

## Brentwood Board of Adjustment Meeting Minutes – May 20, 2024

Members Present: Chairman Doug Cowie, Vice Chair Ken Christiansen, Frank Albert, Regan Elliot

Doug Cowie opened the meeting at 7pm. Christiansen motioned to give Benedix voting rights, Albert seconded, Cowie, Christiansen and Albert – aye, Elliot is not yet present. Elliot arrived.

**Equitable Waiver of Dimensions Application:** Owner - River Run Development, LLC. The subject property is located at 1 Edgewater Drive, previously 39 Mill Road, Brentwood, NH 03833, Map & Lot 217.049. **Applicant:** James M. Lavelle, LLS requests an equitable waiver, under RSA 674:33-A, to the terms of Article VII, Section 700.002.006.001-A of the Town of Brentwood Zoning Ordinance to allow the dwelling to remain in its current location within the required 35' buffer.

Jim Lavelle, is representing the applicants, Jon and Jared Lariviere, this evening. There are no abutters present. The subject property, Tax Map & Lot 217.049, was previously 39 Mill Road, it is now 1 Edgewater Drive. It is also noted that the property is not part of the (55+) River Run Development but rather a single family home, adjacent to the development. Lavelle explained that there is currently a home under construction on the subject lot, which was laid out by his office after an electronic transfer from Beals' Associates. Subsequently, Lavelle's office did a certified plot plan which located the foundation with its offset to the wetland line that his crew located at that time. After that Nichols Environmental went to the site for septic work, at which time they noted a difference in the original positioning of the house. Lavelle reviewed again, the foundation was installed using an electronic transfer from Beals' Associates and was certified with the wetland location by Lavelle's office. The error was discovered only after the information was forwarded by Nichols' Environmental. Pictures of the home construction were provided, it appears to be under a considerable amount of construction. Pictures are available in the file in the Planning Board Office. Christiansen asked how much they have encroached on the wetland buffer. Lavelle explained that wetland locations are not definitive, a person will go out with an auger, locate a wetland and tie a wetland flag to the nearest branch. Lavelle stated that their plans show the home at 10.24', the requirement is for 35'. Christiansen stated that Brentwood has very strict wetlands rules. Lariviere stated that the difference between the two plans is one is picking up flags along a long distance versus trying to locate an exact point which is what was done in this case. Cowie asked Lavelle if his testimony this evening was that no harm would come to anyone else if the waiver were granted. Lavelle agreed and stated that if there is no harm to the public or anyone else, there is no reason not to grant it.

Lariviere added that the previous home on this lot was significantly over the front setback, that was torn down and a waiver was granted for the proposed new home to allow for it to be over the front setback so that it would not encroach on the wetlands. Lariviere stated they used a smaller footprint for the house, and when it was laid out, they made the natural assumption that it needed to be within the building setbacks. The variance for the front setback was not used, the house now conforms to the building setback, but resulted in encroachment of the wetland buffer by (24.76') which places the home 10.24' from the edge of the wetland, as shown on the provided plan. **Elliot made a motion that the Board approve the Equitable Waiver of Dimensions, Christiansen seconded the motion.** Cowie asked if there were any abutters present, there were not. Cowie asked if there was any other discussion. There was not. Cowie stated that for the record the Board is voting that this application meets all the criteria that the RSA calls for. **Cowie, Christiansen, Albert, Elliot and Benedix were all in favor, motion carries.**

A discussion about wetlands occurred.

The Board reviewed the minutes of December 18, 2023, **Christiansen motioned to approve the minutes as written, Albert seconded, all in favor, motion carried.**

Albert motioned to adjourn, Elliot seconded, all were in favor.