



**Stratham Board of Adjustment
AGENDA
June 8, 2021
Time: 7:00 PM**

COVID Public Meeting Notice. This meeting is scheduled to be held “in person” at the Stratham Municipal Center. In accordance with this notice, if the Chair makes a determination to hold this meeting remotely notice will be published by 3:30 p.m. on the day of the meeting. Per NH RSA 91-A:2 III (b) the Chair has declared COVID-19 Outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor’s Executive Order 2020-04, Section 8, as extended by Executive Order 2020-20, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

The public may also access this meeting at the date and time above using this conference call information. Please dial **1-800-764-1559** and input **4438** when prompted for a user pin/code. Please follow the Chair’s instructions delivered at the meeting in order to register comments during the public meeting. *If at any time during the meeting you have difficulty hearing the proceedings, please call 603-772-7391 ext. 180.*

1. Call to Order/Roll Call/Seating of Alternates

2. Approval of Minutes

a. May 25, 2021

3. Public Meeting

The Board shall decide whether to grant or deny the following Administrative Appeal:

- Case #660, Brent Eastwood, 17 Gifford Farm Road, Map 18, Lot 98, Residential Agricultural Zoning District.

Pursuant to Section 17, Article 17.8.1 of the Stratham Zoning Ordinance the applicant is appealing an Administrative decision that play sets are not structures as defined by Section 2, Article 2.1.67 of the Stratham Zoning Ordinance, therefore setbacks are not required.

The applicant asserts that the definition of structure includes play structures and must adhere to setbacks in Section 4, Article 4.1 through 4.2 in the Stratham Zoning Ordinance.

4. New Business:

5. Other Business:

6. Adjourn

Note(s):

1. *Materials related to the above meeting are available for review at the Municipal Center and during normal business hours. For more information, contact the Stratham Building/Code Enforcement Office at 603-772-7391 ext.180.*
2. *The Zoning Board of Adjustment reserves the right to take items out of order and to discuss and/or vote on items that are not listed on the agenda.*



Stratham Zoning Board of Adjustment
Meeting Minutes
May 25, 2021
Municipal Center/Virtual Meeting/Conference Call
Time: 7:04 PM

Members Present: Garrett Dolan, Chairman
Bruno Federico, Full Time Member
Amber Dagata, Full Time Member
Drew Pierce, Full Time Member
Richard Goulet, Alternate

Members Absent: Phil Caparso, Vice-Chair

Staff Present: Shanti Wolph, Code Enforcement Officer/Building Inspector

1. Call to Order/Roll Call

Mr. Dolan called meeting to order and took roll call. Mr. Dolan asked Mr. Goulet to be a voting member for this meeting. Mr. Goulet agreed.

2. Approval of Minutes

a. May 11, 2021

Mr. Dolan noted the following corrections: Page 2, Line 84 change “there” to “the”; Page 3, Line 114 change “intent” to “intended”; Page 3, Line 134 change “Court’s” to “Court” and “define” to “defines”; Page 4, Line 157 change “there” to “where”. Mr. Goulet noted the following correction: Page 7, Line 337 change “affirmative” to “permanent”. Mr. Dolan made a motion to accept the May 11, 2021 meeting minutes as amended. Ms. Dagata seconded the motion. Motion passed unanimously.

3. Public Hearing(s)

- a. Case #659, Amy Tilton, 3 Hillcrest Drive, Map 19, Lot 63, Residential Agricultural Zoning District.** The applicant requests a Special Exception as specified in Section 5, Article 13 of the Stratham Zoning Ordinance to allow a Home Occupation, the proposed use is a combined art/design studio with a focus on small group art lessons.

Amy Tilton, 3 Hillcrest Drive, introduced herself and stated she is a public school teacher and is requesting to teach private lessons from her home. Ms. Tilton has resided at 3 Hillcrest Drive the majority of her life. Ms. Tilton read the letter submitted to the board. Ms. Tilton explained the art lessons will be held in the existing detached workshop allowing up to four (4) students at a time during the school year and up to twelve (12)

students for a few weeks in the summer and outdoors. During the school year students will be dropped off and picked up, four (4) days per week, during a three (3) hour window each day. Ms. Tilton explained that is the maximum proposed and will potentially be less than the time suggested. Ms. Tilton stated the professional organizing business will be a home office and she will be travelling to client's homes for all meetings and work. Ms. Tilton explained the location of the proposed Home Occupation. Ms. Tilton stated there will be no toxic substances used. Ms. Tilton point to the area for parking that shows plenty of space if needed. Mr. Goulet questioned where the studio access would be located. Ms. Tilton showed the board the access on the plan provided.

Mr. Wolph confirmed the application is complete and a site visit was completed to verify the conditions on the map which shows a gravel parking area to be installed subsequent to the acceptance of the application if the board gives approval. The board discussed conditions regarding the hours of classes. Mr. Federico questioned how supplies would be delivered. Ms. Tilton stated via personal trips to Michael's Craft Store or by small carrier delivery. Mr. Federico suggested conditions for normal business hours, no earlier than 7:00 am and no later than 10:00 pm.

17.8.2 Special Exceptions:

c. Special Exceptions: shall meet the following standards:

- i. Standards provided by this Ordinance for the particular use permitted by special exception;

Mr. Dolan stated with the Building Inspector/Code Enforcement Officer's approval the standard will be met. The board agreed unanimously.

- ii. No hazard to the public or adjacent property on account of potential fire, explosion, or release of toxic materials;

Mr. Dolan stated the applicant has met this criteria and there will be no hazards involved. The board agreed unanimously.

- iii. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking area, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;

Mr. Dolan stated the applicant has proposed a very low key, quiet operation and believes the standards are met. The board agreed unanimously.

- iv. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;

Mr. Dolan stated the applicant proposed a small number of students so there will be no traffic safety hazards. The board agreed unanimously.

- 97 v. No excessive demand on municipal services, including, but not limited to, water,
98 sewer, waste disposal, police and fire protection, and schools;
99

100 Mr. Dolan stated the small number of students for art classes will not be an excessive
101 demand on services. The board agreed unanimously.
102

- 103 vi. No significant increase of storm water runoff onto adjacent property or streets.
104

105 Mr. Dolan stated there is no alteration of the existing facility and the new gravel
106 parking area will have no impact on drainage so this criteria has been met. The board
107 agreed unanimously.
108

- 109 d. Special Exception Approvals: may be subject to appropriate conditions including the
110 following:
111

- 112 i. Front, side, or rear yards in excess of the minimum requirements of this Ordinance;
113

114 Mr. Dolan stated there is no impact and meets all the requirements. The board agreed
115 unanimously.
116

- 117 ii. Screening of the premises from the street or adjacent property by walls, fences, or other
118 devices;
119

120 Mr. Dolan stated the applicant has provided this and the criteria is met. The board
121 agreed unanimously.
122

- 123 iii. Modification of the exterior features or buildings or other structures;
124

125 Mr. Dolan stated there is no modifications or the building that is existing and the
126 criteria is met. The board agreed unamisouly.
127

- 128 iv. Reasonable limitations on the number of occupants and methods and times of
129 operation;
130

131 Mr. Dolan stated the intent is to provide services to four (4) students during the school
132 year and twelve (12) during the summer. Mr. Federico does not believe a condition on
133 number of students is required. The board agreed unanimously to place a condition of
134 normal business hours, 7:00 am-10:00 pm, for this approval.
135

- 136 v. Grading of the premises for proper drainage;
137

138 Mr. Dolan stated the applicant will be creating an additional gravel parking area so this
139 criteria is met. The board agreed unanimously to place a condition on the approval that
140 the gravel parking area shall be constructed in accordance with the submitted plan.
141

- 142 vi. Regulation of design of access drives, sidewalks, and other traffic features;
143

144 Mr. Pierce stated a condition of “no parking” on the street shall be placed on the
145 approval. Mr. Wolph suggested the condition only be placed on the Home Occupation
146 and not the residence.

vii. Regulation of the number, size, and lighting of signs more stringent than the requirements of this Ordinance.

Mr. Dolan asked if the applicant will have a sign displayed for the Home Occupation. Ms. Tilton stated she was only proposing to have her car signage, which will be a magnet placed on the vehicle. Mr. Wolph explained to the applicant that if a sign was to be placed on the property for the business, one (1), 2x2 sign is allowed and a permit would be required.

Mr. Goulet asked that the record reflect no persons came forward in opposition of this application.

Mr. Federico moved to approve with conditions as recorded Case #659, Amy Tilton, 3 Hillcrest Drive, Map 19, Lot 63, Residential Agricultural Zoning District, the Special Exception for Home Occupation that would allow a combined art/design studio with a focus on small group art lessons.

Conditions:

1. Normal business hours of 7:00 am-10:00 pm shall be in effect.
2. Gravel parking area to be installed in accordance with the submitted plans.
3. No "on-street" parking for the home occupation shall be allowed.

Mr. Pierce seconded the motion. Motion passed unanimously with a 5:0 vote.

Mr. Dolan explained to the applicant that there is a 30-day appeal period and going forward before that time is at the applicant's own risk.

4. New Business

a. Election of new Board Chair

Mr. Dolan confirmed he will be moving in July and will have to step down as Chairman of the Zoning Board. Mr. Dolan made a motion to appoint Mr. Pierce the Chairman of the Zoning Board of Adjustment. Ms. Dagata seconded the motion. Motion passed unanimously.

5. Other Business

a. June 8, Appeal from an Administrative Decision regarding the setback requirements for children's playsets/play structures.

Mr. Wolph gave the board a quick overview of the upcoming June 8 hearing. Mr. Wolph explained his interpretation of play structures and the zoning ordinance regarding setbacks. Mr. Wolph researched other town's regarding playset setbacks and found a majority do not permit or consider playsets a "structure". Mr. Wolph stated the board will receive the full packet to review prior to the hearing.

b. Mr. Federico stated concern that this past weekend, on Saturday, Legacy Lane Farm had cars parked along the highway. Mr. Federico stated the majority of cars were from out of state. Mr. Federico stated there was a "no parking" sign visible but there were six (6) vehicles

196 parked on the road across from Barker's Farm. Mr. Goulet stated he witnessed it as well. Mr.
197 Wolph has visited the property and discussed the options of parking in the back property.
198

- 199 c. Mr. Goulet thanked Mr. Dolan for his guidance as Chair of the Zoning Board and
200 volunteering his time to the Town of Stratham. Mr. Wolf and the board members agreed and
201 thanked Mr. Dolan.
202

203 6. Adjournment

204 Mr. Dolan made a motion to adjourn at 8:17 pm. Mr. Goulet seconded. Motion passed
205 unanimously.
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241 Note(s):

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agenda.



TOWN OF STRATHAM

INCORPORATED 1716
10 BUNKER HILL AVENUE - STRATHAM NH 03885
VOICE (603) 772-4741 - FAX (603) 775-0517
www.strathamnh.gov

6/1/2021

RE: **17 Gifford Farm Road**
Map 18 Lot 98, Zone: R/A
ZBA 660 –Appeal from Administrative Decision

Staff Review

The board of adjustment decides cases where a claim is made that the administrative officer has incorrectly interpreted the terms of the ordinance such as a district boundary or the exact meaning of an article or term. Most zoning ordinances contain terms that may be confusing and are, therefore, open to interpretation. An ordinance may fail to define what is meant by such requirements as “distance from a road.” Does this mean distance from the pavement, shoulder, side ditch, or right-of-way? An honest difference of opinion may easily occur as to the exact meaning when applied to specific circumstances.

In this scenario the applicant is appealing a decision of the Stratham Building Inspector and the Stratham Town Planner, respectively the Municipal Officials. The decision was made that playsets or playground equipment do not constitute structures and therefore do not meet the criteria to require they meet the minimum setback distances from wetlands and property lines.

In Stratham we do not have language in our Zoning Ordinance that specifically allows or disallows swings or other playground equipment to be located within the property line setback area. Historically and without conflict, playsets or playground equipment have not been required to meet the structural setbacks. The setbacks for the properties involved in this application are 30-feet from the front property line and 20-feet from the side and rear property lines.

The Zoning Ordinance (not building) does offer the following definition of a structure:

*2.1.67 Structure: Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground. Structure includes, but are not limited to, buildings, mobile home, bridges, trestles, towers, framework, hoop houses, tanks or group of tanks exceeding a total of 500 gallons (excluding septic tanks), tunnels, stadiums, platforms, shelters, piers, wharfs, signs, fences and retaining walls over six feet (6') in height, swimming pools, or the like. **Where Stratham Zoning Ordinance is silent, then the most current edition of the State Building Code shall be assumed to apply.** (Revised 3/90, 3/11, 3/20)*

The definition includes a number of very specific and less common uses, including hoop houses (which are greenhouses), stadiums, signs, piers, and wharfs, but is silent on playsets or playground equipment. Mr. Eastwood argues that playsets or playground equipment includes towers and platforms and must therefore be considered structures. The Zoning Ordinance does not include zoning “definitions” for platforms or towers, as zoning definitions can sometimes differ from their more commonly understood definitions. The Ordinance does **however** include over 100 other references to the term ‘tower’, but all of those references are specific to small wind energy systems, airport control towers, meteorological towers, or most frequently for

telecommunications or cellular phone towers. All of these uses are a great deal more expansive and intrusive than playsets and playground equipment.

There are no other references to the term ‘platform’ in the Ordinance, apart from under the definition for structures. The Merriam-Webster Dictionary defines platform as “a usually raised horizontal surface.” Mr. Eastwood is correct that playsets do typically incorporate these features, however this definition is so broad that it would encapsulate virtually all common household yard equipment, including steps, walking paths, tables, benches, and several other items.

Playsets are very common features of residential properties. Staff believes it is much more likely that if the intent was for playsets or playground equipment to be considered structures (and meet the structural setbacks), they simply would have been included in the definition, among the 18 other specific items (hoop houses, wharfs, stadiums, etc.) referenced in the zoning definition.

Moreover, Stratham’s definition of structure includes a key sentence: “*Where Stratham Zoning Ordinance is silent, then the most current edition of the State Building Code shall be assumed to apply.*” Considering that “playsets or other playground equipment” are not listed, they would be considered **silent**, and we would be directed to the most current edition of the State Building Code for guidance.

R105.2 Work exempt from permit. *Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:*

Building:

8. Swings and other playground equipment.

Granted, this is from the Building Code and does not address Zoning setbacks, but recall we were sent here directly from our Zoning Ordinance. Considering that a permit is not required, and without it being specified in Zoning, “swings or other playground equipment” wouldn’t be required to meet the typical structural setback requirements. Enforcement would be very challenging since the Town does not require any permits or approvals to install a playset or playground equipment and therefore does not have any accounting of where these items are located in town. Essentially without a permit requirement, the Town would need a separate approval process for residents intending to install a playset for their children.

Additionally, staff reached out to several other New Hampshire communities for clarification in how they treat playsets and playground equipment. All of the municipalities included on the following pages do not consider playsets structures and do not require them to meet the structural setbacks. Although Stratham’s definition is not perfectly identical to any other community, it does include very similar language to many of the communities who do not regulate playsets in this manner. For example, Durham’s definition is very similar and Hudson includes references to towers and platforms.

<u>Municipality</u>	<u>Definition of Structure</u>
CHESTER	Structure - That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built above or below the surface or composed of parts joined together in some definite manner.
NORTH HAMPTON	Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or requires an attachment to something having a fixed location on the ground. "Structure" under this definition includes, but is not limited to leach fields that are, in whole or in part, constructed above grade; septic systems, buildings, billboards, carports, porches, swimming pools, tennis courts, and building features. For the purpose of this zoning ordinance leach fields that are constructed entirely below grade, sidewalks, driveways, fences, and patios are not deemed to be structures. *3/12/1968, 3/10/2015
DURHAM	STRUCTURE – That which is built or constructed with a fixed location on the ground or attached to something having a fixed location on the ground. Structure includes but is not limited to a building, swimming pool, mobile home, billboard, pier, wharf, septic system, parking space/parking lot and deck. 39 Structure does not include a minor installation such as a fence six (6) feet high or less in height, a mailbox, a flagpole, or an accessory shed.
HUDSON	STRUCTURE - A combination of materials assembled at a fixed location to give support or shelter, such as, but not limited to, a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole or portable or temporary canopy or garage.
AMHERST	Structure. Anything constructed, erected, or assembled for occupancy or use, such as, but not limited to, a building, dwelling, stadium, platform, shelter, swimming pools, sports courts, or the like. The term structure shall not include: a/ fences or retaining walls; b/ radio towers or antennae which are for the exclusive use of amateur radio service and they shall be limited to a total height of 150 feet; or c/ structures smaller than 32 square feet. (3-12-63, 3-9-82, 3-12-85, 3-11-08, 3-10-15)
DOVER	STRUCTURE means a framework of support
SOMERSWORTH	STRUCTURE. A combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water
EXETER	Structure: Anything constructed, the use of which requires permanent location on or in the ground, or attachment to something having permanent location on or in the ground, including stationary and portable carports and swimming pools.

For all the reasons stated above, Staff has made an administrative decision that playsets are exempt from the property line setback requirements that would typically apply to structures.

The zoning board of adjustment does have the power to hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16; and in exercising its powers, the zoning board of adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.

Sincerely,

Shanti Wolph
Building Inspector/Code Enforcement Officer
603-772-7391 x182
swolph@strathamnh.gov

Mark Connors
Town Planner
(603) 772-7391, x147
mconnors@strathamnh.gov

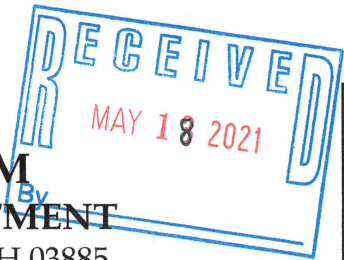


**TOWN OF STRATHAM
ZONING BOARD OF ADJUSTMENT**

10 Bunker Hill Avenue · Stratham, NH 03885

(603) 772-7391 · Fax 603-775-0517

www.StrathamNH.gov



Zoning Board of Adjustment – Appeal From Admin. Decision

FOR OFFICE USE ONLY

ZBA Case Number: 660 Public Notification Date: 5/25/2021
Date Application Filed: 5/18/2021 Public Meeting Date: 6/8/2021
Received By: DL (Initials Only) Approval/Denial Date: _____
Fees Received: \$280.00 ZBA Decision Date: _____

Section 1. General Information (Please print or Type)

APPLICANT/AGENT

Phone#: 859-285-8736 Fax #: _____
BRENT EASTWOOD Email Address: ewoodbrent@gmail.com
17 Gifford Farm Rd. Stratham, NH 03885
Street Address Town/City State ZIP

PROPERTY OWNER (If different from Applicant)

Phone#: _____ Fax #: _____
Email Address: _____

Street Address Town/City State ZIP

Tax Map: 18 Lot(s): 98 Zoning District: _____

Section 2. Decision of the Administrative Official to be reviewed

Relating to the interpretation and enforcement of the provisions of the zoning ordinance.

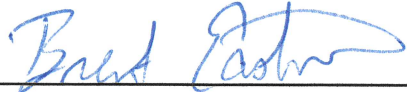
Decision of the enforcement officer to be reviewed That "play sets" are
not structures as defined by 2.1.67 of
the zoning ordinance. Therefore, no setbacks
must be followed.

Number 67 Article 2.1 Section 2 of the Stratham Zoning Ordinance in

question: Definition of Structure includes play
structures and must adhere to setbacks in
4.1.1 and the table 4.2 of the zoning ordinance.

Section 3. Applicant's Certification

I declare under penalty of perjury that all of the submitted information is true and valid to the best of my knowledge. I understand that my misrepresentations of submitted data may invalidate any approval of this application. I further authorize the Members of the Board and/or their staff to enter onto my property for the purposes of this review.



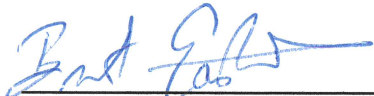
Signature of Applicant

BRENT EASTWOOD

Print Applicant's Name

5/13/2021

Date



Signature of Owner

BRENT EASTWOOD

Print Owner's Name

5/13/2021

Date

NOTES:

1. Application must be sign signed by the owner of the property or other person having the legal right to apply as an agent of the owner. If signed by a person other than the owner of the property documentation of the legal right to apply as an agent of the owner must be supplied at the time the application submittal.
2. If applicant is renting/leasing subject property/structures, said applicant must have a signed letter from the owner stating their permission to conducting proposed business project on their property. This letter must include the property owner's name, current address, and telephone number.

Section 4. APPLICATION CHECKLIST

Completed and **signed** application (check to ensure the proper section is filled out).

- ☐ Submit application, a plat or drawing, which should provide information in support of the appeal, and supporting documents (9 sets)
- ☐ Completed abutters list with two (2) sets of address labels
- ☐ Fees: \$250 plus \$5 for each abutter
- ☐ Check for the appropriate amount made out to the Town of Stratham.

To the Town of Stratham Zoning Board of Adjustment:

I am appealing the administrative decision made by the Stratham Town Planner, Mark Connors, on April 23, 2021 that the play structure located at 15 Gifford Farm Rd. in Stratham, NH (18-097) does not have to adhere to zoning setbacks published in the Stratham Zoning Ordinance section 4.1.1 and shown below in Table 4.2. Mr. Connors writes, "... we have decided to affirm our original interpretation that, as currently written, play sets do not constitute structures and are therefore not required to meet the structural setbacks required of the Zoning Ordinance." Currently the play structure in question is located approximately six feet from the property line instead of the required 20 feet (see Figure 1).

The table in 4.2 of the Stratham Zoning Ordinance provides Minimum Yard Dimensions (setbacks from property lines) for structures as follows:

Front - 30 feet

Side - 20 feet (each side)

Rear - 20 feet

	DIMENSIONAL REQUIREMENT:	Residential/ Agricultural:
MINIMUM Lot Dimensions: (a)	AREA:	2-acres (c)
	CONTINUOUS FRONTAGE:	200' (c)
	DEPTH:	150'
MINIMUM Yard Dimensions: (a)	FRONT:	30' (d)
	SIDE:	20'
	REAR:	20'

The definition of Structure in 2.1.67 of the Zoning Ordinance is the key to whether or not the play structure should adhere to the setbacks.

2.1.67 Structure: Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground. Structure includes, but are not limited to, buildings, mobile home, bridges, trestles, towers, framework, hoop houses, tanks or group of tanks exceeding a total of 500 gallons (excluding septic tanks), tunnels, stadiums, platforms, shelters, piers, wharfs, signs, fences and retaining walls over six feet (6') in height, swimming pools, or the like. Where Stratham Zoning Ordinance is silent, then the most current edition of the State Building Code shall be assumed to apply. (Revised 3/90, 3/11, 3/20)

The definition of Structure from 2.1.67 starts with "Anything constructed or erected with a fixed location on or in the ground . . ." The play structure in question at 15 Gifford Farm Road completely meets the definition of 2.1.67 because it was **constructed and erected**, sits in a **fixed location** (not able to be moved or pushed around), and is both **ON AND IN the ground**. The subject play structure is as large as other structures mentioned as examples, "but not limited to" such as sheds, hoop houses (greenhouses, tarped storage/garages). Other examples listed include "Towers" and "Platforms" which this play structure clearly features both. Even more examples in 2.1.67 that this play structure exceeds are that it is larger in area and volume than "tanks exceeding a total of 500 gallons" and it exceeds "fences . . . taller than six feet (6') in height". It is larger than 100 square feet in footprint (Figure 2) and greater than 10 feet in height. In addition, the "When Stratham Zoning Ordinance is silent . . ." is not applicable here since the definition is not silent regarding such structures.

I reached out and had a conversation with my neighbor at 15 Gifford Farm Rd., Mr. Zabel, to explain my concerns that it was inappropriately close to the lot line, closer to my house than his, in plain sight from the street from in front of both houses (detracting site lines decrease home values), not beneficial for open space feel (privacy), and is even a safety hazard for their child (not enough open space around swings and the structure is not in good view from their rear windows). The anticipation of grass and weeds growing up through the play structure as well as a collection of plastic toys are secondary concerns, but also undesirable so close to my property. I pointed out that they have plenty of space in their 1 acre lot behind their house to place the play structure that isn't so close to my dwelling and less visible from the street. We ended the conversation when Mr. Zabel said it was on his property and that he intended to keep it there and I said we will have to agree to disagree on its placement.

In an email exchange from Mr. Connors providing his initial administrative interpretation, he says that a proposal to change the Zoning Ordinance should be looked at to better clarify the definition of structure to exclude "play sets". By not subjecting such play structures to the Zoning Ordinance, at what point would a massive play structure be subjected? Taking this to the extreme - if such large play structures are excluded from the Stratham Zoning Ordinance as Mr. Connors interprets, then they can be placed right up to the street instead of adhering to a front yard 30' setback. I personally do not think Stratham should be that kind of community.

Figure 3 shows a recent photo of the subject play structure from our screened in porch where we have family meals, read and enjoy nature. There are several other windows where this structure is completely visible as well. If it were moved to a 20 foot setback it would be completely tolerable. Please - you are welcome anytime to come by and look for yourself at the structure and its placement from my property and from my living areas. Also, I encourage you to imagine that this happened next to your home or in your neighborhood.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read "Brent Eastwood". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Brent Eastwood
17 Gifford Farm Rd.
Stratham, NH 03885
859-285-8736

Figure 1: My home is lot 98 (17 Gifford Farm Rd.). The red box approximates the size and location of subject play structure located on lot 97 (15 Gifford Farm Rd.) approximately six feet from my property line. Furthermore, my living room and porch are the closest living areas to the play structure. The owner's garage is the closest room to the play structure.

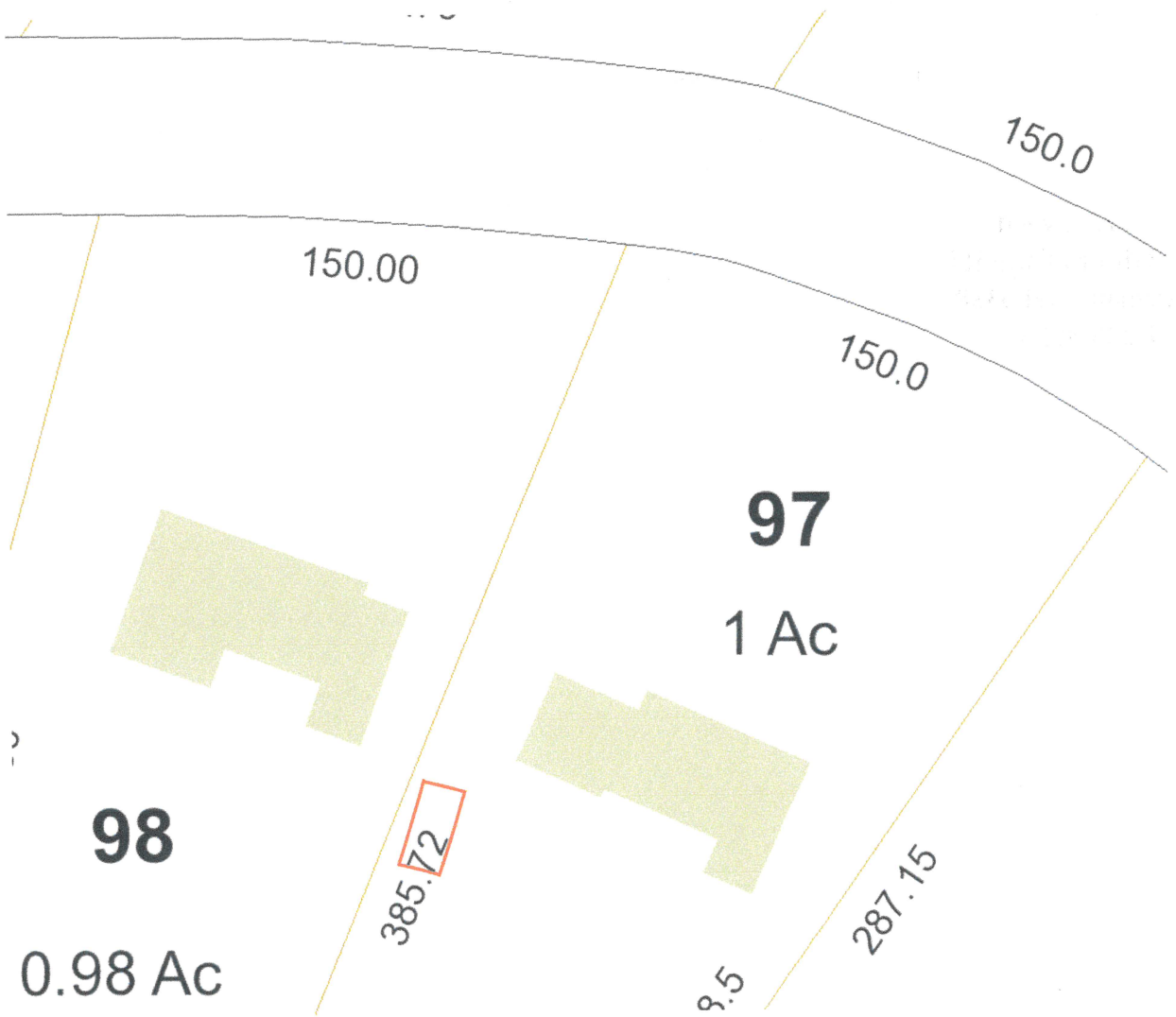
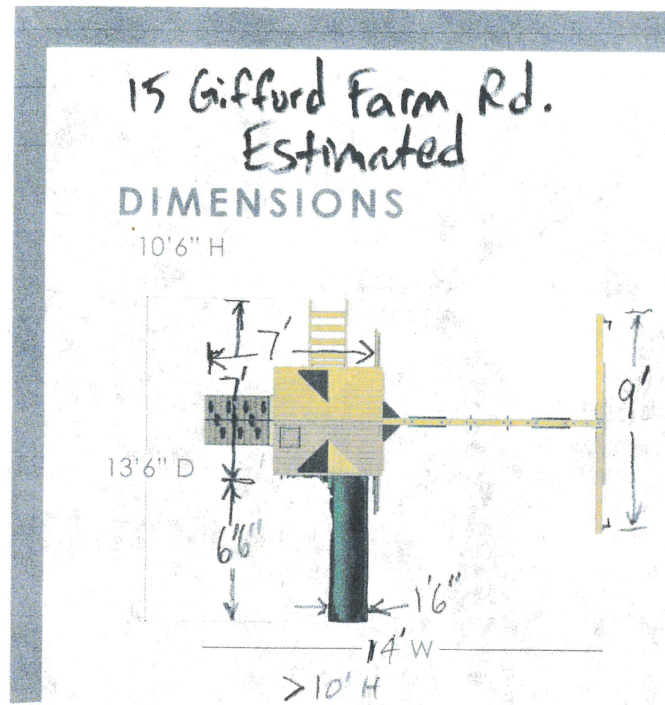


Figure 2: Estimated Dimensions and area calculations of subject play structure



AREA CALCULATIONS:

METHOD 1 - OVERALL FOOTPRINT:

$$13.5' \times 14' = 189 \text{ square feet}$$

METHOD 2 - AVERAGE DEPTH + SLIDE:

$$(8' \times 14') + (6.5' \times 1.5') = 112 + 9.75 = 121.75 \text{ square feet}$$

Brent J. Eastwood
BRENT J. EASTWOOD 17 GFR

Figure 3: Photo of subject play structure from inside my screened porch where we read and have family meals. Our small green garden fence is approximately one foot away from the property line.



Mark Connors

RE: Play Structure at 15 Gifford Farm Rd.
April 23, 2021 at 3:52 PM
Brent Eastwood
Shanti Wolph

, Denise Lemire

Administrative
Decision

1/3

Good Afternoon Mr. Eastwood,

We appreciate the opportunity to further examine this issue. We have consulted with our legal counsel and we have decided to affirm our original interpretation that, as currently defined, playsets do not constitute structures and are therefore not required to meet the structural setbacks required of the Zoning Ordinance.

Please consider this the final administrative determination on this matter. If you wish to appeal, you have 30 days from the date of this e-mail to submit an application for an appeal of an administrative decision to the Zoning Board of Adjustment. As I mentioned, the Zoning Board is empowered to either uphold or overturn administrative decisions. The Zoning Board is the only appeals body of administrative decisions relating to planning and zoning interpretations in Stratham. Unfortunately, the Zoning Board fees are set by the Select Board and there is no administrative mechanism to waive them. I spoke to the Town Administrator about it, and the only avenue would be to pay the fees associated with the application, but petition the Select Board to reimburse you for those costs.

I realize this is disappointing and I regret that this is not the outcome you would like. Please understand that our role is limited to interpreting the Ordinance as it currently exists and not necessarily agreeing or disagreeing with your point of view. As I mentioned, I agree that the definition of structure could be better defined and would like to work with the Planning Board to clarify the definition for consideration at a future Town Election.

Thank you,

Mark Connors
Town Planner
Town of Stratham
mconnors@strathamnh.gov
(603) 772-7391, x. 147

New Hampshire's Right to Know Law (RSA 91-A) provides that Town email communications regarding the business of the Town of Stratham are governmental records which may be available to the public upon request. Therefore, this email communication may be subject to public disclosure.

From: Brent Eastwood [mailto:ewoodbrent@gmail.com]
Sent: Thursday, April 22, 2021 9:32 AM
To: Mark Connors <mconnors@StrathamNH.gov>
Cc: Shanti Wolph <swolph@StrathamNH.gov>; Denise Lemire <DLemire@StrathamNH.gov>
Subject: Re: Play Structure at 15 Gifford Farm Rd.

Hi Mark,

I have to respectfully disagree with your interpretation and whichever communities don't recognize that "play sets", which have become play ground structures, that can be as large as other structures such as sheds, hoop houses (greenhouses, tarped storage/garages), and greater than six foot fences. A structure is defined below clearly without the word foundation (ON or in the ground) which this play structure is both on and in the ground. A "fixed" location to me means "cannot be easily moved". The examples listed include "Towers" and "Platforms" which this play structure clearly has both and of course it is "not limited to" the few examples given. Other examples that this play structure relates to is that it is larger than 500 gallons of tanks and it is much taller than 6 feet. I had a conversation with my neighbor and apparently they don't care about common courtesy, open space, home values, privacy, or even their own child's safety. We ended the conversation when he said it was on his property and I said we will have to agree to disagree on its placement.

- 2.1.67 Structure: Anything constructed or erected with a fixed location on or in the ground, attached to something having a fixed location on or in the ground. Structure includes, but are not limited to, buildings, mobile home, bridges, trestles, towers, framework, hoop houses, tanks or group of tanks exceeding a total of 500 gallons (excluding septic tanks), tunnels, stadiums, platforms, shelters, piers, wharfs, signs, fences and retaining walls over six feet (6') in height, swimming pools, or the like. Where Stratham Zoning Ordinance is silent, then the most current edition of the State Building Code shall be assumed to apply. (Revised 3/90, 3/11, 3/20)

Let me understand this correctly, the interpretation below will cost me \$255 to get a second opinion at the Adjustment Board?

Will you reconsider your interpretation below and uphold the definition of Structure and Zoning Setbacks for this structure?

Please - you are welcome anytime to come by and look for yourself at the structure and its placement from my property and from my living areas. While here - you can look at the Gifford Farm lot across the street town parcel 111 (related to the Off Lovell discussion) - I always figured it was town property because there was no way a house should be built in that low spot where there is drainage from a large section of Long Hill that feeds back to the wetlands.

Thank you for your reconsideration,
Brent Eastwood
859-285-8736

On Apr 21, 2021, at 12:01 PM, Mark Connors <mconnors@StrathamNH.gov> wrote:

Good Morning Mr. Eastwood,

We have further researched the issue. We agree that the definition for structure could be better clarified in the Ordinance and I plan to discuss that further with the Planning Board.

With that being said our definition closely mirrors the zoning definition for structure in several other communities. We have reached out to several of them and they do not classify playsets as structures. In situations like this where the language is not perfectly clear, we must make an administrative decision regarding the interpretation of the Ordinance. In this case, we have determined that a playset does not meet the definition of a structure under the Zoning Ordinance, as it does not require a foundation or fixed location in the ground, and therefore is not required to meet the structural setbacks for the property.

I regret that this is not the outcome you would like. If you have not yet spoken to your neighbors, it may be helpful to express your concerns to them and see if they might be willing to move the playset as a courtesy.

If you believe the Administrative Decision in error, your recourse would be to file an Appeal of an Administrative Decision with the Zoning Board of Adjustment. The Zoning Board is empowered to either uphold or overturn administrative decisions. The application is available for download at the Zoning Board of Adjustment link below.

<https://www.strathamnh.gov/board-adjustment>

Thank you,

Mark Connors
Town Planner
Town of Stratham
mconnors@strathamnh.gov
(603) 772-7391, x. 147

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From: Brent Eastwood [<mailto:ewoodbrent@gmail.com>]
Sent: Wednesday, April 21, 2021 10:40 AM
To: Shanti Wolph <swolph@StrathamNH.gov>
Cc: Mark Connors <mconnors@StrathamNH.gov>
Subject: Re: Play Structure at 15 Gifford Farm Rd.

Hi Shanti,

- EASTWOOD, BRENT
EASTWOOD, CHERYL
17 GIFFORD FARM RD.
STRATHAM, NH 03885

7020 3160 0001 8706 8294

- PAISON, MICHELLE
ZABEL, ANDREW
15 GIFFORD FARM RD.
STRATHAM, NH 03885

7020 3160 0001 8706 8300

- DEMPSEY, MARY
13 GIFFORD FARM RD.
STRATHAM, NH 03885

7020 3160 0001 8706 8317

- LANKLER, STEPHEN
LANKLER, DIANA
18 GIFFORD FARM RD.
STRATHAM, NH 03885

7020 3160 0001 8706 8324

- OPPICI KISIEL FAMILY
REVOCABLE TRUST
KISIEL, BRIAN-TRUSTEE
19 GIFFORD FARM RD.
STRATHAM, NH 03885

7020 3160 0001 8706 8331

TOWN OF STRATHAM
43 HIGH STREET
STRATHAM, NH 03885

Hand delivered