

ZONING BOARD OF ADJUSTMENT	February 22, 2024 7:00 PM
TOWN OF HAMPTON FALLS	TOWN HALL

**FINAL**

*Please note that meetings of the ZBA have been video recorded.* Meeting Minutes are maintained on file at the Town Clerk's office, Town Hall, 1 Drinkwater Road, Hampton Falls, NH. Meeting Notices are posted on bulletin boards at the Town Hall, Library, Hampton Falls Post Office, and the Town website at: [www.hamptonfalls.org](http://www.hamptonfalls.org) for minutes, meeting agendas, videos, and more information.

**A. CALL TO ORDER:**

J. DeLeire, Chairman, called the meeting to order at 7:00 PM.

**B. ROLL CALL:**

**3 MEMBERS and 3 ALTERNATES PRESENT:** John DeLeire, Chairman; James Manna, Member; Michael LaBarre, Member; Jamie Hasenfus, Alternate; Weezie Vance, Alternate; and Stephen MacLeod, Alternate.

**4 ABSENT:** Steve Bryant, Vice-Chairman; Mark Call, Member; Patti Young, Alternate; Jude Augusta, Alternate

**STAFF:** Mark Sikorski, Building Inspector; and Rachel D. Webb, Assistant Administrator.

**GUESTS:** Mark and Vivian Lefebvre

Chairman DeLeire stated that there were three (3) ZBA Members and three (3) Alternates present.

The five (5) voting Members for the meeting were: J. DeLeire, J. Manna, M. LaBarre, W. Vance, and J. Hasenfus. Chairman DeLeire clarified that the additional one (1) Alternate could participate in the discussion of the meeting up to, but not including, the vote.

**C. PUBLIC HEARING:**

Chairman DeLeire opened the Public Hearing and read the legal ad descriptions into the record, from the agenda.

~~1) Case #24-01: Continuance of Rehearing from Justin Pasay/Al Fleury regarding Case #23-08 from 3 Weare Road LLC, for a Variance to the terms of Article III, Section 1, to permit a light commercial storage and vehicle maintenance use at the Property in addition to the existing single family residential use, in Zone A/R, Agricultural Residential, at property located at 3 Weare Road, Map 1, Lot 21.~~

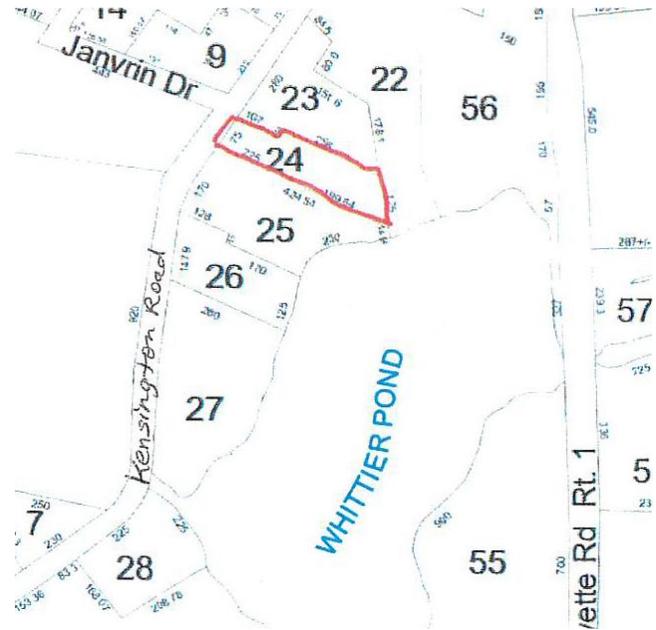
Chairman DeLeire stated that the applicant of ZBA Case # 24-01 has requested to Continue their hearing to the next regularly scheduled ZBA meeting on March 28, 2024, at Town Hall in this meeting room, and stated that their request has been granted.

2) Case # 24-02: Application from **Mark and Vivian Lefebvre** for a Variance to the terms of Article III, Section 7.7.2 and asks that said terms be waived to permit a pool to be constructed within the side yard setback, at five-feet (5') from the side setback, where twenty-five-feet (25') is required, located in Zone A/R: Agricultural / Residential zone, at property located at **22 Kensington Road, Map 7, Lot 24.**

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The applicants, Mark and Vivian Lefebvre, were present to address the ZBA about their Variance application from the side yard setbacks as established by the Town. V. LeFebvre stated that their lot width is very narrow at only seventy-five-feet (75') wide where the current requirement for lot width/frontage is two-hundred-and-fifty-feet (250') wide, (see Assessors Map, as part of their application), and their existing property setbacks are less than the required twenty-five-feet (25') from the property line to their house. She stated that their garage is directly on the property line and the variance being requested would be consistent with the other structures on the lot. The Variance they are requesting is from Article III, Section 7.7.2, as follows:



7.7.2 In those cases involving a contiguous addition to an existing structure which may be set back a lesser distance from any lot line than specified in 7.7.1, such addition shall have setback distances which are at no point less than the least setback distances of the existing structure from any lot line, except that, the foregoing notwithstanding, the minimum setback from any lot line in A District shall not be less than twenty-five feet (25').

The applicants' desire is to install a four-feet (4') deep plunge, pool tucked into their side yard, as they get ready to retire. V. LeFebvre stated that they have spoken to their neighbors about their plans, and no one objected, and one (1) neighbor wrote a letter of support that she read into the record, as follows:

January 23, 2024

To the Town of Hampton Falls --

I am the owner of 20 Kensington Road in Hampton Falls.

As a direct abutter to 22 Kensington Road, I am aware that the owners would like to build a pool that is within the 25' setbacks required for their property.

My wife and I have no concerns about any impact to our property from this project and would like to communicate my approval of the variance they seek for relief from this guideline.

**Thank you, Ian Danielson; 20 Kensington Road**

Next, at Chairman DeLeire's request, V. LeFebvre read she and her husband's Addendum to their Variance application into the record, as follows:

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**ADDENDUM TO PERMIT APPLICATION FOR VARIANCE – LEFEBVRE**

My husband Mark and I have been living in our home in Hampton Falls since 2016. We are submitting this request to build a small in-ground pool in our yard; the location does not meet the town’s required 25’ setback from the property line.

We are requesting relief from the required 25’ setbacks and approval of a private pool on our property, which will not be visible from the street due to the addition of a fence on the street side as part of this project.

Due to the narrow shape of the lot, which is only 75’ wide, there is insufficient space on the side to allow compliance with the town’s setback requirements. Please note that the garage on our property is less than 1’ from the property line and the house is less than 20’ from the property line.

Our proposal is that the edge of the pool be 5’ from the property line.

We have spoken with abutters, and they have no objection to the addition of a pool in our yard at this location.

We have explored other options on the property for the pool, however, in the larger yard area behind the house, the pool would be too close to the septic system.

We believe that the plans we have for the pool and surrounding yard will add beauty and value to our property and to the neighborhood, including the surrounding properties.

We respectfully request that the town of Hampton Falls approve this variance request.

Thank you.

1. Explain how the variance will not be contrary to the public interest  
As a private structure, there is no impact to the public interest. This request is in keeping with the public interest in that it will not alter or adversely impact the aesthetics of the neighborhood, negatively impact the natural environment or threaten public health, safety or welfare.
2. Explain how the spirit of the ordinance is observed.  
Understanding that the spirit of the ordinance for a 25’ setback is to provide privacy to the neighboring property, our intention is to situate the pool as far from the property line as is feasible. A fence will be constructed around the open areas of the yard, which will keep it out of view of the public and the neighbors.
3. Explain how substantial justice is done.  
Substantial justice is done since this is a private pool which will not cause harm or inconvenience to the general public or neighborhood. There is sufficient existing fencing between our property and the property directly next to us which will continue to provide privacy and will not impact the neighboring property. There is no substantial relationship between the general public and the proposed variance.

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4. Explain how granting a variance would not diminish the values of surrounding properties  
 Granting variances will not diminish surrounding property values. The proposed location of the pool is out of view from the surrounding properties and will be adjacent to an existing 6' fence. In addition, the improvements to landscaping and hardscaping we have planned for this area of our property will more likely increase the beauty and value of the neighborhood.

5. Describe the special conditions that exist such that literal enforcement of the provision of the ordinance results in unnecessary hardship  
 The proposed placement of the pool is ideal due to the close proximity to the house, providing easy access and the ability to maintain safety and security in plain view. This placement is also optimal since the larger part of the property has a leech field and large boulders as well as being sloped. A retaining wall would need to be built as well as a much larger expanse of protective fence as the existing fence does not provide adequate height for legal protection. The required excavation, hardscape, fencing, and the risk of damage to the septic system make this area prohibitive.

M. LaBarre asked if the existing fencing was the applicant's or the neighbor's fence, and the response was that it belonged to the neighbor. The LeFebvres said that their house is on one side of the proposed location of the pool, and that they would be installing two (2) additional sides of fencing, so that the pool location will be entirely enclosed with fencing, to meet the code requirements.

W. Vance asked how far away the pool to the side of the garage is, and the response was approximately eight-feet (8'), and she clarified the depth of the pool will be four-feet (4').

Chairman DeLeire clarified the width of the lot is seventy-five-feet wide (75'), and asked what the depth of the lot is, and the applicant consulted their plan and stated that the lot depth is 425-feet (425'). He followed-up and asked if the applicant's lot extended to Whittier Pond behind, and the applicant responded no, that another property owner located two houses up the street owns the strip of land along the pond. Chairman DeLeire stated that the lot is very narrow at 75-feet, given that today's lot width requirements are 250-feet wide.

W. Vance stated that she had viewed the area, and commented on how "tight" it looked, and asked the applicant why they would want a pool in that location? V. LeFebvre responded that she is getting ready to retire, and that she is a pool person, and does not want to go to the beach, so it will be her mini get away for when she retires.

J. Manna asked if the proposed dimensions included a typical concrete apron around the pool, and the applicants responded that it did, and that they have plans to do some landscaping and to add some pavers to create a patio. The question was posed to M. Sikorski regarding the

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definition of a structure and does the pool (as a structure) include the concrete apron area surrounding it, and M. Sikorski responded that it does.

M. LaBarre asked the applicants if their adjacent garage was on a slab or on a foundation, and they responded that it was on a slab. M. LaBarre followed up and asked M. Sikorski if there was any potential issue siting a pool, with its inherent excavation so close to the slab/foundation of the garage, and M. Sikorski responded that there is no issue.

Chairman DeLeire stated that the proposed location of the pool is really the only place on the lot to put it because of being constrained by the existing locations of the septic system and the well. He stated that the shape of the applicants' lot is unique and unusual in its narrowness and depth. Additionally, he continued that the neighboring parcels are much larger by comparison.

Chairman DeLeire asked for any Public Comment and there was none.

The ZBA entered deliberations and Chairman DeLeire summarized that: 1) the lot shape is unique; 2) the lot is a challenging lot upon which to site a proposed pool because of its narrowness; 3) there is no other place on the lot upon which to locate a pool, other than where the applicants have proposed it; and 4) the neighbors are in support.

**MOTION: To approve the requested Variance, for Case # 24-02, Variance to the terms of Article III, Section 7.7.2 and asks that said terms be waived to permit a pool to be constructed within the side yard setback, at five-feet (5') from the side setback, where twenty-five-feet (25') is required, located in Zone A/R: Agricultural / Residential zone, at property located at 22 Kensington Road, Map 7, Lot 24.**

**for the following reasons:**

- 1. The variance would not be contrary to the public interest. It would not alter the residential character of the neighborhood or pose a threat to public health, safety, and welfare.**
- 2. For the same reasons, granting the variance would observe the spirit of the ordinance.**
- 3. Granting the variance would do substantial justice. The harm to the applicant of denying the variance would outweigh the benefit to the public.**
- 4. There is no evidence that granting the variance would diminish the values of surrounding properties.**
- 5. Denying the variance would cause an unnecessary hardship. The location of the property and its built conditions distinguish it from other properties in the area. Due to those special conditions, there is no fair and substantial relationship between the purpose of the ordinance's restriction and the application of that restriction to this property; and I believe the proposed use is reasonable.**

**MOTION: J. DELEIRE**

**SECOND: J. HASENFUS**

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**Discussion:** W. Vance asked if the pool would be concrete or a vinyl liner, and the applicant responded that it would be a vinyl liner. W. Vance asked if the liner is porous, and the applicant responded that there is a steel structure that goes into the hole to hold the sides of dirt back, that is covered with the vinyl. And then the bottom has some packed stone dust material under the vinyl liner that is soft when walked on.

UNANIMOUS

**D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES: 01/25/2024**

**MOTION:** To approve the meeting minutes from 01/25/2024 as written.

**MOTION:** J. DELEIRE

**SECOND:** J. MANNA

UNANIMOUS

**E. OTHER BUSINESS:** There was no Other Business.

**F. COMMUNICATIONS TO BOARD MEMBERS:** There were no communications to the Board members.

**G. ADJOURN:**

**MOTION:** To adjourn the Zoning Board of Adjustment at 7:23 PM.

**MOTION:** J. DELEIRE

**SECOND:** W. VANCE

UNANIMOUS

The next meeting of the Hampton Falls Zoning Board of Adjustment is scheduled for Thursday, March 28, 2024, at 7:00 PM at Hampton Falls Town Hall.

Zoning Board of Adjustment Minutes prepared by Rachel D. Webb, Assistant Administrator.