

1. Bow Zoning Board Of Adjustment 02/15/2021 Meeting Agenda

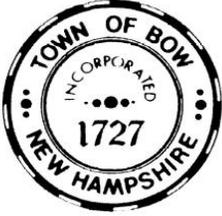
Documents:

[ZBA2022 0215 AGENDA.PDF](#)

2. Bow Zoning Board Of Adjustment 02/15/2021 Meeting Packet

Documents:

[02152022 ZBA PACKET.PDF](#)



# TOWN OF BOW

## Zoning Board of Adjustment

10 Grandview Road, Bow, New Hampshire 03304  
Phone (603) 223-3970 | Fax (603) 225-2982 | Website [www.bownh.gov](http://www.bownh.gov)

### AGENDA

#### February 15, 2022

The Town of Bow Zoning Board of Adjustment is scheduled to meet on Tuesday, February 15, 2022, at 7:30 PM in Meeting Room 'C' of the Municipal Building, 10 Grandview Rd, Bow, NH.

The meeting will be streamed live via YouTube (for viewing purposes only):

<https://youtu.be/uynQkod0G9I>

#### I. PUBLIC HEARING

- 1) **Case #101-22V** Owner/Applicant: Kasen Kenney. Variance to Article 5.11 of the Bow Zoning Ordinance to permit building multifamily housing (14 affordable town homes) in the I-2 (General Industrial) District and Aquifer Protection (AP) Overlay District. Zoning Ordinance Articles: 5.11 – Table of Uses, 13.02.B – Authorization of Variances. Property located at 1280 Route 3-A, Block 2, Lot 99.

#### II. NEW BUSINESS

#### III. REVIEW OF MINUTES: 12/21/2021

Respectfully submitted,

Harry Hadaway, Chair

**Case #101-22V Owner/Applicant: Kasen Kenney. Variance to Article 5.11 of the Bow Zoning Ordinance to permit building multifamily housing (14 affordable town homes) in the I-2 (General Industrial) District and Aquifer Protection (AP) Overlay District. Zoning Ordinance Articles: 5.11 – Table of Uses, 13.02.B – Authorization of Variances. Property located at 1280 Route 3-A, Block 2, Lot 99.**

**TOWN OF BOW**

**Zoning Board of Adjustment**

10 Grandview Road, Bow, New Hampshire 03304

Phone (603) 228-1187 | Fax (603) 225-2982 | Website www.bow-nh.gov

**APPLICATION**

for

**VARIANCE**

Submit Application, plans (11"x17" ONLY), supporting documents & abutters list  
21 days before a regularly scheduled meeting of the ZBA  
Application fee is \$100.00 *plus* \$10.00 per abutter & fee to publish notice \$90.00

*FOR OFFICE USE ONLY*

Case #: 101-22 Date Received: 1/25/21 Received by: Town Manager's Office

Applicant: Kasen Kenny Phone No. 603-851-5773

Applicant Address: 1280 Route 3-A Bow NH Email: KenneyKasen@gmail.com

Name & Mailing Address of Property Owner(s): Kasen Kenny 1280 Route 3-A Bow NH  
03304

Location and Description of Property: 1280 Route 3-A Bow NH 03304

Map # 35 Block # 2 Lot # 99 Zone District: I2 Overlay District: 2-17

Proposed Use: Build 14 affordable Town Homes

Details of Request: **Requesting Variance to build 14 affordable Town Homes**

**GENERAL PROCESS:**

- \* Application reviewed for completeness and received by Community Development staff. \* Site Walk may be scheduled. \* Abutters notified of request. \* Public Hearing held. \* Notice of Decision issued. \* Applicant records Notice of Decision with Merrimack County Registry of Deeds.

**ZBA meetings are usually held on the third (3<sup>rd</sup>) Tuesday of each month at 7:30 PM in the Town Municipal Building at the above address.**

*Paid Check # 3118*

**The undersigned hereby requests a variance from the terms of Article(s) and Section(s) Article 5-11\_\_ of the Town of Bow Zoning Ordinance in order to permit the following:  
building multi family housing**

The undersigned alleges that the following legal criteria for granting a variance are satisfied, as per Section 13.02.B.2 of the Ordinance. The application shall include the submission of statements in writing together with plans (no greater than 11"x17"), records, photographs, and such other materials as may be necessary to justify the granting of a variance. *The Applicant bears the burden of proof to present sufficient evidence to the ZBA to permit the ZBA to grant the relief being sought.* The Applicant should review the Zoning Ordinance and the ZBA's Rules of Procedure.

**Zoning Ordinance Section 13.02.B; Criteria for Authorization of Variances:**

**a. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:**

**(1) No fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and no multi family is permitted in th "Table of Use Regulations"**

**(2) The proposed use is a reasonable one. Affordable housing for todays workforce is needed greatly in this area**

Revised 10/2016

VARIANCE Application Page 3 of 4

(3) If the criteria in subparagraphs (1) and (2) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it. **The Property lends itself to a multifamily environment providing easy access, an almost hidden lot that will help provide privacy, secure & a measure of safety to a workforce with growing families**

**b. Authorization of a variance will not be contrary to the public interest; and Would benefit the local industries by providing affordable housing for its workforce**

**c. The spirit of the Zoning Ordinance shall be observed and substantial justice done in the authorization of a variance; and Great efforts will be made to build a family friendly environment that will enhance the local area**

**d. No diminution in the value of surrounding properties would be suffered as a result of the authorization of a variance. No, this project would not devalue properties in the local area**

Revised 10/2016

VARIANCE Application Page 4 of 4

**Other information for ZBA consideration and/or list of supporting documentation:  
Affordable housing is paramount in establishing a reliable stable workforce in the area. Targeting middle-income workers such as Police Officers, firefighters, teachers, health care support staff, & heavy equipment operators for example is something our community desperately needs. Middle-income/workforce housing is not subsidized low income housing with the challenges that tends to bring. Its for the folks working towards fulfilling their dreams and eliminating long commutes, traffic and attracting a workforce that all local businesses are challenged with obtaining.**

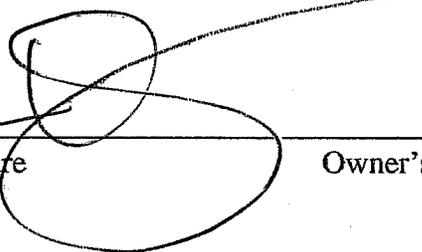
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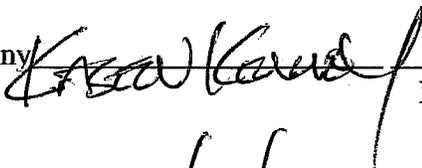
JAN 25 2022

Town Manager's Office

6:11 pm  
TL

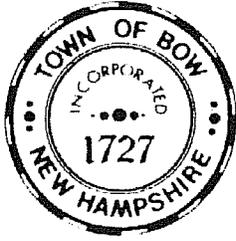
  
Applicant's Signature

  
Owner's Signature

Kasen Kenny  Kasen Kenny  
Print Name Print Name

1/25/2022 1/25/22 1/25/2022  
Date Date

List of attachments (if any):  
Abutters List See Attached



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## Zoning Board of Adjustment

10 Grandview Road, Bow, New Hampshire 03304

Phone (603) 223-3970 | Fax (603) 225-2982 | Website [www.bownh.gov](http://www.bownh.gov)

### TOWN OFFICIALS REVIEW FORM NOTICE OF ZBA APPLICATIONS

To/From: Dave Stack, Bow Town Manager  
 Chris Nicolopoulos, Chair, Bow Board of Selectmen  
 Don Berube, Chair, Bow Planning Board  
 Eliot Berman, Chief, Bow Fire Dept.  
 Tim Sweeney, Director, Bow Public Works Dept.  
 Bob Pike, Bow Building Inspector  
 Kenneth Miller, Chief, Bow Police Dept.  
 Monica Hurley, Assessor, Bow Assessing Dept.  
 Sandra Crystall, Chair, Bow Conservation Commission  
 Eric Smith, WhiteWater Inc.  
 Eric Anderson, Chair, Bow Heritage Commission  
 William Hickey, Chair, Bow Business Development Commission  
 Dr. Dean Cascadden, Superintendent of Bow Schools  
 Darcy Little, Bow Parks and Rec. Department

From/To: Harry Hadaway, Chair, Bow Zoning Board of Adjustment

**Case #101-22V** Owner/Applicant: Kasen Kenney. Variance to Article 5.11 of the Bow Zoning Ordinance to permit building multifamily housing (14 affordable town homes) in the I-2 (General Industrial) District and Aquifer Protection (AP) Overlay District. Zoning Ordinance Articles: 5.11 – Table of Uses, 13.02.B – Authorization of Variances. Property located at 1280 Route 3-A, Block 2, Lot 99.

Date of the ZBA Meeting: Tuesday, February 15, 2022 at 7:30 PM. A sitewalk has been scheduled at the property on Saturday, February 12 at 9:00 AM and you are invited to attend.

***Please review and respond by or at the 2/15/2022 meeting date. You can either send an email to [mtaylor@bownh.gov](mailto:mtaylor@bownh.gov) or print this form and return it back to Community Development Department.***

We have no concerns with the proposed use.       Our concerns are as follows:

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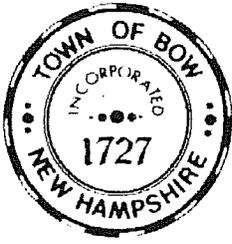
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Signed,  Date: 2/12/22

Title: Chief of Police



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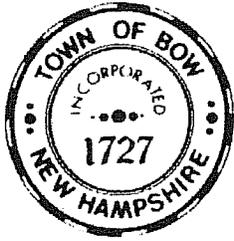
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Signed, Bob Pike Date: 2/2/22

Title: BUILDING INSPECTOR



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 William Hickey, Chair, Bow Business Development Commission  
 Dr. Dean Cascadden, Superintendent of Bow Schools  
 Darcy Little, Bow Parks and Rec. Department

RECEIVED

FEB 4 2022

BOW COMMUNITY  
DEVELOPMENT

From/To: Harry Hadaway, Chair, Bow Zoning Board of Adjustment

**Case #101-22V** Owner/Applicant: Kasen Kenney. Variance to Article 5.11 of the Bow Zoning Ordinance to permit building multifamily housing (14 affordable town homes) in the I-2 (General Industrial) District and Aquifer Protection (AP) Overlay District. Zoning Ordinance Articles: 5.11 – Table of Uses, 13.02.B – Authorization of Variances. Property located at 1280 Route 3-A, Block 2, Lot 99.

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[ ] We have no concerns with the proposed use.       Our concerns are as follows:

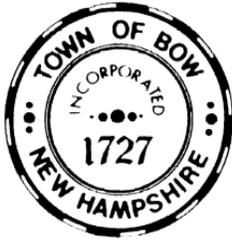
Are the plans / intent to include extension of towns existing water system / Hydrants for fire suppression.

Signed, 

Date: 2/4/2022

Title: Fire Chief

# **DRAFT 12/21/2021 Minutes**



# TOWN OF BOW

## Zoning Board of Adjustment

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### DRAFT MINUTES

December 21, 2021

The Town of Bow Zoning Board of Adjustment met on Tuesday, December 21, 2021, at 7:30 PM in Room C of the Municipal office building. Chair Harry Hadaway called the meeting to order with a roll call introduction of the Board.

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

Mr. Burns said that it was not reasonably practical for him to attend in person due to medical reasons. *Mr. Buckley made a motion to find that Mr. Burn’s in person attendance is not reasonably practical and to allow Mr. Burns to participate remotely in accordance with RSA 91-A:2, III. Mr. O’Neil duly seconded and motion passed unanimously.*

Mr. Hadaway directed the attention of the Board to Agenda item I.1. He said ~~that everyone present will be voting, therefore, appointing~~ Mr. Conti to vote in place of Mr. Ives.

### PUBLIC HEARINGS

**Case #109-21S Owner/Applicant: Omer Chattha and Naila Chattha/Meridian Land Services, Inc. Special Exception to allow motor vehicle sales by special exception in I-2 (General Industrial) Zone and Aquifer Protection (AP) Overlay District. Zoning Ordinance Articles: 5.11.G.1 – Table of Uses, 13.02.C – Authorization of Special Exceptions. Property located at 1426 Route 3-A, Block 2, Lot 92.**

Mr. Hadaway read the item into the record and noted that a site visit took place earlier. Trevor Yandow from Meridian Land Services, Inc. introduced himself as the representative of the property owners and went over the details of the special exception request for a proposed 4800 square foot building that will be associated with an auto sales business. He showed the proposed site plan, which would be presented to the Planning Board if the relief is granted and went over the features of the plan. Then Mr. Yandow went over the special exception criteria and answered questions from the Board about the easement for the municipal water tank access; proposed driveway; erosion control measures and stormwater management; operation times; possibility to light the driveway entrance; vehicle delivery to the site; signage; and etc.

Mr. Hadaway opened the public hearing at 7:43 PM and there was nobody there to address the Board. He closed the public hearing at 7:43 PM.

After a short discussion of the use being consistent with the character of the area, the Board voted on each of the special exception criteria by a roll call vote, and each criterion received an identical vote as follows: Mr. Burns – met; Mr. Conti – met; Mr. Buckley – met; and Mr. O’Neil – met.

*Mr. Buckley made a motion to grant the special exception in the requested by Omer Chattha in case #109-21S to allow motor vehicle sales by special exception in I-2 (General Industrial) Zone and Aquifer Protection (AP) Overlay District. Zoning Ordinance Articles: 5.11.G.1 – Table of Uses, 13.02.C – Authorization of Special Exceptions. Property located at 1426 Route 3-A, Block 2, Lot 92. Mr. O’Neil*

45 *duly seconded and motion passed with a 4:0 roll call vote: Mr. Burns – yes; Mr. Conti – yes; Mr.*  
46 *Buckley – yes; Mr. O’Neil – yes.*

47 **Case #110-21V. Applicant/Owner: Alexander H Slocum & Debra L Thurston-Slocum.**

48 **Variance to encroach into the front setback (where 35 ft is required) to accommodate the**  
49 **construction of an awning to the existing non-conforming barn (17 feet from the front property**  
50 **line), with awning being 12 feet from the front property line. Property located at 7 Ordway**  
51 **Lane. Block 2 Lot 21 in the Rural (RU) District. Zoning Ordinance Articles: 6.07 – Table of**  
52 **Dimensional Regulations; 13.02.B – Authorization of Variances.**

53 Mr. Hadaway read the item into the record and noted that a site walk took place earlier. Alex and  
54 Debra Slocum, the property owners, were there to address the Board on the matter.

55 Mr. Buckley said that under *Bartlett v. Manchester* the Zoning Board can determine that the variance  
56 is unnecessary, as in this case a setback requirement should not apply to the road in question here.

57 Mr. Buckley continued to say that he does not see how the Board can argue under the Article 3.02,  
58 which defines frontage as bordering on Class I, II or V road, of which Mr. Slocum’s property borders  
59 none, as the road his property has frontage on is neither of the stated classes. He also noted that he  
60 was not sure why the setback measurements were done this way either. Mr. Taylor explained that the  
61 measurements were done in accordance with the Section 6.03(A) of the Zoning Ordinance, where a  
62 lot is a corner lot or otherwise has multiple street frontages, front yards shall be observed adjacent to  
63 all such frontages. Mr. Buckley reiterated his concern with the road in front of Mr. Slocum’s property  
64 being neither Class I, II or V that would fall under the definition of frontage. He said that it is  
65 ultimately up to the applicant to decide whether he would like to go through with the variance.

66 Mr. Taylor also said that according to the survey from 2011, which was referenced at the sitewalk,  
67 there are two different ends of the right of way, and if that survey is used, that there is no frontage  
68 past the pole barn; however, the other one is noted as the one that ‘ends ~~he-the~~ right of way by  
69 prescription as the town maintained road’, and that is the one that was used to determine the need for  
70 a variance. Mr. Buckley responded that the law in New Hampshire ~~has-was~~ changed in 1948 and  
71 since then the towns cannot require the highway right of way by prescription. After a short discussion  
72 about the notes on the survey, Mr. Buckley noted that it is up to Mr. Slocum to decide if he would  
73 like to get the variance, and Mr. Taylor said that the department will follow the decision the Board  
74 makes tonight.

75 Mr. Slocum stated that he would like to do whatever is simplest. He said that this turnaround shown  
76 on the survey is not a Class V road, even though the Town uses it, and he is not opposed to that, but  
77 he would prefer to it being considered a Class VI road, for which he would not need to have a 35 ft  
78 setback and a variance.

79 Mr. Taylor clarified that Mr. Slocum originally asked for a building permit and that is how it had  
80 been determined that he would need a variance to meet the setback criteria. Should the Board decide  
81 tonight that the variance is unnecessary, the building department will just issue his permit.

82 Mr. Buckley added that there was a lot of correspondence in the case file related to what Mr. Slocum  
83 and his tenant are doing in the right or way, however, that was not pertinent to the ZBA review and  
84 should be handled by the highway department.

85 Another discussion ensued about multiple frontages and measuring setbacks, as well as references to  
86 more than one right of way, and the Zoning Board not being the arbitrator for either one of those  
87 issues.

88 *Mr. Buckley made a motion that the Zoning Board finds that a setback variance to construct the*  
89 *proposed pole barn 17 feet on the diagonal to the nearest Class VI road is not required because it*  
90 *does not violate the ordinance since the nearest perpendicular measurement to a road is not a to a*  
91 *Class V road. Mr. Conti duly seconded.*

92 Mr. Hadaway asked if he needed to open the public hearing first, and Mr. Buckley responded that in  
93 this case the need to seek relief is bypassed, therefore, there is no need to have a public hearing.  
94 *Mr. Buckley then made a friendly amendment to his motion, that this application does not require*  
95 *relief, therefore, a public hearing was not opened. Mr. Conti seconded the amendment and motion*  
96 *passed with a 4:0 roll call vote: Mr. Burns – yes; Mr. Conti – yes; Mr. Buckley – yes; Mr. O’Neil –*  
97 *yes.*

98 **NEW BUSINESS**

99 **ZBA 2022 Schedule**

100 Mr. Hadaway read the item into the record. Revised schedule was displayed. *Mr. Conti made a motion to*  
101 *approve the 2022 ZBA schedule as presented. Mr. Buckley duly seconded and motion passed with a 5:0*  
102 *roll call vote: Mr. Burns – yes; Mr. Conti – yes; Mr. Buckley – yes; Mr. O’Neil – yes, and Ms.*  
103 *Branscom - yes.*

104 **ZBA Town Report 2021 Submission**

105 Members reviewed the draft and made one small change. There was no vote, but the members all agreed  
106 on the changes.

107

108 **REVIEW OF MINUTES: 11/16/2021**

109 November 16, 2021 draft minutes were reviewed, and no changes were made. *Mr. Conti made a motion to*  
110 *approve the minutes as presented. Mr. O’Neil duly seconded and motion passed with a 5:0 roll call vote:*  
111 *Mr. Burns – yes; Mr. Conti – yes; Mr. Buckley – yes; Mr. O’Neil – yes, and Ms. Branscom - yes.*

112

113 After a motion to adjourn by Mr. Hadaway, the meeting adjourned at 8:12 PM.

114

115

116 Respectfully submitted,

117

118

119 Don Burns,

120

121 Secretary