

Town of Milford
ZONING BOARD OF ADJUSTMENT
Select Board Meeting Room, Town Hall
APRIL 3, 2025, 6:00 pm
Public Hearings

Case 2025-04: Gregory Luongo & Karen Isabelle, 20 Oak Street, EQUITABLE WAIVER

Members

Present: Joan Dargie, Vice Chair
Rich Elliott, Member
M. Thornton, Alternate

Members

Not Present: Andrea Kokko, Chair
Kevin Overby, Alternate
Tracy Steel, Member

Non-Members

Not Present: Terrey Dolan, Town Planner, Community Development
David Freel, Select Board Representative
Jane Hesketh, Recording Secretary, Community Development

MEETING AGENDA

1. Call to Order

2. Public Hearings:

a. Case #2025-04: Equitable Waiver Request, Gregory Luongo & Karen Isabelle, 20 Oak Street, Map 29 Lot 110-1 The applicants, Gregory Luongo & Karen Isabelle, have requested an “Equitable Waiver” for relief from the minimally required 30-foot Front Setback requirements for a newly completed single family residential building structure, located in the Residence “A” Zoning District (according to criteria set forth in Section 5.02 of the Milford Zoning Ordinance). The Lot is located @ located at 20 Oak Street, Map 29 Lot 110-1. The closest corner of the new building structure measures 29.7 feet away from the lot’s front property line; wherein, it is required to be a minimum of 30 linear feet of set-back distance to the front lot line. The approximately 3.6-inch front setback distance error may only be remedied by seeking an Equitable Waiver.

3. Other Business:

- Discussion of Future ZBA Board Membership
- Discussion to schedule upcoming voting for new ZBA Chairperson & Vice Chairperson

4. Mtg. Minutes Approval: 3/06/2025 & 3/20/2025 Mtgs.

5. Next Meetings: April 17, 2025 & May 1, 2025

6. Adjournment

MINUTES OF THE ZBA MEETING APRIL 3, 2025

1. CALL TO ORDER

Vice Chair Joan Dargie as acting Chair opened the meeting at 6:00 pm. by welcoming everyone and introducing herself.

The Chair stated you may attend this meeting in person at the Milford Town Hall Select Board Conference Room or you can participate in the public meeting remotely from home or via Zoom.

Remotely: +1 646-558-8656, Meeting ID: 874 4572 1173 and Passcode 088861

Zoom: [www.zoom.com](https://www.zoom.us/j/87445721173?pwd=SSkKyuaC09h62BcBV42BaQwpGZPsk.), Meeting ID: [https://us02web.zoom.us/j/87445721173?](https://us02web.zoom.us/j/87445721173?pwd=SSkKyuaC09h62BcBV42BaQwpGZPsk.) and Password: SSkKyuaC09h62BcBV42BaQwpGZPsk.

Chair also provided the following information:

A digital copy of the meeting materials can be found on the Town website at:

<https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda-16January2025>.

Live streaming on Granite Town Media, Government Channel 8:

<http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=>.

Roll call attendance with all present at Milford Town Hall: Rich Elliott, Joan Dargie, Mike Thornton.

Chair stated there is 1 case on the agenda and a 3-member board which will require a favorable vote from all members present for the case to be approved.

2. PUBLIC HEARINGS

a. Case #2025-04: Equitable Waiver Request, Gregory Luongo & Karen Isabelle, 20 Oak Street.

Chair read the case into the record.

Applicants Gregory Luongo and Karen Isabelle came forward to present their case.

- Waiver request is for the front set back of 30 ft.
- Foundation Company set the foundation at 29.7 ft. instead of the planned 30 ft.
- The error was not found until after construction was completed.
- The property line was staked out.

Equitable Waiver Criteria under RSA 674:33-a:

1. The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official until after a structure in violation had been substantially completed or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.

The measurement was made from the road to the foundation at 34ft. 11 inches which was felt to be correct.

2. The violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.

It was understood what the setback requirements were, therefore, the foundation stakes were set an additional foot to avoid being in the setback. Actually, measured more than what was needed.

2
3 **2. PUBLIC HEARINGS**

4
5 **a. Case #2025-04**

6
7 **Equitable Waiver Criteria under RSA 674:33-a:**

- 8 **3. The physical or dimensional violation does not constitute a public or private nuisance, nor**
9 **diminish the value of other property in the area, nor interfere with or adversely affect any present**
10 **or permissible future uses of any such property.**

11 The 3 inches into the setback is not noticeable and does not have any bearing on the value of the
12 property or cause any nuisance.

- 13
14 **4. Due to the degree of past construction or investment made in ignorance of the facts constituting**
15 **the violation the cost of correction so far outweighs any public benefit to be gained, that it would**
16 **be inequitable to require the violation to be corrected.**

17 The house is completed. It is not possible to move the foundation. Unfortunately, the error became
18 apparent on 3/3/2025 upon receipt of the certified plot plan. At that point it was too late to correct.

19
20 **Questions:**

21 R. Elliott: Please explain exactly how this happened. Applicant: The measurement was made from the pavement
22 and staked at 35 ft. When the foundation was squared with the road it appears the adjustment caused the error.

23 J. Dargie: Was a survey done? Applicant: A survey was done for the property line and staked but not the house.

24 R. Elliott: During the inspection were measurements done? Applicant: It was assumed all measurements were
25 correct. Also, the footings were done before the walls were built.

26
27 Chair asked if there more questions and there were none. Chair opened the meeting to the public but hearing
28 none and seeing none this part of the meeting was closed.

29
30 **Deliberations:**

31
32 **RSA 674:33-a** was read into the record by the Chair before moving to deliberations on the criteria.

- 33
34 **1. The violation was not noticed or discovered by any owner, former owner, owner's agent or**
35 **representative, or municipal official until after a structure in violation had been substantially**
36 **completed or until after a lot or other division of land in violation had been subdivided by**
37 **conveyance to a bona fide purchaser for value.**

38 R. Elliott: The error did not come to light until after construction was done.

39 M. Thornton: Error found after construction

40 J. Dargie: Agrees

- 41 **2. The violation was not an outcome of ignorance of the law or ordinance, failure to inquire,**
42 **obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or**
43 **representative, but was instead caused by either a good faith error in measurement or calculation**
44 **made by an owner or owner's agent, or by an error in ordinance interpretation or applicability**
45 **made by a municipal official in the process of issuing a permit over which that official had**
46 **authority.**

47 R. Elliott: The wrong point of origin was used to make the measurement.

48 J. Dargie: Applicant's knew the law but the measurement was not done from the correct point.

49 M. Thornton: This was not done intentionally but because of the wrong starting point. The applicants
50 actually went beyond the required footage.

- 51 **3. The physical or dimensional violation does not constitute a public or private nuisance, nor**
52 **diminish the value of other property in the area, nor interfere with or adversely affect any present**
53 **or permissible future uses of any such property.**

54 R. Elliott: It does not benefit anyone to require the structure be moved.

55 M. Thornton: Moving the structure would not benefit the Town and it does not create a hazard.

56 J. Dargie: Agrees and it is only 3 inches; no nuisance will be created.

1 MINUTES OF THE ZBA MEETING APRIL 3, 2025

2
3 **2. PUBLIC HEARINGS**
4

5 a. Case #2025-04
6

7 **Deliberations:**

- 8 4. **Due to the degree of past construction or investment made in ignorance of the facts constituting**
9 **the violation the cost of correction so far outweighs any public benefit to be gained, that it would**
10 **be inequitable to require the violation to be corrected.**

11 R. Elliott: It would actually have a negative impact to correct this and it is not causing harm.

12 M. Thornton: No benefit to the Town and it was not done intentionally; it is a small transgression.

13 J. Dargie: The cost to correct the error outweighs any benefit to the public.
14

15 **Voting:**

- 16 1. R. Elliott yes; M. Thornton yes; Chair votes yes.
17 2. M. Thornton yes; R. Elliott yes; Chair votes yes.
18 3. R. Elliott yes; M. Thornton yes; Chair votes yes.
19 4. M. Thornton yes; R. Elliott yes; Chair votes yes.
20

21 Chair stated the criteria for the waiver has been satisfied and **Case #2025-04 has been approved**. There is a 30-
22 day appeal period that can be filed with the Zoning Board. Chair instructed the applicants to contact Terrey
23 Dolan regarding the Certificate of Occupancy to ask if there will be a delay issuing that.
24

25 **3. OTHER BUSINESS**

26 Board business will be conducted at the next meeting.
27

28 **4. MINUTES**

29 **3/6/2025**

30 In Attendance: J. Dargie, M. Thornton, K. Overby, T. Steel, R. Elliott

31 Chair asked for a motion to approve minutes from Marh 6, 2025 if there were no changes to add or correct.

32 R. Elliott made a made a motion to approve minutes and M. Thornton seconded.

33 A vote was taken and all were in favor.
34

35 **5. NEXT MEETINGS**

36
37 April 17, 2025 and May 1, 2025
38

39 **6. ADJOURNMENT**
40

41 Chair asked for a motion to adjourn. M. Thornton made a motion to adjourn and it was seconded by
42 R. Elliott. A vote was taken and all were in favor. Meeting adjourned.
43
44
45

46 **Motion to Approve:** _____
47

48 **Seconded:** _____
49

50 **Signed:** _____
51
52
53
54
55
56

Date: _____