

**City of Ellsworth  
Board of Appeals Minutes  
September 13, 2021**

The regular meeting of the Ellsworth Board of Appeals was attended by Members Jeffrey Toothaker, Jarad Wilbur, Steve Shea and Bruce Sawyer. Also in attendance were Loretta Roberts, Interim CEO and Thomas Canavan, Deputy CEO

Call to Order  
[6:30PM]

1. **ADOPTION OF MINUTES:** From the June 28, 2021 hearing. Mr. Toothaker motioned to adopt the minutes as written. Mr. Wilbur seconded the motion. The motion passed with all four Members in favor.

Minutes Approved

2. **HEARING AND CONSIDERATION:** Request of John T. Wilson for a variance to the sideline setback of 25' down to 6' for the camp rebuild at the property located at 36 Wilson Way (Tax Map 101 Lot 7), in the DR Drinking Water Protection Zone.

Variance appeal –  
John T. Wilson Tax  
Map 101 Lot 7

Mr. Toothaker questioned if the DEP had been notified and Mrs. Roberts stated they do not get involved with sideline setbacks. Mr. Toothaker asked if there were any neighbors the City knew about this request and were in disapproval of the encroachment. Mrs. Roberts stated there was a concern from the neighbors that the proposal was too close to the property line.

Mr. Wilson attended the meeting via Zoom. Mr. Toothaker confirmed the receipt of Mr. Wilson's appeal application. Mr. Toothaker asked Mrs. Roberts if the building was within the setback and she stated that with the old camp removed he would be building his new camp away from the shoreline setback (greatest practical extent) and at the same time encroaching into the sideline setback.

Mr. Toothaker asked Mr. Wilson to explain the need for the encroachment of the sideline setback and had he met the variance criteria. Mr. Wilson said he is restricted by the lot configuration to rebuild a new 1,500sf camp on the lot that matches the approved septic plan. Mr. Toothaker question why Mr. Wilson cannot move the camp over away from the setback towards the middle of the lot. Mr. Wilson said to meet the 75' setback from the lake he would encroach upon the wetlands. This is an economic hardship and he would have to obtain a full wetlands permit. Mr. Toothaker asked why he could not leave the existing camp where it is. Mr. Wilson stated the square footage restriction (1,000sf) in this area is not large enough for his family and this is where he wants to retire. Mr. Toothaker indicated that Mr. Wilson needs to convince the Board the need for the variance is due to the unique circumstances of the property and not the general conditions of the neighborhood, the granting of the variance will not alter the essential character of the neighborhood, that the hardship is not the result of action taken by the applicant or prior owner and that the land in question cannot yield a reasonable return. Mr. Toothaker again asked why he cannot move the camp back into the space towards Wilson Way. Mr. Wilson suggested that after speaking with Jon Cullen that he would need to do a full NRPA permit through DEP. Which includes hiring a full environmental consultant to fill in the wetlands.

Mr. Shea asked Mrs. Roberts if he could build a two-story home or is the calculation living area. Mrs. Roberts explained it is allowable to construct living area in the cellar, which does not count against the allowable square footage, only the first floor would be included for the calculation of square footage. Once he is setback 75' he gains an additional 500sf for a total of 1,500sf.

Mr. Toothaker suggested constructing his new building where the new septic tank is showing on the map. He re-stated to Mr. Wilson that he needs to show the Board how he meets all the criteria for a variance. Mr. Wilson said the current camp is 11' from the neighbor's camp and the new camp will give them a better view and not in his line of sight once the camp is moved back.

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The uniqueness of the site is caused by the wetlands and the jut in the shoreline. He also stated that the current camp is valued less than if he were to increase the size of the camp, which would allow him to maximize the value.

Mr. Shea confirmed the ordinance states you need a fair economic return, not just to maximize the value.

Mr. Rushton (neighbor) confirmed the new camp would be back behind their camp. Privacy is the main concern and he questions why it has to be that close to his camp. The map Mr. Wilson submitted shows a parking area and why can't his new camp go there.

Mr. Toothaker stated the criteria is not being met due to setback requirements and feels the land can yield a reasonable return, there is nothing unique about the property and he needs to go and talk to DEP.

**Mr. Toothaker finds that a granting of this variance will alter the uniqueness of the neighborhood and that the hardship is created by you with this proposal. Mr. Toothaker motioned to deny the variance. Mr. Wilbur seconded the motion. The motion passed with all Members in favor.**

**DENIED**

3. **HEARING AND CONSIDERATION:** Request of Wal-Mart Real Estate Business Trust, appealing FY 2021 tax bill for 17 Myrick Street (Tax Map 16 Lot 53), located in the "C" Commercial Zone.

**View meeting at: <https://www.youtube.com/watch?v=5cpJlxJEDrQ&t=758s>**

**Wal-Mart 2021 tax abatement Continued**

4. **ADJOURNMENT:** Mr. Toothaker motioned to adjourn. Mr. Sawyer seconded the motion. The motion passed with all Members in favor.

**View meeting at: <https://www.youtube.com/watch?v=5cpJlxJEDrQ&t=758s>**

**Adjournment [7:18PM]**

Date \_\_\_\_\_  
Steve Salsbury, Secretary  
Ellsworth Board of Appeals