



**APPROVED**

## TOWN OF WELLS, MAINE ZONING BOARD OF APPEALS

208 Sanford Road Wells, Maine 04090  
Website: [www@wellstown.org](http://www@wellstown.org)

---

### MEETING MINUTES OF January 30, 2023

#### **MEETING: 7:00 p.m.**

Present: Dr. Louis Cohen, John Ardini, John McDermott Thomas Pulsifer

There is a quorum and no members of the Board have a conflict of interest.

Excused: Jason Heft, Michael Findley

#### I. Election of officers

##### **MOTION**

Motion by Mr. Ardini, seconded by Mr. McDermott, to nominate Dr. Louis Cohen as Chairman. Passed unanimously.

##### **MOTION**

Motion by Dr. Cohen, seconded by Mr. Pulsifer, to nominate Mr. Ardini as Vice Chairman. Passed unanimously.

##### **MOTION**

Motion by Mr. Ardini, seconded by Mr. Pulsifer, to nominate Mr. Findley as Secretary. Passed unanimously. If Mr. Findley declines to serve, Mr. Pulsifer agreed to serve.

Mr. Pulsifer thanked former Chairman Robert Lavoie for his years of service on the Board.

#### **PUBLIC HEARING:**

- I. Daniel P. Luker, homeowner, located at 298 Atlantic Avenue (128-060), in the Residential B District and Shoreland Overlay Districts, is requesting a Variance Appeal per section 145-67A (3) to reduce the side setback for the placement of a generator.

Daniel Luker and Karen Slick are requesting a variance to install an emergency-only generator within the 6 ft. setback. The existing aging seasonal cottage was demolished in 2020 and a year-round home was constructed on the same footprint. The property is located in the Shoreland Overlay District and Back Dunes and Flood Zones. In the event of winter flooding and power outages, the generator is needed to maintain plumbing, heating and electricity. A

1 recent storm surge flooded their previous generator. The building code prohibits anything  
2 mechanical in the flow-through space.

3 The applicant states that the Department of Environmental Protection regulations prohibit siting  
4 the generator in the backyard. The applicant is reluctant to work with other agencies to pursue  
5 other locations at this time.

6 It would be on their property but within the setback. The abutters have no objection to the  
7 location of the generator. This is an established neighborhood with grandfathered homes that  
8 predate the zoning ordinance.

9 There were no conflicts on the Board. The property is grandfathered, non-conforming.

10 Mr. Genereux noted that the utilities mounted on the wall meet the setbacks and are elevated  
11 because of the flood zone. Lot coverage is 30%, while 40% is allowed. There are wetlands  
12 behind the house and that area floods during storms and high tides. Regulations governing the  
13 Rachel Carson Reserve prohibit structures behind the house. Everything currently on the  
14 property meets setbacks. The proposed generator needs to be 18 inches from the house and  
15 elevated. A generator is considered a structure because it is attached by a conduit. Mr.  
16 Genereux said the generator could be mounted on the roof because that area is not habitable.

17 **MOTION**

18 Motion by Mr. Ardini, seconded by Mr. McDermott, to close the public hearing. Passed.

19  
20 **DELIBERATIONS:**

21  
22 I. Daniel P. Luker, homeowner, located at 298 Atlantic Avenue (128-060), in the  
23 Residential B District and Shoreland Overlay Districts, is requesting a Variance  
24 Appeal per section 145-67A(3) to reduce the side setback for the placement of a  
25 generator.  
26

27 The Board discussed the criteria for granting a variance. Is a year-round dwelling considered  
28 habitable if there is a winter power outage and no source of power and heat? There have been  
29 several recent outages along Atlantic Avenue due to storms. Mr. Pulsifer asked about any  
30 medical issues and if a resident needs the power on all the time for medical equipment. Ms.  
31 Slick said they plan to relocate from Concord and make this their year-round home. She needs  
32 a dependable source of heat for her medical condition, including a heated floor. Without a  
33 generator providing constant heat they do not have a reasonable use of their home.  
34

35 A straw poll was taken:

36  
37 The hardship is not the result of action taken by the applicant or a previous owner. Agree 4-0.

38  
39 The granting of a variance will not alter the essential character of the locality. Agree 4-0.  
40 The need for a variance is due to the unique circumstances of the property and not to the  
41 general conditions of the neighborhood. Agree 4-0.  
42

1 The land in question cannot yield a reasonable return (use) unless the variance is granted.  
2 Opposed 4-0.

3  
4 Mr. Pulsifer will write the Findings of Fact for the Board to vote on at the February 13 meeting.  
5 The Board's decision can be appealed to Superior Court within 45 days.

6  
7 **OTHER BUSINESS:** The Maine Municipal Association conducts training for Appeals Board  
8 members. The next session will be on February 16.

9  
10 ~There is 1 vacancy on the Board and another member may be appointed on February 7.

11  
12  
13 **MINUTES:** No minutes available

14  
15  
16 **ADJOURN:** Motion by Mr. McDermott, seconded by Mr. Ardini, to adjourn. Passed unanimously.

17  
18  
19 Minutes Approved: February 13, 2023:

20  
21 ACCEPTED BY:

22   
23 \_\_\_\_\_  
24 Cynthia Davidson, Meeting Recorder

25  
26   
27 \_\_\_\_\_  
28 John N. Ardini, Vice Chairman

29  
30