

**ZONING BOARD OF APPEALS  
MEETING MINUTES  
November 29, 2023**

RECEIVED

2024 JAN -2 AM 8:33

**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:** Kristen Jacobsen, Town Planner, Lisa Westwell, Administrative Assistant

**Members of the Public in Attendance:** See Sign In Sheet Attached

TOWN CLERK'S OFFICE  
LEICESTER, MASS.

---

**Call to Order:** Chairman Buckley called the meeting to order at 6:17 p.m.

**Public Hearing – V-2023-12 – Tim and Denise Wells, 69 Burncoat Ln., 27A-E34 & 27A-E35**  
Applicants seek a variance relating to the side yard setback requirement to construct an addition and garage.

Chairman Buckley opened the public hearing at 6:18 p.m. Mr. Parliment read the public hearing notice into the record.

Mr. Buckley stated that the hearing is for a variance for side and front yard setbacks and will also need a Special Permit because it's pre-existing non-conforming.

Jason Kurtz, Architect, was present on behalf of the homeowner. He said this lot and surrounding lots are all zoned SA and are smaller than the required 80,000 s.f. lot size. This lot is less than 20,000 s.f. Applicant is requesting a variance for side and front setback (40 ft required) to 37.7' and 33.2' respectively. Mr. Kurtz said the hardship is that the addition can't be placed anywhere else due to the lot's small size.

Mr. Hathaway said that doesn't speak to hardship and asked what the hardship is if the variance isn't granted. Mr. Wells said that his elderly mom lives with them and the addition would allow them to put the laundry on the first floor.

Mr. Reinke asked if it was a three bedroom home and Mr. Wells replied, yes, and the septic was already replaced to accommodate the addition. Mr. Reinke asked if the addition needs to be that large and Mr. Wells replied that the existing house can't accommodate his office as the three bedrooms are upstairs with kitchen, dining room and living room downstairs. Mr. Reinke asked if the size of the addition can be reduced at the side setback to conform. Mr. Kurtz said the side line cuts into 6 ft of the proposed addition. Mr. Reinke asked what the layout of the addition looked like and Mr. Kurtz handed out a copy of the proposed addition floor plan. Mr. Wells said that is his mom's health fails, the office in the addition would become a bedroom and one bedroom in the existing house would become an office. Mr. Buckley asked why the addition can't be reduced to comply with setbacks and Mr. Wells responded that it would cut into the laundry room. Mr. Buckley asked what the hardship is and would not getting the variance result in him not building. Mr. Wells said it wouldn't be worth it as he couldn't make the office into a bedroom.

Mr. Hathaway said this also needs a Special Permit due to expanding an already pre-existing non-conforming home and asked if Mr. Wells could change the addition plans to meet the setbacks and make it conform and not be even more non-conforming. Mr. Wells stated he did not know he needed a Special Permit and said that hardship is the way code is written for the SA Zone. He has 1 acre with a 40' setback and he has two lots which together still don't meet zoning. Mr. Hathaway said that bylaws would have to change at Town meeting, and they have to follow current bylaws. Mr. Wells asked what beyond his mom's disabilities did they need for hardship. Mr. Hathaway said that if the addition doesn't encroach, it only needs a Special Permit and not a variance.

Mr. Wells said they are extending the kitchen wall 18' off front. Mr. Reinke said that 18' is no more encroaching so it doesn't need a variance and that a Special Permit would be easier to get. Mr. Reinke said that M.G.L. Chapter 40 dictates ZBA actions and he would also like to see zoning changes, but they are bound by current zoning and suggest Mr. Wells work with his Architect to reconfigure the interior space to comply with zoning. Mr. Buckley said he's not comfortable making a decision on a revised plan without seeing it first but also wants to see the new addition comply with setbacks. Mr. Kurtz said they can't go closer to the water or septic per Conservation and Board of Health, and both have approved the septic plan.

Mr. Hathaway said if they deny the variance and approve a Special Permit, the owner will have to reduce the size of the addition or reconfigure it to meet setbacks. Mr. Buckley asked if the intent is to increase living space, can they narrow the addition or not build the garage. Mr. Johnston asked if the garage could be shifted over and thought Burncoat Lane was private so they may own to the centerline of the road which would make garage compliance with front yard setback. Mr. Wells said it was surveyed and the surveyor did not say that but he would look into it.

Mr. Hathaway said that the Board seems uncomfortable with a variance but what about a Special Permit. Mr. Reinke said he would allow a Special Permit application and waive all fees. Mr. Buckley said he was not comfortable with approving a Special Permit without a plan showing conforming setbacks, but the Applicant could withdraw the application without prejudice and come back with a new plan, or the Board could deny the variance, or the Applicant could request a continuance to include the Special Permit application. Mr. Reinke said that if the variance is denied, the Applicant would not be able to come back again for two years. Mr. Kurtz asked if they could present more hardship information if they requested a continuance. Mr. Hathaway said they would have to explain why the setbacks can't be met.

Mr. Buckley asked the Applicant how he would like to proceed, and he said he didn't want to the Board to vote on it because he couldn't wait two years. Mr. Buckley reiterated that the variance was an issue and criteria has to be met.

Ms. Jacobsen said that December 27, 2023, would be the next meeting date. Ms. Jacobsen a Special Permit Application with a new plan would have to be submitted and it would have to be advertised.

There were no other comments.

**Motion** by Mr. Reinke to continue the public hearing for the variance for 69 Burnocat Lane to December 27, 2023 at 6pm.

**Second:** Mr. Johnston

**Discussion:** None.

**Record of Vote:**

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

**Discussion**

Mr. Reinke would like to re-visit the lake zoning issues. Mr. Johnston said the options might be to re-zone or consider an overlay district for lake areas. Mr. Reinke said maybe include already built and not undeveloped lots. Mr. Johnston said to consider including certain lake streets. Mr. Johnston would like to see existing Town maps at the next meeting. Ms. Jacobsen said new zoning language would need to avoid the appearance of spot zoning.

**Motion** by Mr. Reinke to table meeting minutes 1/25/23, 4/26/23, and 10/25/23 to the next meeting.

**Second:** Mr. Johnston

**Discussion:** None.

**Record of Vote:**

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

**Motion** by Mr. Reinke to adjourn.

**Second:** Mr. Parliment

**Discussion:** None.

**Record of Vote:**

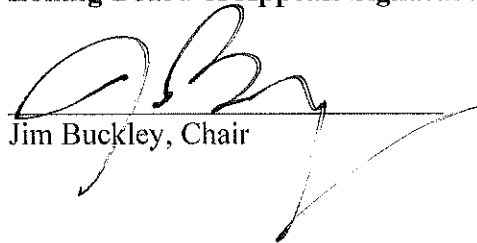
Jim Buckley	Aye
James Reinke	Aye
Kurt Parliment	Aye
Vaughn Hathaway	Aye
Richard Johnston	Aye
<b>Five (5) in Favor. None (0) Opposed</b> <b>Approved 5 to 0</b>	

Meeting adjourned at 7:05 p.m.

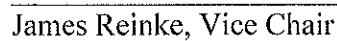
Respectfully Submitted by:  
Lisa Westwell, Administrative Assistant  
to the Planning Department

Date Approved: 12/27/23

**Zoning Board of Appeals Signatures**

A handwritten signature in black ink, appearing to be 'JB', written over a horizontal line.

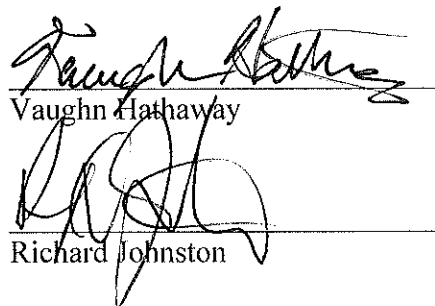
Jim Buckley, Chair

A handwritten signature in black ink, appearing to be 'JR', written over a horizontal line.

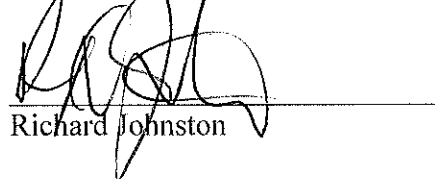
James Reinke, Vice Chair

A handwritten signature in black ink, appearing to be 'K. Parliment', written over a horizontal line.

Kurt Parliment, Clerk

A handwritten signature in black ink, appearing to be 'Vaughn Hathaway', written over a horizontal line.

Vaughn Hathaway

A handwritten signature in black ink, appearing to be 'RJ', written over a horizontal line.

Richard Johnston

**NOVEMBER 29, 2023**

# SIGN-IN SHEET

[illegible]