

**ZONING BOARD OF ADJUSTMENT**  
**Tuesday, July 8, 2025 at 7:00 p.m.**  
**Town Council Chambers, Town Hall**  
**8 Newmarket Road, Durham, NH**  
**MINUTES**

**MEMBERS PRESENT:** Neil Niman, Chair

Micah Warnock, Vice Chair

Kevin Lemieux, Secretary

James Bubar

Mark Morong

Joe Warzin, alternate

**OTHERS PRESENT:** Audrey Cline, Zoning Administrator

**I. Call to Order**

Chair Niman called the meeting to order at 7:00 pm.

**II. Roll Call**

Chair Niman introduced all members of the Board in attendance.

**III. Approval of Agenda**

*Vice Chair Warnock **MOVED** to **APPROVE** the agenda as presented. **SECONDED** by Member Lemieux, and **PASSED unanimously 5-0-0.***

**IV. Seating of Alternates**

No alternates were seated as the full board was present.

**V. Election of Officers**

Officers were elected in the June 2025 meeting.

**VI. Public Hearings:**

*A. **PUBLIC HEARING** on a petition submitted by Christopher L Boldt, Esq. on behalf of Riverwoods Durham, New Hampshire, for an **APPLICATION FOR VARIANCE** in accordance with Article XIII Section 175-59 (75 ft. wetlands buffer) for the construction of two (2) multi-unit senior housing buildings, a community center, a maintenance building, and associated parking. Additionally, variance applications from Article II Section 175-7 (definition of accessory structure), and Article XII.1 Section 175-53 Table of Uses. The property involved is shown on Tax Map 209, Lot 33, located at Stone Quarry Drive and is in Route 108 (OR) Zoning District.*

Member Lemieux read the above public hearing into the record at 7:01pm.

Chris Boldt, Esq. spoke on behalf of the applicants and introduced the others present: Erik Saari of Altus Engineering and Pat O'Keefe and Kim Gaskell of Riverwoods. He explained that the application involves two parts: one involves the residential buildings and parking structures; the second is for the ZBA to determine if a variance is needed for the community center and maintenance building that are part of the proposed campus which will be used for the upkeep of the proposed structures as well as to the benefit of the existing campus. Mr. Saari presented the proposed project. The parcel is 22.5 acres, mostly wooded. They are looking to add two residential buildings encompassing 55 units for senior housing. Garage parking spaces under the residential buildings are proposed to minimize the parking footprint. One parking lot is primarily within the wetlands setback and one residential building and the second parking lot are partially within the wetlands setbacks.

Mr. Boldt confirmed the easement location change was approved at the June 16, 2025 Town Council meeting. In addressing the five criteria, he said the spirit of the ordinance is met in that no reasoning is provided for why 75' is set as the setback, and they are largely within the setbacks for the vernal pools on the property. Non-residential structures do not require a variance, nor do driveway access areas, which are conditional use areas. The project relocates the easement that provides access to the two cemetery lots from its current location through one of the vernal pools to around the vernal pool. They are looking for enough parking spaces to include additional staff parking needs from the existing campus. The corner of one of the residential buildings will be 23' from the wetlands. The east building is just shy of 75'. The drainage structure of the west side parking area will address runoff before it enters the wetlands. The entire roof system, including areas that are within compliance areas, will include gutters and stormwater will be captured by an internal underground system that will leech the water into the wetlands in an appropriate manner. The project will not change the character of the neighborhood as it will be close to the existing campus and far from neighboring properties. After construction, they will only be at 8.9% structural coverage at this location where they are allowed up to 50%, maintaining protection for the bulk of the lot. Regarding substantial justice, Mr. Boldt contends the purpose of the wetland setbacks will be met through the proposed water management plan. They will also have trails and sidewalks that will keep members of the public off the roadway at the request of DPW. He anticipates no impact to the values of neighboring properties.

Mr. Saari stated the areas in question are flagged wetlands. Vice Chair Warnock asked if previous work at Riverwoods was in compliance to ensure debris did not run into the wetlands. Mr. Saari confirmed the applicants will go through DOT to request alternation of terrain, and DOT will review the applicant's plan for addressing runoff as part of that

77 process. The project involves using porous surface area on one of the lots, as they did on  
78 the other part of the campus. Due to the younger residents at Riverwoods, many couples  
79 still have two cars, requiring additional parking which the applicants are addressing with  
80 both parking lots and parking under the buildings. Mr. Bubar asked about soil types. Mr.  
81 Saari said most of the soil is clay with an exceptionally slow perk rate. Mr. Morong noted  
82 that Riverwoods knew about the wetlands when they bought the property and knew they  
83 would have to work around the wetlands. Mr. Boldt explained that case law has  
84 determined the “invited hardship” concept is not supposed to be the factor that decides  
85 everything and that the totality of the project must be reviewed. Mr. Boldt confirmed this  
86 was presented to the conservation commission and said the conservation commission  
87 appreciated that the stormwater is being treated from the roofs and that trails would be  
88 maintained.

89  
90 There was some discussion as to whether a variance is needed for the access way to the  
91 parking areas, as the ordinance doesn’t speak to access but does speak to parking areas.  
92 Mr. Morong asked if an environmental engineer reviewed the plan to determine the  
93 environmental impact, including flooding, wildlife impact, and the quality of the  
94 wetlands. Mr. Saari said the stormwater quality concern is met through the existing plan  
95 and also includes a plan for rain gardens. They consulted with Fish and Game, who are  
96 looking at a few things they want the applicants to address, which will be included in the  
97 application to the state.

98  
99 Chair Niman asked if he heard correctly that the applicant said they were willing to accept  
100 no future development of the property as a condition of approval. Mr. Boldt said that is  
101 not something he could agree to, as he doesn’t want to hamstring a client on their future  
102 right to develop areas of the property that are open to development by right. He said they  
103 did offer a significant conservation easement to the town over a bulk of the property and  
104 the town did not want it. Chair Niman asked if the parking lots could go anywhere else.  
105 Mr. Saari said they attempted to put them elsewhere but there wasn't a feasible solution  
106 aside from adding the parking garage under the buildings, which comes at significant  
107 expense to the property owners, as a means to minimize ground level parking. They also  
108 need to consider the residents, for whom a satellite parking location would not be  
109 appropriate. Vice Chair Warnock asked why residents couldn’t be restricted to one  
110 vehicle. Mr. Bubar expressed concerns about an additional 100+ cars entering the area.  
111 Mr. Saari said a traffic study has been conducted. Vice Chair Warnock expressed  
112 concerns about continued maintenance of the stormwater systems. Mr. Saari said visiting  
113 family members will need parking as well.

114  
115 Mr. Saari said the drive aisle between parking spaces requires a variance. There was some  
116 discussion about whether other locations for parking could minimize impacts to the

wetland buffers. Mr. Lemieux asked if the public would be allowed to park in the lots if they receive approval. Mr. Saari confirmed the public would be able to park there and curbs will be used where necessary for stormwater maintenance.

Mr. Boldt said the community center being proposed is for Riverwoods residents and is an accessory structure for ancillary uses. Based on the language of the ordinances, he does not believe a variance is needed, but he applied for one just in case. He explained that though the building is within the wetland buffer area, it doesn't need a variance because of the type of building it is and only needs a conditional use approval. Since community center and maintenance buildings aren't listed as types of accessory structures in the ordinance, he wanted to include the variance application in case those weren't considered accessory structures. The structures are proposed on a separate lot from the main campus, though both lots are owned by the same owner.

No members of the public rose to speak on the application.

*Vice Chair Warnock **MOVED** to **CLOSE THE PUBLIC HEARING. SECONDED** by Member Lemieux, and **PASSED unanimously 5-0-0**. The public hearing was closed at 8:09pm.*

The board first discussed if the applicants need a variance for the community center and maintenance building.

*Chair Niman **MOVED** that regarding Article II Section 175-7 (definition of accessory structure), and Article XII.1 Section 175-53 Table of Uses **NO VARIANCE IS NEEDED** because the structures are accessory. **SECONDED** by Vice Chair Warnock, and **PASSED unanimously 5-0-0**.*

Vice Chair Warnock stated Mr. Saari alleviated some of his concerns given how Mr. Saari spoke to the issue of stormwater maintenance. He believes the applicants have met the criteria for a variance. Mr. Lemieux expressed that he liked that the public would be allowed to use the parking spaces for the trails, relieving the issue of parking on the road. Member Morong stated it is a big ask to have this level of encroachment on the wetland buffers. He doesn't see the hardship related to the project and doesn't believe the applicants need the level of parking they are asking for. He would look in favor of a more scaled down version. Chair Niman expressed concerns for wildlife habitat and shared Mr. Morong's concerns about the amount of intrusion in the buffer areas. He believes it is the zoning board's job to protect those buffers. Vice Chair Warnock asked if the delineated wetlands were as they existed before previous development or after, because if after, it is already conditioned land. Member Bubar said he would have greater concern if they had

some statement from the conservation commission. Ms. Cline said the actual wetlands weren't disturbed by previous development, and the laydown area was north of the wetlands. The board's primary concern was with the west building and associated parking lot. Vice Chair Warnock sees value in the building and would be ok with a variance on the building. Member Lemieux sees there is a need for senior housing and believes the owners will do a good job managing the stormwater, which supersedes the need for the 75' buffer.

Chair Niman stated his appreciation for the Riverwoods community and his belief that anything that strengthens the Riverwoods community strengthens the Town of Durham. He summarized the board's discussion, stating that the special nature of this property enables them to make a determination that the cost of some of the encroachment in the wetland buffer does not exceed the benefit and the benefit far exceeds the cost. He believes the applicants will make their best efforts to mitigate any problems and will act in the best interest of the public. Mr. Morong believes they could scale back the project to be more in line with the public interest. Vice Chair Warnock stated the owners have demonstrated they take good care of their property, which is preferable to the property being sold and an unknown developer purchasing and developing the property. Chair Niman said the project will raise property values. Member Bubar would like to see a motion framed in this plan and any deviation would void the variance.

*Vice Chair Warnock **MOVED** to **APPROVE** Public Hearing A, a petition from Mr. Boldt, Esq. on behalf of Riverwoods, **APPLICATION FOR VARIANCE** from Article XIII Section 175-59 (75 ft. wetlands buffer) for the construction of two (2) multi-unit senior housing buildings and associated parking and for variance approval based upon exhibit #1 of Atlas Engineering Riverwoods Phase 2 the areas in blue in which they have submitted for the variance into the wetlands buffer. **SECONDED** by Member Bubar and **PASSED 4-1-0**, with Member Morong voting in opposition.*

Chair Niman explained there is a thirty day appeal period.

## **VII. Other Business**

Regarding the rescheduled November ZBA meeting, Chair Niman shared that the space isn't available for that date. Ms. Cline said the ZBA isn't required to meet every month and the board could cancel November's meeting.

*Vice Chair Warnock **MOVED** to **CANCEL** the November, 2025 meeting. **SECONDED** by Member Morong, and **PASSED unanimously 5-0-0**.*

## **VIII. Approval of Minutes: February 11, 2025**

195       Chair Niman **MOVED** to **APPROVE** the minutes of February 11, 2025 as written.  
196       **SECONDED** by Vice Chair Warnock, and **PASSED 4-0-1**, with Member Lemieux  
197       abstaining.

198    **IX. Adjournment**

199       Member Bubar **MOVED** to **ADJOURN** the meeting. **SECONDED** by Vice Chair  
200       Warnock, and **PASSED unanimously 5-0-0**.

201       Adjournment at 8:40 pm

202       Daphne Chevalier, Minutes taker