenges with traffic from
100 elementary and middle school buses at the stoplights and the intersection and that the desire was to
101 not have housing after the bridge. That was a part of the discussion when the zoning was approved.
102 Ms. Cushman added that the impact of 59 houses in an area where single-family homes was voted by
103 the Town to not be allowed seems like an overreach. She added that Green & Company has been
104 around a long time, she has a lot of respect for them as a developer and they have completed a lot of
105 good projects, but she can't believe that this is the only thing that can happen there. Ms. Cushman
106 stated that the area around it is commercial and she imagines that area could look very different in a
107 few years, that Stoney Brook could be part of a larger commercial redevelopment project. Ms.
108 Cushman stated she viewed the area in person and only saw four houses all in Exeter so there is land
109 in Exeter that could be redeveloped. Mr. Federico stated there is also one house in Stratham. Ms.
110 Cushman replied that she didn't see that house and she can envision those properties being redeveloped
111 not as residential. Ms. Cushman continued that one of the things that the ZBA cited was the
112 recommendation from the Regional Planning Commission (RPC) about more housing. She stated that
113 she represents Stratham on the RPC and she serves on the Regional Impact Subcommittee and that the
114 subcommittee did not convene to discuss the project. The comment letter submitted to the ZBA was a
115 staff response to a request. The response did not go into an in-depth study to determine whether this
116 would be a good place for single-family homes. At the ZBA level there is not enough information, like
117 a traffic study. There is a lot of other information that comes forward when a proposal goes to the
118 Planning Board and the project could then go to RPC for a regional impact discussion. Ms. Cushman
119 stated that with the limited information available to the RPC for this project, she thinks that although
120 the RPC supports more housing, she doesn't believe the response states that this location is the ideal
121 spot for 59 houses. She stated that's not her understanding of how they function in response to requests
122 for regional impact.
123

124 Mr. Pierce asked Ms. Cushman if those issues would be presented to the Planning Board to make that
125 decision and does she believe the ZBA is in effect doing the work of the Planning Board. Ms. Cushman
126 replied that she believes that the ZBA is superseding. Ms. Cushman added the ZBA is deciding to do
127 something that town meeting voted not to and if the Planning Board thought that this project was a
128 good idea, that the Planning Board could change the zoning and allow single family homes there. Ms.
129 Cushman stated that the project does not meet the current zoning, it says single family not allowed.
130 She stated that variance applications come to the ZBA because of something that is not allowed. In
131 her opinion, to grant a variance to allow 59 homes where the town said no, seems like an overreach
132 and that maybe it's not the best use of property that is surrounded by commercial and highway.
133

134 Mr. MacMillan disagrees with Ms. Cushman and adds that it's not really the issue that they were
135 discussing. He is looking for new relevant evidence and they heard some of this evidence before. He
136 added that regarding new relevant legal issues and prejudicial, technical, or legal errors and the
137 decision to send the project to the regional board; he feels that the ZBA was somewhat backed into
138 that decision because they were the first land board reviewing the project. He added that he felt the
139 ZBA had to make the determination to send the project to the RPC. Mr. MacMillan stated that he didn't
140 think there was an option to not do that and that he remembers the discussion regarding a regional
141 impact determination, and he thinks was the correct decision. Mr. MacMillan stated that what the RPC
142 did with the request, or what they didn't do with it, he doesn't think is a discussion that is relevant to

143 what the ZBA is being asked to do tonight. Ms. Cushman replied that she mentioned it because it
144 seemed to her to be the basis of some of the decision making and it is part of the response from the
145 applicant.

146
147 Mr. MacMillan stated the ZBA needs to determine if they made a legal error in assuming that because
148 the zoning encourages multifamily housing, is that enough for the ZBA to alter that definition based
149 on the variance that the ZBA already decided to grant. That is the only question that he has that might
150 allow a rehearing but he hasn't heard anything that that convinces him. He asked Mr. Connors to opine
151 as the Board had discussions over two meetings and that wasn't an issue raised. Mr. MacMillan
152 continued that he read the rebuttals from the Select Board and the petitioner that is the only thing that
153 he believes might meet one of these three criteria for the rehearing.

154
155 Mr. Connors clarified that he believes the RSA states the Board of Adjustment may grant such
156 rehearing if in its opinion good reason therefor is stated in the motion. He added that he believes the
157 other language in the application is based on caselaw.

158
159 Mr. Paine stated he was in support of both Mr. Eastwood's and Ms. Cushman's comments with regards
160 an overreach of sorts with regards to the residential use of the land. He continued that his understanding
161 of Stratham's Zoning Regulations is that multi-family housing is an accessory piece that would
162 complement or allow for some housing in a commercial area that could help with either housing of
163 staff or housing for anyone in general. He does not think that multifamily housing is intended to be
164 the focus of the commercial area and that this piece of property is zoned as commercial and is adjacent
165 to the Town of Exeter's zoned commercial land as well. Mr. Paine acknowledged that there are
166 residential properties along the entry to this property, but they are in commercially zoned areas in both
167 Exeter and Stratham. He added that though those homes are currently residential uses, their future use
168 is anticipated to be a commercial use, whether that's a mixed use or not. Mr. Paine said to hang your
169 hat on the existing residential use in the area doesn't necessarily speak to the intended use of the
170 property and what the community wanted. He added that the Town voted for the commercial zoning
171 and for the ZBA to determine that the entire property can be used solely as residential instead of a
172 commercial use with a supplemental residential piece, takes away from the commercial zoning. He
173 added that if the ZBA's intention is to make adjustments, he believes this decision is not an adjustment
174 and is a full alteration to the zone. Mr. Paine provided examples of basic adjustments including
175 enlarging a sign or allowing property to be moved several feet one side or the other of a buffer. Mr.
176 Paine believes the ZBA made a decision to repurpose the land into something that wasn't previously
177 approved and would, more or less, put that property into residential use into perpetuity until someone
178 tears down 59 houses. The comments that were presented by the applicant regarding the expense of
179 water and sewer, he believes also apply to the proposed residential use. Mr. Paine stated that a robust
180 commercial development proposal could have more options to offset the cost of the water and sewer.

181
182 Mr. Pierce stated that he doesn't disagree with Mr. Paine's statement but wonders if that's a new topic
183 because the ZBA discussed water, sewer, and housing at the public hearing and those factors were
184 considered in the ZBA's unanimous decision. Mr. Pierce stated that he does not consider it to be new
185 information to grant a rehearing.

186
187 Mr. Paine replied that the overreach of spot zoning should be considered for the legal component for
188 a rehearing. He stated that the ZBA should consider what their actions have done or what the results
189 of their actions has created and in this case it could be a spot zone that wasn't intended to have the use
190 solely as residential.

192 Mr. Federico stated that he was a Selectman when this zone was created in 2009 and when the Town
193 received a commitment from Exeter to obtain water and sewer services. In 2018, the Town voted
194 against the water and sewer extension from Exeter, he said. In 2020, the Town voted against
195 implementing a TIF district, which would have created the opportunity for just a commercial district
196 to obtain water and sewer. Mr. Federico stated he is perplexed with the comment that the ZBA is
197 changing the zoning when we are granting relief to an applicant. The applicant provided the history of
198 the zone and of the property. There was a church proposed in the past that couldn't get enough money
199 to build a large enough parking lot with all of the conditions that are required. He doesn't see how
200 commercial is going to be developed in that area with all of the wetlands. Mr. Paine stated that there
201 is space for 59 residential units. Mr. Federico replied that there isn't a lot of paving. Mr. Pierce added
202 that with residential the use can be weaved in and out of wetlands areas. Mr. Paine replied that the 59
203 units includes houses, driveways, and septic systems so the majority of the developed areas is filled.
204 Mr. Federico replied those are only conceptual designs for the property and the Planning Board will
205 review the project. Mr. Pierce wondered if the ZBA is acting as the Planning Board by discussing
206 those issues.
207

208 Ms. Cushman stated that she is not saying there should never be residential, but since the Town voted
209 that single family house is specifically not allowed. She remembers the Town discussion and that
210 people did not want housing on that side of the bridge nor in the Gateway District and that is why
211 housing in that area is so restrictive, that those areas were going to be the commercial zone and housing
212 would be in the rest of town. Ms. Cushman believes it is illegal for the ZBA to change it and it should
213 be a town vote to decide to change the zoning to allow single-family homes with the trash and school
214 bus issues that would be associated with that use. She believes in the future there could be a major
215 development in the Exeter portion with the houses redeveloped and that the land in Stratham will be
216 an accessory to that. She added there would be water and sewer for the Exeter development and the
217 land in Stratham could be conservation or common area and that to allow single-family housing seems
218 very shortsighted.
219

220 Mr. Pierce replied that he feels the discussion is getting away from the request for a rehearing and he
221 requested a motion to vote on the rehearing. He added that he believes a lot of the information being
222 discussed tonight was discussed in the two meetings on the project and because all ZBA members did
223 not attend both meetings, the applicant presented the entire project at the second meeting for the benefit
224 of those who did not attend the first ZBA meeting. Mr. Pierce stated that the reason the project was
225 not voted on at the first meeting was because the ZBA voted to have the project reviewed by the
226 Rockingham Planning Commission.
227

228 **MOTION by Mr. MacMillan that the Zoning Board of Adjustment deny the request for**
229 **rehearing. Mr. Pierce seconded the motion. Motion passed 3-2 with Mr. MacMillan, Mr. Pierce,**
230 **and Mr. Federico voting in favor. Mr. Eastwood and Mr. Paine voted against the motion.**
231

232 **b. Case #678:** John and Susan Connors (Applicants), Connors Revocable Trust (Owner), 3 Treat
233 Farm Road, Tax Map 14, Lot 163, Zoned Residential/Agricultural. Request for a variance from
234 Section 11.5 Wetlands Conservation District (Overlay), to permit the construction of a shed 28
235 feet from the edge of wetlands (poorly drained soils) where a minimum setback of 50-feet is
236 required.
237

238 Mr. Pierce invited the applicants to present their project. Ms. Connors stated that they are looking to
239 construct a 200 square foot shed approximately 28 feet from the edge of wetlands. She described the
240 rear yard as approximately 17,500 square feet land with only 6,900 square feet as usable due to the

241 wetlands buffer and the 50-foot rear non-disturbance buffer for cluster subdivisions. She described the
242 side property line between 3 and 5 Treat Farm as angling behind 5 Treat Farm. Ms. Connors addressed
243 the Conservation Commission's question as to why the shed couldn't be placed in an area towards the
244 rear property line and along the side property line for 5 Treat Farm Road. She stated that the issue with
245 that location is it would be in the direct line of sight of their neighbor's patio which is only 65 feet
246 away and that the neighbor at 7 Treat Farm Road has fully developed their backyard with a pool, a
247 large fireplace and a very large pavilion which is in the direct view of 5 Treat Farm Road. Ms. Connors
248 stated that her and her neighbors both like the unobstructed view of their open lawn areas and the
249 Connors family does not want to impede on their recreation space, given the lack of usable land due
250 to the buffers.

251
252 Ms. Connors presented photographs of the yard and proposed shed location and the challenges with
253 sloping land. She explained the proposed location has a few boulders that will be moved, a large dead
254 tree stump and is covered with invasive bittersweet which quickly wraps around trees and kills them.
255 She further described the extent of bittersweet in the buffer zone. Ms. Connors summarized that the
256 variance request it to place the shed in an area where the wetland ordinance allows clearing, but does
257 not allow structures. She noted that this year the Town voted to allow smaller sheds up to 120 square-
258 feet to be constructed within 15 feet of the wetlands boundary but that smaller size will not fit their
259 needs. She stated that their outdoor equipment is currently stored outside under tarps and they would
260 like to get all it out of the elements, under proper cover, which would be more protective of the
261 environment. Ms. Connors asked if the ZBA has any questions.

262
263 Mr. Federico asked what is on Map 14 lot 53. Ms. Connors replied that is the development's open
264 space lot that has wetlands and a stormwater basin. Mr. Federico asked if that stormwater basin drains
265 into the wetlands. Ms. Connors replied no, it is not supposed to.

266
267 Mr. Paine asked when it rains what direction the water flows. Ms. Connors replied there is a high point
268 in front of their property that flows to the back of the development where the two additional stormwater
269 basins are located and the rest flows to the front stormwater basin next to their property. Mr. Paine
270 asked if because of that flow, will the shed be on some sort of platform to allow the water to flow
271 underneath it. John Connors replied that they would either construct it on top of a $\frac{3}{4}$ inch stone base
272 or posts.

273
274 Mr. Federico asked if there is water in the wetlands in the summertime. Mr. and Mrs. Connors replied
275 not really. Mr. Pierce added that he has some history with that property before they built Treat Farm
276 and that wetlands were flagged at that time by Sergio Bonilla. Ms. Connors replied that they are going
277 off the flags from the subdivision development and the flags are still there. She added that they also
278 hired Jones and Beech to stake the property lines.

279
280 Mr. Pierce asked if there is any wetland vegetation in the proposed shed area. Ms. Connors replied
281 that there is not, just a few boulders. John Connors added that there is not a lot of vegetation other than
282 the bittersweet.

283
284 Mr. Eastwood asked what the property line setback for sheds greater than 120 square feet. Mr.
285 Dinsmore replied it is 10 feet for a cluster development.

286
287 Mr. MacMillan asked about the question from the Conservation Commission asking why the shed
288 couldn't be placed elsewhere on the property and if there is a grade issue with the location they
289 suggested. Ms. Connors replied the issue is that they only have about 6,000 square feet of usable land

290 and the burden on the neighbor's view of the surrounding land. John Connors added that he wants to
291 put the shed in the most inconspicuous spot as would any homeowner and the location suggested by
292 the Conservation Commission is the most conspicuous area. He added that they considered the front
293 yard, but because this house is the first house people see when entering the development it would not
294 be well received by the remaining neighbors.

295
296 Mr. Paine asked what the reason was for going with a 200 square foot shed and not a smaller one.
297 John Connors replied that he had a 200 square foot shed in Massachusetts and it wasn't big enough.
298 He also had a 450 square foot barn as well. He stated that he has a lot of equipment that is now in the
299 basement, under tarps, in the garage, and spread out around the backside of the property. He added
300 that even though a 120 square foot shed would be easy because a permit is not required, he doesn't
301 want to do it for something that is just not going to be adequate for their needs. Ms. Connors added
302 that they don't want to leave equipment out on the property because the shed is too small and items
303 like wheelbarrows could likely end up being stored in the buffer zone not under cover. John Connors
304 stated that he believes the difference between a 120 square foot shed that doesn't require a building
305 permit and a 200 square foot shed that would be permitted is insignificant.

306
307 Mr. MacMillan asked Mark Connors what if a smaller shed is allowed in the area without a permit,
308 what is the scientific or environmental reason that not permit by right a larger one. Mark Connors
309 replied if you have a larger structure that means more runoff from the roof and possible hazards that
310 are being stored in the shed.

311
312 Mr. Pierce asked if the shed could be rotated to be more in compliance with the ordinance. Ms. Connors
313 answered they can't because of the grade issue where the shed is proposed, it would have to be built
314 on stilts on one side. John Connors added that the change of grade is about 7 to 8 feet.

315
316 Mr. Eastwood asked if the angle is optimized for the contour. John Connors replied yes.

317
318 Mr. Pierce asked if the proposed shed is pre-built in only one configuration. John Connors replied no
319 that he will construct a stick built shed. Mr. Pierce asked if the width could be adjusted to move the
320 closest corner of the shed farther from the wetlands. John Connors replied that an eight foot span has
321 less span to deal with on the footings.

322
323 Mr. Paine asked where the septic was located. Ms. Connors replied that it is in the front yard and the
324 well is located in the back part of the property.

325
326 Mr. Eastwood summarized that basically the variance request is for 80 square feet and that a 120
327 square foot building is permitted even closer to the wetlands. Ms. Connors agreed.

328
329 Mr. Pierce asked Mark Connors if property owners are allowed to have two sheds on a property. Mark
330 Connors replied yes as long as they meet the setback. Mr. Pierce asked if the ZBA should include a
331 condition that there couldn't be another shed constructed in the buffer zone because they could
332 conceivably construct a smaller shed up to 120 square feet without a permit. Mr. Dinsmore agreed that
333 could be allowed without a condition. John Connors agreed and added that we could post that condition
334 in the shed for future owners.

335
336 Ms. Connors added that the Conservation Commission had asked about mitigation and their reply was
337 removing an invasive species that is destroying the wetlands. The Commission also had concerns about
338 the storage of gasoline and chemicals to which we responded that those items could be stored in a bin.

339 The Commission replied that although we might be diligent about storage, future owners might not
340 be. Ms. Connors suggested posting the condition of approval inside the building.
341

342 Ms. Cushman asked if the variance that is granted is recorded with the property. Mark Connors
343 replied it is not recorded but it runs with the land for future owners. He added that there will be a
344 Notice of Decision signed by the Chair of the ZBA but it is typically not recorded. Ms. Cushman
345 stated that in her experience researching titles, she often found a zoning variance recorded and she
346 suggested that as a condition for this case.
347

348 Mr. MacMillan asked if regardless of recording, is the enforcement mechanism a complaint to the
349 code enforcement office. Ms. Cushman replied yes, but the recording makes it part of the official
350 record for future owners.
351

352 Mr. Eastwood asked to clarify that two sheds, under 120 square feet, could be placed on one property
353 side by side within the buffer zone. Mark Connors replied no, just one shed up to 120 square feet is
354 permissible in the buffer zone. Mr. Dinsmore added that the Zoning Ordinance also has building
355 coverage requirements of up to 20% per lot.
356

357 Ms. Connors mentioned that she will go through the steps of the criteria for the approval of the
358 variance.
359

360 *Criteria a. the variance is not contrary to the public interest.*
361

362 Ms. Connors stated that the shed will help to improve the aesthetics of the neighborhood by
363 removing their current tarps and sheds are very common residential use. She stated that they will
364 construct the shed with minimal earth disturbance. Sheds are not contrary to basic zoning objectives
365 and it won't alter the central character, the neighborhood, nor will it threaten public health, safety,
366 or welfare. The shed location is far from all abutting residences as possible and NHDES does not
367 prohibit construction in a wetlands buffer zone.
368

369 *Criteria b. The spirit of the ordinance is observed.*
370

371 Ms. Connors stated that the 25 foot no disturbance area will be left intact and the removal of invasive
372 bittersweet vine that is spreading into the wetlands will benefit the health of the wetlands. The shed
373 will not alter the essential character of the neighborhood and will not threaten public health, safety
374 or welfare and the design will be consistent with the character of the existing home and the rest of
375 the neighborhood.
376

377 *Criteria c. Substantial justice is done.*
378

379 Ms. Connors stated that granting the variance will not cause harm to the general public and imposes
380 no demand on municipal services and denial of the request would result in a loss for us as it will
381 provide necessary storage of yard equipment. The smaller alternative won't fit their needs and they
382 would still probably be left leaving some items uncovered in the yard. Locating the shed in the
383 middle of the yard is undesirable to them and she believes to any homeowner, as it would cause a
384 loss of open space for recreation and would be aesthetically undesirable to their neighbors and them.
385

386 *Criteria d. Values surrounding properties.*
387

388 Ms. Connors stated that the shed will not diminish property values because sheds are common
389 residential uses in Stratham and will actually improve the value of our property and benefit
390 comparable homes. The location is as far from 5 Treat Farm as possible and she believes the
391 alternative location could possibly diminish the neighbor's property value because of the view
392 obstruction.

393
394 *Criteria e. Literal enforcement would be a hardship.*
395

396 Ms. Connors stated that of the 17,000 square feet of rear yard only 6,900 square feet of it is usable,
397 which is about 39%. The rear yard is burdened by a 50-foot setback non-disturbance setback for
398 cluster subdivisions. She noted that during this process, they realized the developer cleared more
399 than he was supposed to. In addition to the cluster subdivision buffer, the property is also burdened
400 by the 50 foot wetlands buffer.

401
402 Ms. Connors added that in addition to the variance criteria, the proposed use is reasonable because
403 it provides necessary storage for lawn equipment for residential use. Regarding unnecessary
404 hardship, their parcel is one of the most significantly burdened by the wetlands buffer in the
405 neighborhood. She asked if the ZBA has any questions on the criteria.
406

407 Mr. Pierce opened the meeting to the public. No one from the public spoke.
408

409 Ms. Connors mentioned the comments submitted by email from the neighbor at 5 Treat Farm Road.
410 Mr. Pierce acknowledged the comments submitted in support of the variance request.
411

412 **MOTION by Mr. MacMillan to close the public hearing and to move to deliberations. Mr.**
413 **Paine seconded that motion. All are in favor and motion passes.**
414

415 Mr. Pierce asked the ZBA to discuss conditions of approval including recording the decision and
416 requiring the storage of hazardous waste in safe approved secondary containers that are used to
417 prevent possible environmental damage. Mr. Eastwood added that there should not be any other
418 structure constructed in the wetlands buffer setback. Mr. Pierce added that that the property owner
419 shall ensure construction of the structure poses minimal disturbance to the wetland buffer during
420 construction. All are in favor of all conditions.
421

422 Mr. Peirce asked if there were any other conditions that need to be added before they make a motion
423 to move to approve conditions. Mr. MacMillian added if the construction does not take place within
424 two years of the acceptance of the variance then this variance would become null and void. All
425 agreed.
426

427 Mark Connors recommended that the recording cost be paid by the applicant.
428

429 **MOTION by Mr. Paine that the Zoning Board approve the variance application submitted by**
430 **Susan and John Connors from Section 11.5.3, Wetlands Conservation District, of the Zoning**
431 **Ordinance to allow the construction of a shed within 50 feet of an existing wetland where no**
432 **building activity is permitted as the Zoning Board has determined the application meets all of**
433 **the variance criteria for the Board's deliberations, subject to the following conditions as noted**
434 **by the chair.**

435 **1. The variance, if not exercised, will expire two years from the date of the hearing on April 2,**
436 **2024.**

437 **2. Hazardous materials must be stored in a safe, approved secondary container that is used**
438 **to prevent possible environmental damage.**
439 **3. No other secondary structures shall be built in the wetlands.**
440 **4. The decision letter be recorded with the Rockingham County Registry of Deeds.**
441 **5. Installation of the structure poses minimal disturbance to the wetlands buffer during**
442 **construction.**

443 **All voted in favor. Motion passes.**

444

445 **4. Adjournment**

446 Mr. Pierce stated that the meeting adjourned at 8:14 p.m.