



# TOWN OF BOW

## Zoning Board of Adjustment

10 Grandview Road, Bow, New Hampshire 03304  
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### DRAFT MINUTES

April 19, 2022

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4 The Town of Bow Zoning Board of Adjustment met on Tuesday, April 19, 2022, at 7:30 PM in Room C of  
5 the Municipal office building. Chair Harry Hadaway called the meeting to order with a roll call introduction  
6 of the Board.

7  
8 Members present were Harry Hadaway, Chair, Donald Burns, Secretary (via Zoom), Stephen Buckley,  
9 Michael O’Neil, and alternate June Branscom. Also present was Matthew Taylor, Community Development  
10 Director. Alvina Snegach recorded the minutes. Robert Ives, Vice Chair, and alternate Joseph Conti were  
11 excused.

12 Mr. Hadaway noted that everyone present was voting, thus appointing alternate Branscom to vote for Mr.  
13 Ives.

14 Mr. Burns said that it was not reasonably practical for him to attend in person due to medical reasons. *Mr.*  
15 *Buckley made a motion to find that Mr. Burns’ in person attendance is not reasonably practical and to allow*  
16 *Mr. Burns to participate remotely in accordance with RSA 91-A:2, III. Mr. O’Neil duly seconded and motion*  
17 *passed with a unanimous roll call vote in favor.*

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19 Mr. Hadaway directed the attention of the Board to Agenda item I.1.

### PUBLIC HEARINGS

20  
21 **Case #103-22V Owner/Applicant: RDF Family Trust, Robert and Daphne Fleury Trustees, Variance**  
22 **from Article 6.07 (Table of Dimensional Regulations) to construct part of the house and carport**  
23 **encroaching into the front and rear setbacks in the I-1 (Limited Industrial) District. Zoning Ordinance**  
24 **Articles: 6.07 – Table of Dimensional Regulations, 13.02.B – Authorization of Variances. Property**  
25 **located at 501 Hall Street, Block 1, Lot 69.**

26  
27 Mr. Hadaway read the item into the record and noted that there was a site walk at the property just now. He  
28 then said that the only comments with concerns regarding the variance were from the Public Works Director  
29 who did not recommend replacing the fence due to existing road drainage issues.

30 Robert and Daphne Fleury were present in the audience. Mr. Fleury explained that he would like to raze the  
31 portion of the house that is currently in the Town right of way and expand it sideways. He said that there are  
32 other issues (structural and cosmetic) with the house, which sat vacant for quite some time, which is also part  
33 of the project. Mr. Fleury added that the side parking lot is often mistaken for a public one, which is why he  
34 would like to reclaim it by removing the imperious surface and installing a lawn instead. The part of the lot  
35 where the driveway currently is will also become a yard, that he and his family could enjoy. Mr. Fleury said  
36 that there is a Lease Agreement with the Town where the Town has the right to remove the part of the house  
37 from the right of way with a 90 day notice, therefore, he would like to get out of this agreement by doing it  
38 himself.

39 Discussion ensued about the fence and DPW concerns. Mr. Fleury explained that he would like to replace the  
40 fence to have a sound barrier from all the noise related to the road and truck traffic. He disagreed with the  
41 statement that the current issues with drainage are caused by the fence and said that he is agreeable to work  
42 with the DPW on those issues. He also said that if the new fence is in the right of way, he will object to

43 removing it if the Town needs it. After a brief discussion about the height of the fence and Town  
44 regulations, Mr. Buckley concluded that this all would be taken up at the building permit stage, however, he  
45 noted that if the fence remains in the right of way, the Lease Agreement remains in force, at least for the  
46 fence. There was some back and forth about the language of the Lease Agreement and how the fence would  
47 be considered as an improvement on the property, thus subject to it. Mr. Buckley said that ultimately the  
48 Lease Agreement would be something Mr. Fleury would have to take up with the Town in the future.  
49 Mr. Hadaway brought up the Article 11.05 dealing with abandonment the non-conforming use for a period  
50 longer than 12 months and whether this would apply to this property, given Mr. Fleury's statement that the  
51 house sat idle for quite some time. Mr. Buckley said that this property has been granted a variance for  
52 residential use a few years back and that this relief runs with the land and Article 11.05 would not apply in  
53 this case.

54 Mr. Buckley also noted that the Conservation Commission found it beneficial that the impervious surface  
55 would be reduced by almost a half.  
56 Then discussion ensued about construction and NHDES Shoreland Permit. Mr. Taylor said that the applicant  
57 had already applied and a copy of it is in the file. Mr. Buckley noted Article 10.02 of the Bow Zoning  
58 Ordinance that sets regulations for the Floodplain District.

59 Mr. Hadaway opened the public hearing at 7:51 PM. There was nobody to address the Board and he closed it  
60 at 7:51 PM and opened the floor for Board discussion.

61 Mr. Buckley clarified if Mr. Fleury was only seeking relief for encroaching into the front and rear setback,  
62 which he confirmed. Then members discussed whether there might be a need to apply for a wetlands  
63 conditional use permit, reviewed by the Bow Planning Board, for wetland buffer impacts that are associated  
64 with the project (75 foot buffer to surface waters).

65 Mr. Buckley listed all the issues identified by earlier discussion: front and rear setback encroachment under  
66 article 6.07 of the Bow Zoning Ordinance, compliance with Floodplain District regulations under Article  
67 10.02 of the Bow Zoning Ordinance, NHDES Shoreland Permitting under RSA 483:B, obtaining wetland  
68 buffer impact conditional use permit under Article 10.01 of the Bow Zoning Ordinance. He noted that the  
69 Zoning Board is not dealing with either the fence issue or the License Agreement, as those should be handled  
70 by other Town entities.

71 Then members reviewed the variance criteria set in Article 13.02.B of the Bow Zoning Ordinance and  
72 determined by a 4:0 roll call vote that each one is met. (DB, MO, SB, and JB voting 'MET' on each criterion,  
73 with Mr. Buckley emphasizing that the applicant is making a non-conforming property more conforming by  
74 eliminating impervious surfaces.

75 *Then Mr. Buckley made a motion to approve the motion to approve the setback variance under Article 6.07*  
76 *(Table of Dimensions) in the limited industrial zone, to grant a variance from table 6.07 from the front and*  
77 *rear yard setbacks as requested by the application 103-22V, subject to the following requirements, that prior*  
78 *to the issuance of a building permit the applicant will demonstrate:*

- 79 a) *that they have received a Shoreland Permit pursuant to RSA Chapter 483:B;*  
80 b) *that the applicant shall obtain a conditional use permit under Article 10.01 of the Bow Zoning*  
81 *Ordinance (Wetland Conservation District) to the place structures within the 75-foot setback from*  
82 *surface waters;*  
83 c) *that the applicant will comply with all requirements of the Town's floodplain regulations set forth in*  
84 *Article 10.02 of the Bow Zoning Ordinance.*

85 *Mr. O'Neil duly seconded and motion passed with a unanimous roll call vote in favor.*

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87 **REVIEW OF MINUTES: 03/15/2022**

88 March 15, 2022 draft minutes were reviewed, and small changes were made. *Mr. Buckley made a motion to*  
89 *approve the minutes as edited. Mr. O'Neil duly seconded and motion passed with a 3:0:1 roll call vote with*  
90 *Ms. Branscom abstaining as she was not present at that meeting. Mr. Buckley, Mr. O'Neil, and Mr. Burns*  
91 *voted "AYE."*

DRAFT ZBA Minutes for 04/19/2022 Meeting

92 There was a brief discussion about the possible oversight for zoning the area around 501 Hall Street as I-1  
93 (Light Industrial) given that most properties there are residential and will probably will never become  
94 industrial.

95 After a motion to adjourn by Mr. Buckley, duly seconded by Mr. O'Neil, which was passed unanimously, the  
96 meeting adjourned at 8:05 PM.

97  
98 Respectfully submitted,

100 Don Burns,

101

102 Secretary

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