

**ZONING BOARD OF APPEALS
MEETING MINUTES
April 26, 2023**

Location: Leicester Town Hall, Select Board Meeting Room 3

Member Present: Jim Buckley, James Reinke, Kurt Parliment, Vaughn Hathaway, Richard Johnston

Members Absent:

Staff Members Present: Mike Silva, Building Inspector, Donna Main, DIS Assistant

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Call to Order: Chairman Buckley called the meeting to order at 6:05 p.m.

Public Hearing – 23-02 Special Permit – 1 Breezy Green Road – David and Alyssa Foley
Petitioners Sean M. O'Neil and Lisa M. O'Neil for a Special Permit for limited frontage (150-feet required, 90.39-feet proposed) to divide one lot into two at 1 Breezy Green Road.

Chairman Buckley opened the public hearing at 6:05 p.m. Mr. Parliment read the public hearing notice into the record.

Mr. Parliment recused himself because he is an abutter and left the meeting room.

Mr. Donald O'Neil, Esq. present to represent the O'Neils. The total parcel acreage is 7.8 and they are proposing to split into two lots, 4.4 would remain with existing house and new lot would have 3.4 acres with 90 feet of frontage on Breezy Green Road. That would leave the existing house 163 feet of frontage which meets zoning requirement of 50' of frontage for reduced lots. Mr. O'Neil said the location of the new house has not been determined but will be in the area of the tennis courts. Mr. O'Neil said the plans meet all other requirements.

Mr. Reinke asked if they are proposing creating two or three lots. Mr. O'Neil said two lots total with existing driveway being shared for short distance in order to maintain existing trees and then the driveway would continue to provide access to new lot. Mr. Reinke asked for reason for splitting land. Mr. O'Neil said just to create an additional house lot.

Mr. Hathaway stated that shared driveways are not permitted by the Town of Leicester Zoning By-Laws. Mr. O'Neil stated the driveway can be adjusted so there is no shared usage. Mr. Hathaway asked if the lot had already been divided by the Planning Board or is it still one lot. Mr. O'Neil said it is divisible with a reduced frontage lot if approved by the Zoning Board. Mr. Hathaway stated he has not heard of creating a reduced frontage lot, but that lots seeking ZBA decision are already reduced frontage. Mr. O'Neil stated that the definition of reduced frontage lot is in the bylaw and does not limit this to an existing lot. Mr. Hathaway stated that this is not a parcel that already existed as reduced frontage lot but it's part of a bigger lot and they are creating a reduced frontage lot. Mr. O'Neil said this was in discussion with the Town Building Inspector who pointed them in this direction to seek approval through the ZBA. Mr. O'Neil asked if this was not allowed and Mr. Hathaway said the Special Permit is not allowed under the Bylaw for this particular situation. Mr. O'Neil does not see where the definition is inconsistent with what they are asking for. Mr. O'Neil asked to be continued to the next meeting to review everything.

Motion by Mr. Reinke made a motion to continue the public hearing for 23-02 Special Permit – 1 Breezy Green Road – David and Alyssa Foy to May 17, 2023.

Second: Mr. Hathaway

Discussion: None.

Record of Vote:

Jim Buckley	Aye
James Reinke	Aye
Kurt Parliment	Recused
Vaughn Hathaway	Aye
Richard Johnston	Aye
Four (4) in Favor. None (0) Opposed. Approved 4 to 0	

6:21 pm Mr. Parliment rejoined the meeting.

Public Hearing – 23-03 Special Permit – 238 Paxton St. – David Lambert, Jr., Al's Oil Service
Special Permit for the alternation and extension of a nonconforming structure.

Chairman Buckley opened the public hearing at 6:44 p.m. Mr. Parliment read the public hearing notice into the record.

Peter Capebo representing Al's Oil. Mr. Capebo was brought to 238 Paxton Street back in February by an environmental company, Verdant, for an oil leak. An outside 275 gallon steel tank had purged into the ground and in doing so the environmental company was cleaning it up and had to seal up the cellar which meant the removal of all appliances/utilities. In talking to Mr. Silva, they came up with plan to add onto the existing foundation a shed area for all utilities. Foundation is in and shed is in and was built within the 40' side setback and are into the side set by 7.3'.

Mr. Reinke asked for clarification on the location of the shed. Mr. Capebo said it is attached to the house and passed out some photos and the engineer's plan showing the shed and how it is attached to the house.

Mr. Buckley stated that the reason this is a Special Permit is because the house is already non-conforming.

Mr. Buckley asked if there were any comments from the public. Mr. Lamprey from 217 Paxton Street said his concern was that they had a fuel leak and wants to know what is to stop it from happening again. Mr. Capebo said the existing tank was an outside existing tank and the new tank is a double-walled tank made to be outside, is on the other side of the house and not in the shed, and that just the utilities are in the shed. There were no other comments from the public.

Motion by Mr. Reinke made a motion to approve the Special Permit for 23-03 – 238 Paxton St. – for alteration/extension of a non-confirming structure as per Plot Plan dated March 3, 2023 by Jarvis Land Survey.

Second: Mr. Parliment

Discussion: None.

Record of Vote:

Jim Buckley	Aye
James Reinke	Aye
Kurt Parliment	Aye
Vaughn Hathaway	Aye
Richard Johnston	Aye
Five (5) in Favor. None (0) Opposed. Approved 5 to 0	

Motion by Mr. Reinke to close the public hearing.

Second: Mr. Parliment

Discussion: None.

Record of Vote:

Jim Buckley	Aye
James Reinke	Aye
Kurt Parliment	Aye
Vaughn Hathaway	Aye
Richard Johnston	Aye
Five (5) in Favor. None (0) Opposed. Approved 5 to 0	

Public Hearing Continued – 23-07 Special Permit – 651 Main St.

Special Permit for work within the Water Resources Protection Overlay District. Applicant: 651 Main Street LLC.

Motion by Mr. Reinke to continue the public hearing at the request of the applicant to May 17, 2023 at 6:05 pm.

Second: Mr. Johnston

Discussion: Mr. Buckley asked why it was being continued. Ms. Main said she did not know but included an email from Town Counsel regarding the bylaw. Mr. Reinke said he asked for clarification on delineating the total impervious surface and square footage for structures vs road. Ms. Main will email the Applicant for clarification on the total impervious surfaces.

Record of Vote:

Jim Buckley	Aye
James Reinke	Aye
Kurt Parliment	Abstained
Vaughn Hathaway	Aye
Richard Johnston	Aye
Five (5) in Favor. None (0) Opposed. Approved 5 to 0	

General Discussion

- Joe Ralan, 24 Rawson Drive. Mr. Ralan is doing a small addition at the house and thought the next ZBA meeting was May 31st. Ms. Main said she told Mr. Ralan to come to the May meeting so he is present. Mr. Ralan wants to know if legal ad can be done for May 31st meeting. Mr. Silva said they can make the 17th if the legal ad was placed tomorrow.
- Mr. Silva, Building Inspector
 - Mr. Silva asked what the ZBA would need for a special permit application for Faith Rodrigues on Parker St. who came into office and wants to have more animals. Ms. Main said she is in SA zone.
 - Mr. Silva stated Ms. Main would continue provide staff support for the ZBA but he is available if more support is needed.
 - Board members asked Mr. Silva general building questions.
 - Mr. Silva said that he would prepare a comment letter re: 1 Breezy Green as they will need an ANR through the Planning Board.

Approval of Minutes:

11/16/22 Minutes

Motion by Mr. Reinke made a motion to approve the 11/16/22 minutes with Member Hathaway's comments and corrections incorporated.

Second: Mr. Parliment

Discussion: None.

Record of Vote:

Jim Buckley	Aye
James Reinke	Aye
Kurt Parliment	Aye
Vaughn Hathaway	Aye
Richard Johnston	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

12/28/22 Minutes

Motion by Mr. Reinke to approve the 12/28/22 minutes with Member Hathaway's comments and corrections incorporated.

Second: Mr. Hathaway

Discussion: None.

Record of Vote:

Jim Buckley	Aye
James Reinke	Aye
Kurt Parliment	Aye

Vaughn Hathaway	Aye
Richard Johnston	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

1/25/23 Minutes

Motion by Mr. Reinke to approve the 1/25/23 minutes with Member Hathaway's comments and corrections incorporated.

Second: No second.

Discussion: Mr. Hathaway asked for changes to the motion language for 778 Main St. Mr. Reinke withdrew his motion to approve.

The Board tabled these minutes until corrections are made.

2/22/23 Minutes

Motion by Mr. Reinke to approve the 2/22/23 minutes with Member Hathaway's comments and corrections incorporated.

Second: Mr. Johnston

Discussion: None.

Record of Vote:

Jim Buckley	Aye
James Reinke	Aye
Kurt Parliment	Aye
Vaughn Hathaway	Aye
Richard Johnston	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

3/29/23 Minutes

Motion by Mr. Reinke to approve the 3/29/23 minutes.

Second: Mr. Hathaway

Discussion: None.

Record of Vote:

Jim Buckley	Aye
James Reinke	Aye
Kurt Parliment	Aye
Vaughn Hathaway	Aye
Richard Johnston	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	


Recording shut off.

Meeting adjourned at 7:08 p.m.

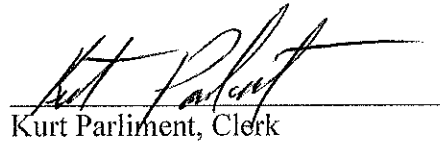
Respectfully Submitted by:
Lisa Westwell, Administrative Assistant
to the Planning Department

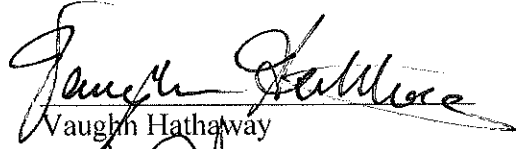
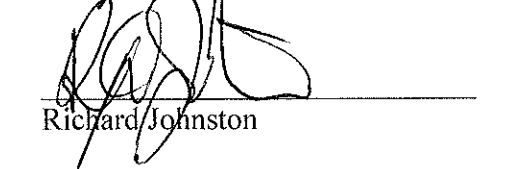
Date Approved: 12/27/23

Zoning Board of Appeals Signatures


Jim Buckley, Chair

James Reinke, Vice Chair


Kurt Parliment, Clerk


Vaughn Hathaway

Richard Johnston