

**ZONING BOARD OF APPEALS
MEETING MINUTES
May 17, 2023**

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TOWN CLERK'S OFFICE
LEICESTER, MASS.

Location: Leicester Town Hall, Select Board Meeting Room

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

Members Absent: None

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

Members of the Public in Attendance: Donald O'Neil, Esq., Sean O'Neil, Stephen Daoust

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

Public Hearing – ZBA 23-02 – David and Alyssa Foy – 1 Breezy Green Road - Special Permit for the division of land

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

Donald O'Neil, Esq. is present for Donna and Alyssa Foy. Mr. O'Neil said he reviewed the information and one of the provisions establishing the limited frontage lot is Chapter 41 Section 81 – subdivision control provision. Mr. O'Neil said this property had several lots back in 1934 and there is another ANR plan from 1962. He said all lots shown on plans met frontage requirements at the time. Mr. O'Neil believes they satisfy the requirements under the bylaw for the definition of reduced frontage lots. The other issue was the common driveway and that has been revised. Mr. O'Neil provided MGL regulations pertaining to lots.

Chairman Buckley asked if there were any comments from the public and there were none.

Mr. Buckley asked where the structure would be in relation to the driveway. Mr. O'Neil (owner) said the ranch style house would be towards the front of the tennis courts.

Mr. Stephen Daoust, 15 Wesley Drive, asked about the orientation of the house to his land in the back. Mr. O'Neil (owner) said it would face Wesley Drive and be away from his property line.

Mr. Reinke asked about the 1962 plan which shows Rogers Road going right through this property as a closed road. Mr. O'Neil said it was never built. Mr. Reinke asked where the ownership lies. Mr. O'Neil said it's a paper street and they own both sides of the road. Mr. Reinke asked if the road needs to be abandoned and Mr. O'Neil said no as it was never built. Mr. Silva said it's only an issue if there are two different owners abutting the road. Mr. O'Neil said a 1962 ANR plan shows frontage as 163 feet and includes Rogers Road.

Mr. Reinke asked why they created an easement for separating the driveways. Mr. O'Neil said there is a retaining wall and the owner and buyer are in agreement with the easement.

Mr. Hathaway said the lot has been in existence for a while and you do not need to come before the Board. Mr. O'Neil said the language is different for reduced frontage lots.

Mr. Hathaway wants to see what the new driveway will look like and Mr. O'Neil said it's on the revised plan as an easement and it doesn't reduce the frontage. Mr. O'Neil said the new parcel does not make the current property or house non-confirming and he believes they satisfy the zoning bylaw definition for a reduced frontage lot.

There were no other comments.

Motion by Mr. Reinke to approve the Special Permit for 1 Breezy Green Road for the division of land as delineated by Plan of Land Leicester 1 Breezy Green Road dated 5-10-2023

Second: Mr. Johnston

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 One (1) Recused Approved 4 to 0	

Motion by Mr. Reinke to close the public hearing.

Second: Mr. Johnston

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 One (1) Recused Approved 4 to 0	

Public Hearing (Continued) – ZBA 22-07 – 651 Main Street

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

Mr. Buckley said his understanding is the applicant has requested a continuance. Mr. Silva recommends that at the next continuance the Board ask the applicant if they want to withdraw the application without prejudice or the Board could deny the project. Mr. Buckley asked if Quinn Engineering had said anything about the increase in water due to increase in impervious area and

recalled a letter but couldn't locate it. Mr. Silva said he would provide a project timeline to the Board.

Motion by Mr. Reinke to continue the public hearing for 651 Main Street ZBA 22-07 for work within the Water Resources Protection Overlay District until June 28, 2023.

Second: Mr. Johnston

Discussion: Mr. Hathaway would like the Applicant to attend in person.

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 – ZBA 23-04 – Joseph Rau – 24 Rawson Drive

Special Permit for the limited setback (150 ft required, 90.93 ft proposed).

Mr. Parliment left the meeting room.

Mr. Rau was present. Mr. Rau wants to add a 24' x 20' addition to their 960 sq ft ranch. Set back of 37.6' and the zoning district requires 40'. They want to expand their family and are expecting another child. Mr. Rau said they considered going vertical and adding a second floor but he works from home and his wife is pregnant and they would have to move out of the house to rip the roof off. They would have to spend an additional \$10,000 and it's a financial hardship. They considered moving, but market is not ideal.

Mr. Buckley asked if the current house encroached into the setback and Mr. Rau replied no. Mr. Silva said they need a variance, not a special permit. Mr. Reinke asked if Rawson Drive was public or private and Mr. Rau said it's a private road. Mr. Buckley said the public hearing notice was for a special permit. Mr. Silva said it was a Scribner's error and it should have said variance and everyone still received a public hearing notice.

Mr. Reinke said he's only encroaching 14' on a private road so it is technically a center of road. Mr. Buckley asked the total cost of the project and Mr. Rau replied \$100,000 and it will cost \$10,000 to move it to meet the setback. Mr. Reinke asked if the green cards were received and Ms. Main replied yes.

Mr. Hathaway noted there are different criteria for special permits versus variances, one being hardship for a variance and he wanted to go on record that he said that to the Applicant.

Mr. Reinke asked if this is approved, should they vote on special permit and variance. Mr. Buckley said he didn't think a special permit is necessary so just a variance.

Mr. Buckley asked if there were any more comments and there were none.

Motion by Mr. Reinke to approve the variance for 24 Rawson Drive ZBA 23-04 variance for limited setback with the finished plane being 37.6' from the edge of the property line as delineated and illustrated in "Proposed Addition" prepared for Stacey and Joseph and Rau, 24 Rawson Drive, Leicester, MA dated April 13, 2022.

Second: Mr. Johnston

Discussion: None

Record of Vote:

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

Motion by Mr. Johnston moved to close the public hearing.

Second: Mr. Reinke

Discussion: None

Record of Vote:

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

Motion by Mr. Reinke to adjourn.

Second: Mr. Johnston

Discussion: None

Record of Vote:

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

Meeting adjourned at 7:03 p.m.

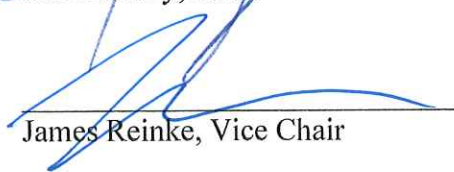
Respectfully Submitted by:
Lisa Westwell, Administrative Assistant
to the Planning Department

Date Approved: 12/27/23

Zoning Board of Appeals Signatures



Jim Buckley, Chair



James Reinke, Vice Chair

Kurt Parliment, Clerk



Vaughn Hathaway

Richard Johnston