



# TOWN OF BOW

## Zoning Board of Adjustment

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### APPROVED MINUTES

September 20, 2022

The Town of Bow Zoning Board of Adjustment met on Tuesday, September 20, 2022, at 7:30 PM in Room C of the Municipal office building.

Chair Hadaway asked Mr. Buckley to preside as chair for this meeting as he was attending remotely. Acting Chair, Buckley called the meeting to order with a roll call introduction of the board members.

Present were Harry Hadaway remotely via Zoom, Michael O’Neil remotely via Zoom, Stephen Buckley, Vice Chair, and alternates Joseph Conti and June Branscom. Robert Ives, and Donald Burns, Secretary were absent. Ginger Iverson recorded the minutes.

Mr. Hadaway and Mr. O’Neil stated it was not practical for both to attend in person due to medical reasons. *Mr. Buckley made a motion to find that Mr. Hadaway and Mr. O’Neil’s in person attendance is not practical and to allow Mr. Hadaway and Mr. O’Neil to participate remotely in accordance with RSA 91-A:2, III. Mr. Buckley confirmed that Mr. Hadaway and Mr. O’Neil had no one in the room with them. Because there are two members attending remotely, the Board must do roll call vote for all matters tonight.*

Mr. Buckley, as acting chair, appointed Joseph Conti, alternate and June Branscom, alternate to serve in the place of Robert Ives and Don Burns who cannot be in attendance. Mr. Conti asked if someone should be appointed Secretary and Mr. Buckley asked Mr. Conti if he would be able to fulfill that roll. Mr. Buckley then appointed Mr. Conti secretary.

Mr. Buckley directed the attention of the Board to Agenda item I.1. Mr. Buckley asked Mr. Conti to vote in place of Mr. Ives.

#### I. PUBLIC HEARINGS

1. **Case #109-21S Owner/Applicant:** Case #105-22 Variance Amoskeag Beverages, LLC & Amoskeag Realty, LLC Variance to Article 6.07 Section 13.02B required 30 ft. side & rear yard setback of the Bow Zoning Ordinance to expand existing warehouse with new 5,000 SF building with site improvements to include fleet parking, employee parking lot and over the road truck queuing spacing MAP 16, Block 1, Lot 65, located at 510 Hall St.

Mr. Buckley read the item into the record and noted that a site visit took place earlier at the back end of the property. In attendance were Mr. Buckley, Mr. Conti, Mrs. Branscom, along with Paul Malandrino, V.P. of Operations at Amoskeag Beverages, John Wickert and Jeff Merritt from Granite Engineering, and Kathryn Bradley from Bruce J. Marshall Law Offices, P.L.L.C. Tonia and James Pelletier, abutters to the property, were also present. The Board members had the opportunity to learn something about the

44 proposal and its location and the existing buildings. The site visit began about 6:30 p.m. and ended about  
45 6:40 p.m. and Mr. Buckley felt most of the Board members' present questions were answered.  
46

47 Mr. Buckley then invited the representative of the applicant to present the case for this proposed variance.  
48 Jeff Merritt a professional engineer from Granite Engineering, Civil Site Engineer, for this project spoke  
49 on behalf of Amoskeag. Also present with Mr. Merritt were Paul Malandrio, VP of Operations at  
50 Amoskeag, Kathryn Bradley from Bruce J. Marshall Law Offices and John Wickert an engineer with  
51 Granite Engineering. This application is relative to Amoskeag Beverages at 510 Hall Street. Amoskeag  
52 Beverages is a beverage distribution facility that has been in the town for a number of years. This property  
53 is unique because the municipal boundary between Concord and Bow splits the property. The northern  
54 half of the property is in the City of Concord and the southern half is in the Town of Bow. There are two  
55 accesses off the property. The lower access, the northern access, leads to the distribution side of the  
56 facility. This is where inbound and outbound trucks enter and exit. The upper access is where the  
57 administrative offices are. They are working on the distribution side of the property. They are proposing a  
58 site wide improvement of the Amoskeag Warehouse facility. The project is proposing an addition of a  
59 13,256 square foot warehouse addition located along west property line close to the Concord/ Bow  
60 municipal boundary. The reason the addition is important is because right now it is a single overhead 4 ft  
61 loading dock where all cases of beverages are distributed from this site. The inbound cases all come in  
62 through one door. Millions and millions of cases of beverages per year pass through this one door which  
63 has plagued Amoskeag Beverages for years in terms of efficiency in their building, causing queuing  
64 issues in the yard, causing delays and internally, regarding storage. This project will eliminate one  
65 loading dock and add a series of new loading docks. Amoskeag could operate efficiently not only now  
66 but in the future. These series of loading docks are crucial for the longevity and successful use of this  
67 property for Amoskeag Beverages.

68 Over the years other alternatives have been researched and they have always come back to utilizing the  
69 building that is there today. They would like to stay in Bow. In addition, there will be other improvements  
70 largely in the City of Concord. The distribution yard will be reworked so they have new fleet storage areas  
71 for their box trucks, and their tractor trailer trucks. Also, near the entrance of Hall Street there will be over  
72 the road truck queuing spaces for inbound deliveries, improvement of employee parking, a new 5,000 sq.  
73 ft POS Building for merchandising for sales of beverages, banners, t shirts. This POS building takes what  
74 is floor area in existing warehouse and frees up 5,000 sq. ft. for Amoskeag to reorganize internal space.  
75 Sales staff will only access the POS. This project is not an expansion of the business and not because of  
76 growth. The need for it is because of lack of efficiency. This project fixes efficiency and operation. In  
77 terms of the variance, the warehouse is 13,256 sq ft on west side, abutting railroad tracks; that setback is  
78 required to be 30 ft and this setback slightly encroaches into that set back, there is a 29' setback on  
79 southern tip of addition, northwest corner set back is 23' to property line, and main door and stairwell is  
80 16' to property line.  
81

82 Kathryn Bradley spoke on behalf of Amoskeag Beverages, LLC and Amoskeag Realty, LLC. Amoskeag  
83 is seeking a variance from section 6.07, for the 30-foot rear and side setback. This proposal makes the  
84 most sense. The proposed use is that it will remain in its current use, but a more efficient use, with slightly  
85 less rear and side setbacks, an improvement to the current conditions. Original building there went  
86 through a town approval process back in the 1980s for a similar encroachment. The proposed project in  
87 rear of building is not visible to public, there are no residential buildings and it is adjacent to the railroad.  
88 In reality, this encroachment is invisible to everyone. The authorization of this variance will not be  
89 contrary to public interest. This expansion will increase the potential value of the property and  
90 surrounding properties. To take the current building down and start over would create an undue hardship  
91 and Amoskeag would not be able to continue with its business. It would be prohibitively expensive and  
92 difficult to do. Without this slight encroachment, the project will not be able to continue.  
93

94 Mr. Buckley asked if there were any questions from the board and none were asked. Mr. Buckley asked if  
95 there was something unique about the existing building structure, or structural members, which would  
96 make it difficult to move the existing building 7 ft. Mr. Merritt said he believed they lined it up on column  
97 lines but could not say for certain. If you had to move the existing building over 7 feet, it would be offset  
98 from existing column lines, losing efficiency of the outline they are showing. Mr. Buckley asked if you  
99 took out one loading bay, you would still have 11 loading bays. Mr. Merritt stated that the one right now  
100 is not a good judge of efficiency needs. Paul Malandrino, VP of Operations of Amoskeag Beverages  
101 asked to speak to on this. Mr. Malandrino discussed efficiency by time and labor. The more doors the  
102 more efficiency and over a period of time working with one less door would be a burden. Mr. Buckley  
103 asked for any other comments from Board before Mr. Buckley opened Public Hearing. Mr. Conti clarified  
104 that the agenda spoke to a 20 ft. side and rear setback and that it should be a 30 ft. side and rear setback, I  
105 1 Zone, to which Mr. Buckley stated the hearing notice was not entirely correct but the application was  
106 correct.

107

108 Mr. Buckley opened the public hearing at 7:59 p.m. regarding

109 **Case #109-21S Owner/Applicant:** Case #105-22 Variance Amoskeag Beverages,  
110 LLC & Amoskeag Realty, LLC Variance to Article 6.07 Section 13.02B required 30  
111 ft. side & rear yard setback of the Bow Zoning Ordinance to expand existing  
112 warehouse with new 5,000 SF building with site improvements to include fleet  
113 parking, employee parking lot and over the road truck queueing spacing MAP 16,  
114 Block 1, Lot 65, located at 510 Hall St.

115

116

117 Ashley Covert, resident of Hall Street, stated that her concern was if the Amoskeag expansion was linked  
118 to increased traffic, but was satisfied that there was not going to be an extension of the existing business.

119

120 Mr. Buckley said he would press to hear from applicant why Amoskeag could not move the building 7 ft.  
121 What is inherently difficult? It has to be a hardship issue.

122

123 In terms of moving the addition, there is only one envelope that the addition can be placed in. Cannot  
124 slide existing building to east to make it conform. The buildings and its orientation on the site, its history  
125 of how it was built, is forcing the addition to be where it is. They would be taking down existing building  
126 that may or may not be able to be removed. It is clearly impractical.

127

128 Mr. Buckley then stated that Amoskeag would be saying that the demands of the manner of which  
129 beverage distribution companies operate require this level of efficiency which could only be delivered by  
130 this additional loading space and the preexisting unique configuration of the lot to the building itself,  
131 causes Amoskeag to have this inherent difficulty of carrying out this project. Mr. Buckley stated that  
132 Amoskeag would be saying it is this that would be their hardship.

133

134 Kathryn Bradley agreed with that characterization the issue is as Jeff and Paul have explained. It would  
135 indeed be an undue hardship to move the building. It is impossible to do it other than the way it is being  
136 proposed because it will enable the business to continue, and to not expand, and be more efficient and not  
137 be prohibitively costly or difficult to execute.

138

139 Mr. Buckley closed the applicant's presentation and returned to the board.

140

141 Mr. Buckley closed the Public Hearing at 8:04 p.m.

142

143

144 Mr. Buckley then addressed the requirements for this variance application and if they had been satisfied  
 145 so the board could address the motion. Mr. Buckley then asked the board members if there were any  
 146 further points of discussion. *Mr. Buckley proceeded with a roll call vote: Mr. Hadaway -no.*  
 147 *Mr. O’Neil - no; Mrs. Branscom – no; and Mr. Conti -added they do not own property past railroad track*  
 148 *but there are railroad tracks limiting the shape of the building as it is, that is a variable in the location in*  
 149 *this extension.*

151 Mr. Buckley went through the criteria of variance and making sure criteria have been met.

MEMBER	HARDSHIP	PUBLIC INTEREST	SPIRIT INTENT	SUB/ JUSTICE	DIMINUTION OF VALUE
<b>Harry Hadaway</b>	met	met	met	met	met
<b>Mike O’Neil</b>	met	met	met	met	met
<b>Steve Buckley</b>	met	met	met	met	met
<b>Joseph Conti</b>	met	met	met	met	met
<b>June Branscom</b>	met	met	met	met	met

154 Mr. Buckley entertained a motion from one of the board members.

156 *Mr. Conti made a motion, which was duly seconded by Mrs. Branscom, and then amended by Mr. Buckley*  
 158 *to add the required findings of facts statement. Motion as follows:*  
 159 *To grant approval for the requested variance in Case #105-22 for Amoskeag Beverages, LLC &*  
 160 *Amoskeag Realty, LLC to permit the construction of a proposed warehouse within 23 feet from the*  
 161 *rear/side property line where 30 feet is required and to further permit the placement of the proposed*  
 162 *egress steps 16 feet from the property line, where 30 feet is required, all for the purpose of expanding*  
 163 *the existing warehouse at Map 16, BL 1, Lot 65 at 510 Hall Street Bow, NH 03304. The board*  
 164 *unanimously voted to find that all of the requirements for granting the variance as set forth in Section*  
 165 *13.02 (B) of the Zoning Ordinance, Town of Bow, New Hampshire, and RSA 674:33, I (a) (2) had*  
 166 *been satisfied. In approving this variance, the board made the following findings of fact: The unique*  
 167 *circumstances and the shape of the current building reasonably allows for an extension in that*  
 168 *location especially given its proximity to a railroad track and the configuration of the parking lot,*  
 169 *and the flow of business trucks in that given location. The Town of Bow, NH deem these to be*  
 170 *Findings of Fact supporting this decision of the Town of Bow Zoning Board of Adjustment.*

172 *Mr. Buckley proceeded with a roll call vote:*  
 173 *Upon motion made by Mr. Conti and duly seconded by Mrs. Branscom the motion passed with a 5-0 roll*  
 174 *call vote: Mr. Hadaway -yes; Mr. O’Neil - yes; Mrs. Branscom – yes; Mr. Conti-yes and*  
 175 *Mr. Buckley – yes. Mr. Conti stated that there was a 30-day appeal period.*

**II. NEW BUSINESS**

178 Mr. Buckley then discussed the “Changes to Planning Zoning Laws in 2022 – A Guideline for  
 179 Municipalities”

- Changes Pursuant to HB1661, Section 74 – ZBA Timeline: The Zoning Board must approve or disapprove applications for relief within 90 days.
- Findings of Fact – If you cover them in the motion, it is a fact found as a result of the hearing.

184 Mr. Hadaway inquired if these rules and regulations need to be in our rules of procedure. Mr. Buckley  
185 said that we could modify the check lists with the variance criteria. Town of Hudson, NH had a check list  
186 and Mr. Buckley will send their checklist to the Community Development department to modify. Mr.  
187 Hadaway feels this needs to be addressed so we are in compliance with the rules and regulations.  
188

189 Mr. Hadaway inquired as to how often it was necessary to consult with legal counsel regarding finding of  
190 fact. Mr. Buckley does not necessarily agree with this. Mr. Buckley is not convinced that findings of fact  
191 must be that thorough and in depth. Most of the time you do not need legal counsel.  
192

193 Mr. Buckley asked about posting fees. Mrs. Shuman, Community Development Coordinator, said that it is  
194 being worked upon. Mr. Buckley stated that fees for land use activities need to be all in one place. Mr.  
195 Buckley said he would e-mail David Stack tomorrow.  
196

### 197 **III. REVIEW OF MINUTES**

198  
199 Mr. Buckley asked if there were any corrections to the June 21, 2022 meeting minutes. No corrections  
200 were made.

201 *Mr. Conti made a motion and Mr. Hadaway duly seconded to approve the June 21, 2022 meeting minutes.*  
202 *Mr. Buckley proceeded with a roll call vote: Mr. Hadaway – yes; Mr. O’Neil – yes, Mrs. Branscom – yes*  
203 *Mr. Conti- yes and Mr. Buckley -yes. The motion passed with a 5-0 roll call vote.*  
204

### 205 **IV. REVIEW NEW RULES OF PROCEDURE**

206 Mr. Hadaway clarified that zoning law changes might result in rule procedure changes.  
207

208 *Mr. Conti made a motion and duly seconded by Mrs. Branscom to amend Town of Bow Zoning Board*  
209 *of Adjustment Rules of Procedure to add HB1661, Section 74: ZBA Timeline as written.*

210 *Mr. Buckley then stated where to amend Town of Bow Zoning Board of Adjustment Rules of*  
211 *Procedure document as follows: Insert HB1661, Section 74: ZBA Timeline as written on page 4 of 7,*  
212 *Section VI, “Meetings Rule of Procedure Under Additional Provisions Regarding Time Limits and*  
213 *Procedure for Filing Certain Appeals”, adding Paragraph E. Mr. Buckley proceeded with a roll call*  
214 *vote: Mr. Hadaway – yes; Mr. O’Neil – yes, Mrs. Branscom – yes; Mr. Conti- yes and Mr. Buckley -yes.*  
215 *The motion passed with a 5-0 roll call vote. Mr. Conti made a motion and Mrs. Branscom duly seconded*  
216 *to adjourn the meeting at 8:32 p.m.*  
217

218 Respectfully submitted,  
219

220  
221 Mr. Joseph Conti

222  
223 Acting Secretary