

APPROVED
TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
April 10, 2017

The Chairman David Hennessey called the meeting to order at approximately 7:00 pm.

The Secretary Bill Kearney called roll:

PRESENT: David Hennessey, Bill Kearney(arrived after the meeting commenced), Peter McNamara, Alternate Lance Ouellette, Alternate Thomas Kenney, Alternate Diane Chubb, Planner/Zoning Administrator Jennifer Hovey

ABSENT: Svetlana Paliy, Alternate Darlene Culbert, Alternate Pauline Guay, Alternate Kevin O'Sullivan

PLEDGE OF ALLEGIANCE

Mr. Hennessey welcomed new alternate member Diane Chubb.

Mr. McNamara thanked Christopher LaFrance for his service on the Board. He understood his resignation and hoped he would come back to the Board in the future. Mr. Hennessey regretted Mr. LaFrance resigning, but understood his reasons for doing so. He said Pelham owed him a debt of gratitude.

Mr. Hennessey took up the following matter first, given that for a Special Exception to be granted it simply had to meet the requirements.

Case #ZO2017-00009

Map 20 Lot 3-130-16

MAKIEJ, Craig & Kristen 21 Bear Hill Road - Seeking a Special Exception concerning Article XII, Section 307-74 to permit an In-law apartment addition to the rear of the house.

Alternates Ouellette, Kenney and Chubb were appointed to vote.

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Representing the applicant was Mr. Jason Muise of Safari Construction. He told the Board that the applicant was requesting a Special Exception for an in-law apartment. He stated that the plan had been reviewed by the building department, adjustments were made and an up to date plan was re-submitted.

Mr. Hennessey asked Ms. Hovey if the submission met all the requirements for an accessory dwelling. Ms. Hovey replied yes. Mr. Hennessey explained the Board's role in reviewing accessory dwelling applications. He questioned if the septic system was in accordance with the Town. Ms. Hovey answered yes.

Mr. Hennessey opened comment to public input. No one came forward.

Mr. Kearney arrived.

Ms. Chubb asked for an explanation of the difference between a Variance and a Special Exception. Mr. Hennessey explained a Special Exception is granted when the requirements were met. Most applications are requesting an accessory dwelling or a home business. With regard to a Variance approval, there are five criteria that need to be met and the Board makes a judgement as to whether the application meets those criteria.

BALLOT VOTE
#ZO2017-00009:
Mr. Hennessey – Yes
Mr. McNamara - Yes
Mr. Ouellette –Yes
Mr. Kenney – Yes
Ms. Chubb - Yes

(5-0-0) The Special Exception was Granted.

SPECIAL EXCEPTION GRANTED

Mr. Hennessey noted there was a 30-day right of appeal.

ELECTION OF OFFICERS

Mr. Hennessey suggested the Board wait until they had a full Board and defer the election until their next meeting.

MOTION: (Kearney/McNamara) To delay Election of Officers until their next meeting.

VOTE: (3-0-0) The motion carried. (seated members voted)

CONTINUED HEARINGS

Case #ZO2017-00003

Map 30 Lots 11-336 & 11-351

HAGGERTY, Charles & Marjorie - 4 Springdale Lane - Seeking a Variance concerning Articles III & VII, Sections 307-8 & 307-39 to permit to expand a pre-existing non-conforming use by raising it 9ft. and expanding the footprint and to allow soil disturbance to install a foundation.

Mr. Ouellette and Mr. Kenney were appointed to vote.

Mr. Hennessey stated that the case was in front of the Board last month. At that time they read the abutter's list and read aloud the five variance criteria and conducted a review of such. A site walk (public hearing) was conducted and during which the Board heard from abutters and viewed a balloon that showed the height of the proposed building. The members made their own judgement as to the impact to the property and the abutter.

Mr. Brian Geaudreau of Hancock Associates, representing the applicant came forward with Ms. Marjorie Haggerty. He felt Mr. Hennessey accurately summarized the proceedings. He believed the site walk was telling with respect to the land and the existing condition of the home and what they proposed.

Mr. McNamara understood on the initial plans the applicant indicated they would move the out-building so it would be more conforming and within the lot lines. During the site walk he recalled the abutter objecting

to this because they felt it would make their problem worse. He stated the Board should know how it would be handled prior to voting. Ms. Haggerty stated it may need to be moved, and most likely would be for construction purposes. She had no objection to moving (the out-building) back to its current location after construction. Mr. McNamara confirmed if the building had to be moved temporarily it would be moved back upon completion of construction. Ms. Haggerty stated that was correct.

PUBLIC INPUT

Attorney Robert Parodi, representing Daniel and Debra Constant, came forward to address the variance request. He emphasized the parcel was in a Wetland Conservation District ('WCD') and residential use is not allowed in such. He pointed out it was clear in the Ordinance that any non-conforming use was not to be extended. In this case, the applicant was proposing a 9ft. first floor. The present living space (shown on the plan) is 842SF, which based on the proposal to square off the footprint and raise the building to two stories, would be expanded to 1,840SF. Attorney Parodi told the Board they objected because the proposal was an expansion of a non-conforming use, which they felt should not be allowed. They didn't feel that the wood shed should be moved. His clients maintain that they would suffer a loss of view, which would be a diminution of value to their property. Attorney Parodi stated there was no hardship presented in the case. He commented that the applicant suggested there was water in the corner of the building. He didn't feel that this justified a 9ft. elevation. He believed the proposal was contrary to the public interest as it would change the essential character of the locality. He reiterated that the size (of the structure) would be more than twice the size than what presently existed. With regard to squaring off the corner of the building, Attorney Parodi pointed out it would be within the setback and considered an expansion of the non-conforming use.

Mr. Dan Constant (abutter) told the Board if the structure was raised it would block his view. The setback off the paper road would be less than 15ft. When he had come in front of the Board he said he had to be 15ft. and get easements because the applicant objected. He didn't think it was fair to allow the Haggertys to do something he wasn't allowed to do. He noted that the applicant was driving across his property with an excavator and there was no way for them to do the work without doing so. He didn't feel it was right.

Mr. Johnathan Cole, 8 Springdale Lane reiterated his concern from the previous meeting. He stated there were two accesses to the property, and one of which contains his septic system within it. He was concerned with heavy equipment traveling over his septic. Mr. Hennessey discussed the situation and suggested that the Board add an approval stipulation so that no heavy equipment traverse the septic system.

MOTION: (McNamara/Kearney) If Variance is granted, no heavy equipment is to traverse over Mr. Cole's septic system.

VOTE: (5-0-0) The motion carried.

During the site walk Mr. Kearney saw a couple things he felt would negatively impact the Constant's property. He felt that the building to the right of the property was taking away some of the visual to the lake. In addition, the building being raised 9ft. would diminish additional visibility of the lake, which he felt was an issue. Mr. Hennessey noted the Town didn't have a height restriction, except in one area of Town. He said it had been the Board's practice for many years to review properties and try to restrict the height of any proposed construction to protect views of the lake, which came under criteria #4 (value of surrounding properties). In speaking of the character of the neighborhood, Mr. McNamara pointed out that the building being constructed to the right of the property significantly dwarfed the proposed (Haggerty) construction. He agreed with the restriction of the abutter's view, but noted it was not in total.

The Board discussed the variance criteria.

- 1) Public Interest: The Board had no issue with the applicant's submitted response.

- 2) Spirit of the Ordinance: Mr. McNamara noted that the spirit of the ordinance criteria is usually linked to public interest. He felt on that aspect, they had met the burden.
- 3) Substantial Justice: Mr. Hennessey noted substantial justice was linked to the spirit of the ordinance.
- 4) Values of the Surrounding Properties: Mr. Hennessey felt this criteria was the crux of the application. He told the Board if they felt there would be an effect on values by the height and construction they would have to vote against the variance. He said every property on the pond that had come before the Board over the past (approximate) twelve years has an expansion. The trade-off was a better septic system, less impact on the property and it being more aesthetically pleasing with (in his opinion) an increase in value. He commented this case was difficult because the abutter was being affected, but not totally.
- 5) Hardship: Mr. Hennessey noted that the site was a very difficult property and had a lot of issues to expand or develop. He said it was hard to see how anything the applicants would do on the property that would in some way not affect the abutter. In addressing 'non-conformity', Mr. Hennessey said the benchmark used by the State and the Board was the footprint. If an applicant stays within the footprint, the 'rule of thumb' used by the Board is that the non-conformity has not increased. In this case, the applicant will square off the back side. By the letter of the law, Mr. Kearney felt the non-conformity would be increased, although he was more concerned with raising the height, which in his mind would be an issue and diminished the property value. Mr. McNamara pointed out that the applicant couldn't go anywhere else on the property other than up. Ms. Chubb questioned if squaring off the structure would increase the obstruction of the view. Mr. Hennessey answered no; it was the second story that obstructs the view.

Mr. McNamara stated that the applicant was seeking the variance for an expansion of a non-conforming use. It was for the Board to decide whether the expansion was reasonable. Mr. Hennessey pointed out that the State had weighed in on the application in terms of Shore Land Protection, but it didn't take away the Board's ability to make their own judgement.

Mr. Ouellette stated this case was hard because the Board had allowed so many expansions on the lake; tear-downs to modernizing. He said he lived on the lake and it was clear which houses had been converted from seasonal to year-round. In looking at the submitted photographs he felt the overall view loss was minimal compared to some of the things (up to 30ft.) allowed in the past by the Board. Mr. Hennessey said those decisions were not contained in the Zoning law or building code; it was based on the Board's evaluation of what would be the minimum impact to abutters and yet allow the use of the building (re-build) that was proposed. He said the Board is careful to evaluate during the site walk how much the abutter would be effected. With regard to property value, Mr. Ouellette believed if they allowed the property to be re-built it would increase value. He stated the Board has allowed much more than what was currently in front of them. He felt the enclosed wood porch would be very minimal. Mr. Hennessey stated the Board did not look to prior examples to decide cases; every case was unique, although the members could draw on their own experiences and views on a property. The Board does not rely on precedence.

Mr. Kenney believed the proposal would increase values of the neighborhood.

MOTION: (McNamara/Kearney) Approval stipulation: if the shed has to be moved for construction purposes, it is to be moved back to its original position on the property.

VOTE: (5-0-0) The motion carried.

Ms. Chubb questioned if the Board would make a stipulation, as they had done for another abutter, to limit equipment running over Mr. Constant's property. Mr. Hennessey felt another stipulation would be appropriate.

Mr. Constant noted that the proposed foundation was located approximately 1.5ft off the property line on the back side and approximately 2ft off the property line on the lake side. Mr. Hennessey asked the applicant if it was possible to construct the proposed building without going across the abutter's land. Mr. Geaudreau stated it was within construction tolerance and believed they should be able to work with the proposal. Mr. Hennessey wanted to know if they would be able to construct the building without going across the abutter's land if the Board was to make it a stipulation. Mr. Geaudreau stated they would be able to. Mr. Constant told the Board that the applicant had already driven across his property with an excavator. Mr. Hennessey told him to report it to the Planning Department and Zoning Enforcement Officer. Ms. Chubb questioned Mr. Constant's remedy in the event his property is crossed. Mr. Hennessey replied he could request a cease and desist order.

MOTION: (McNamara/Kearney) Approval stipulation: Access to the construction site of the (applicant's) property should not traverse any abutter's property. It has to be kept within the right-of-way.

VOTE: (5-0-0) The motion carried.

BALLOT VOTE Mr. Hennessey – 1) Yes 2) Yes 3) Yes 4) No 5) Yes
#ZO2017-00003: Mr. Kearney – 1) Yes 2) Yes 3) Yes 4) No 5) Yes
 Mr. McNamara – Yes to all criteria.
 Mr. Ouellette – Yes to all criteria.
 Mr. Kenney – Yes to all criteria.

(3-2-0) The Variance was Granted.

VARIANCE GRANTED

Mr. Hennessey noted there was a 30-day right of appeal.

HEARINGS

Case #ZO2017-00006

Map 28 Lot 7-185

MORRISSETTE, Ronald 6 Lisa Terrace - Seeking a Variance concerning Article III, Section 307-12 (E) to permit a swimming pool and associated deck within the fifteen (15) feet of a side lot line where the installed pool is ten (10) feet and pool deck is two (2) feet off side lot line.

Mr. Ouellette and Ms. Chubb were appointed to vote.

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Matt Hamor of LandPlex Engineering & Surveying, representing the applicant, came forward to discuss the variance request. He told the Board that the applicant had a pre-arranged vacation and apologized for not being present. He was authorized by the applicant to appear and speak on their behalf. Mr. Hamor explained they had submitted for a lot line adjustment between 4 and 6 Lisa Terrace. There is an existing pool and adjacent deck (constructed in early 1990) which is within the 15ft. side setback. Subsequently pools and decks have been added to the definition of 'structures' in the Zoning Ordinance, Article III,

Section 307-12(E). He noted it was not the applicant's intent to construct a non-conforming deck and pool amenities. Additionally on the property is a 30ft. gas easement that traverses the property and essentially cuts it in half. Currently there is vegetation and a fence where the lot line is proposed to be adjusted to. Photos were submitted with the application.

Mr. Hamor told the Board when the applicant's property was surveyed they learned that the pool and deck were over the property line. The applicant has a good relationship with his neighbor (Raymond & Cynthia Cover- 4 Lisa Terrace) and created an agreement to adjust the lot line.

Mr. Hamor read aloud the responses to the variance criteria as submitted with the application.

Mr. McNamara questioned how long the pool and deck had been installed. Mr. Hamor understood they were installed early 1990's.

Mr. Kearney asked if the lot line had been moved. Mr. Hamor answered no, it was currently pending a hearing with the Planning Board based on the outcome of the Zoning Board's meeting. Mr. Hennessey questioned if the Zoning Board would be granting a variance subject to the Planning Board agreeing to the lot line adjustment. Ms. Hovey stated the pool was already installed on the original lot line; therefore, the applicant would need a variance for that situation. Once they receive a lot line adjustment from the Planning Board, the applicant would still need a variance because the structure will be located 10ft. from the lot line, where 15ft is required. Mr. Hennessey questioned if the request was to grant a variance based on the current proposal, or if it would be subject to Planning Board approval. Ms. Hovey replied the applicant need a variance now, but would also be subject to Planning Board approval based on the new lot line. Mr. Hennessey felt the Board should stipulate that the variance is subject to Planning Board approval.

Mr. McNamara confirmed that the matter would go in front of the Planning Board as a simple lot line adjustment. Ms. Hovey answered yes. Mr. McNamara also confirmed that the applicant wouldn't need two variances. Ms. Hovey answered no. The Board understood.

MOTION: (Kearney/Ouellette) Variance approval subject to lot line adjustment approval (by Planning Board).

VOTE: (5-0-0) The motion carried.

Mr. Hamor noted that the applicant was going in front of the Planning Board on April 17th, which would be prior to the appeal period ending.

Mr. Kearney wanted to know what the distance would be between the fence and the lot line once the line was adjusted. Mr. Hamor replied the fence was within a foot of the line being adjusted. The proposed lot line would run along the fence line. Mr. Kearney said his only concern would be maintenance of the fence.

PUBLIC INPUT

Mr. Ray Cover, 4 Lisa Terrace was concerned about the section of land being discussed. He wanted to confirm once the line was adjusted that he wouldn't have problems with his property size conforming to the Town's rules. Mr. Hamor told the Board that Mr. Cover's property would be fully compliant; the minimum lot size is 40,000SF and Mr. Cover's lot line would be greater than that. Mr. McNamara added that the Planning Board could not approve a non-conforming lot. Mr. Hennessey stated that the proposal would not make Mr. Cover's lot non-conforming.

Mr. Hamor believed there was a hardship put on the property when the Town's definition of 'structure' changed after the pool was put in.

BALLOT VOTE
#ZO2017-00006:

Mr. Hennessey – Yes to all criteria.
Mr. Kearney – Yes to all criteria.
Mr. McNamara – Yes to all criteria.
Mr. Ouellette – Yes to all criteria; subject to Planning Board approval
Ms. Chubb – Yes to all criteria.

(5-0-0) The Variance was Granted.

VARIANCE GRANTED

Mr. Hennessey noted there was a 30-day right of appeal.

Case #ZO2017-00007**Map 30 Lot 11-156**

RONNING, Cindy 1 Andover Street- Seeking an Appeal from an Administrative Decision of the Building Inspector for the issuance of a building permit #201700088 rendered on February 17, 2017 for the construction of a 24x36 three car garage.

Mr. Ouellette and Ms. Hovey stepped down.

Mr. Kenney and Ms. Chubb were appointed to vote.

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Hennessey explained the appeals and hearing procedure.

The applicant, Cindy Ronning, 9 Gaston Street came forward to discuss her appeal from Administrative Decision of the Building Inspector. She stated that she owned 3 Andover Street; the lot in question was 1 Andover Street (owned by John Patterson). She noted that a variance was granted December 12, 2016 with a vote of (5-0-0) motion carried and confirmed the Board members had a copy of such. She discussed what had transpired since the variance. To begin, Ms. Ronning reviewed the meeting minutes from the April 12th hearing. She said testimony was given that 1 Andover Street was used primarily for snow storage, which it was not. Testimony was also given that there were five plot plans dating back to 1941 which were all the same. She provided a copy of her septic design for 3 Andover Street (abutting 1 Andover), and told the Board it didn't look anything like the survey. She said her septic design was not a certified survey because it couldn't be done. During the December 12th meeting the Board wanted to know if the proposed garage would have a second floor and if there were any pictures. Ms. Ronning provided the Board with a photograph of the structure and noted during the hearing no one opposed the variance application and didn't know why Mr. Patterson didn't say the structure would have a family room.

Ms. Ronning referred back to the meeting minutes and noted testimony was given that the garage would be 'dug in' to the rear of the property. She told the Board that Mr. Patterson never disclosed that he would be excavating 6500SF, and not just digging into the lot for a 24ftx36ft. garage. She noted she originally had a meeting with Mr. & Mrs. Patterson before the variance hearing and indicated she had no problem with the garage, but asked that they stay off her boundary because it could not be determined. They responded it would be no problem, as they would be far away from her lot line. Her concern came when the excavator came out and was digging the whole yard. She knew they would dig up to her lot line and was concerned for the (\$50,000) septic systems on her lot and felt they were put them in jeopardy. She felt Mr. Patterson took approximately 10ft-15ft. of her property. Ms. Ronning told the Board she had no problem with the garage; although she had questions. She was amused at Planning Director Jeff Gowan's letter dated March

21, 2017, which indicated it was hard to find any boundaries on 1 Andover Street. She read a portion of the last paragraph aloud that spoke to the surveyor describing the prepared stamped survey “as close as possible given the difficulty in locating all the relevant bounds”. The surveyor explained to Mr. Gowan the property deed references and how the lot lines along the western side of the lot would have come to a point well into the paved area of the intersection of Andover and Gaston Streets; for that reason the surveyor rounded that end of the lot line so it conformed with the geometry of the roadway. Ms. Ronning questioned who gave the surveyor the right to round out the area if the deeds came to a point.

Mr. Hennessey discussed the Board’s proceedings. He stated Ms. Ronning was past the 30-day appeal period for the variance. Ms. Ronning pointed out that the owner of 1 Andover Street wasn’t following the variance. Mr. Hennessey understood she was appealing the Administrative Decision to issue a building permit because they did not follow the stipulations in Zoning. Ms. Ronning said that was correct. She felt the owner could have stated what he was going to do and believed the owner overstepped the bounds of the variance. Mr. Hennessey questioned what she felt the Town did wrong. Ms. Ronning reviewed the Board’s meeting minutes of December 12, 2016 that indicated the survey was to be marked certified prior to construction. She said that is what the appeal is about, other than the fact that the owner expanded on the variance and took well advantage of the situation.

Ms. Ronning understood that for garages there is no requirement to have certified plot plans, but the Building Inspector (Roland Soucy) had asked for it to be done. She wanted to know how they ended with a curved road when the deeds say that it’s pointed. She said another issue was that the survey indicated it did not constitute a boundary survey. Ms. Ronning told the Board she was okay with the garage, but was not okay with the boundaries. She said the survey should have been a boundary survey because all the lots were part of the right-of-way.

Mr. Hennessey understood that Ms. Ronning’s appeal was based on the fact that despite the plan indicated it was a certified plot plan, it was not a certified plot plan per the Board’s stipulation when they granted the variance. Ms. Ronning said that was correct.

Mr. Hennessey asked the Building Inspector and Zoning Administrator to come forward and discuss why a building permit was issued.

Building Inspector Roland Soucy and Zoning Administrator Jennifer Hovey came forward. Mr. Soucy told the Board that they never require a boundary survey when they issue building permits, whether it’s for a garage or a house. The package of paperwork that supports the building permit came with a certified plot plan that the Board used to approve the variance. He said when the foundation for the garage was being put in, the owner was required to provide a certified foundation plan. This plan showed that the foundation went in exactly where it was supposed to go in. Mr. Soucy stated all the documents supporting the building permit were in place; there was nothing wrong with the package. He said the only reason why he issued a stop work order was at the direction of Town Counsel. When Counsel reviewed the appeal they informed Mr. Soucy he was required at that point to issue a stop work order. He had nothing else to issue a stop work order. Mr. Hennessey confirmed that the building permit satisfied the Board’s variance and their stipulation that it be certified. Mr. Soucy noted one of the things that happened along the way was no one picked up on the fact that the owner would be excavating the bank and a portion of a wall would be 8ft. in height. The wall had to be engineered after-the-fact because most of the wall was done when he went on site. Mr. Soucy stated he required the owner to finish the wall because he didn’t want to take a chance on losing any of the road, or Ms. Ronning losing any of her property that supported her septic system. He noted the wall between 1 Andover Street and Ms. Ronning’s lot was under 4ft. and didn’t need to be engineered. The only portion of the wall that needed to be engineered was the portion on the back of the structure. He told the Board that the owner had done everything required of them. Mr. Soucy noted that the owner had a Shore Land permit that became a problem because they had disturbed more land than indicated in the permit;

however that application is being redone to reflect the exact area being disturbed. He allowed the owner to get the building weather tight (as allowed per RSA) and the owner agreed to stop working.

Ms. Hovey pointed out that prior to the issuance of the building permit, the owner of 1 Andover Street provided the Planning Department with a stamped copy of the same plan submitted to the Zoning Board. Mr. Hennessey asked if it was her opinion that the owner met the stipulation added to the variance. Ms. Hovey answered yes.

Ms. Chubb asked if the Board asked for a certified survey. Mr. Hennessey believed the meeting minutes were correct; the request was for a certified stamped plan. Ms. Chubb understood that Ms. Hovey received the same plan that was brought to the Board. Ms. Hovey answered yes. Ms. Chubb questioned if the Board was looking for something in addition to what had already been brought before them. Mr. Soucy noted they use the plan and wouldn't accept a different plan. Mr. Hennessey said there had been a discussion at the Board regarding the uncertainty of plans in the area because it is a very difficult area in Town in terms of determining lot lines. Mr. Soucy said they took it a step further by asking for a certified foundation plan. Ms. Hovey noted that the Board asked the owner of 1 Andover Street to take the plan (provided to the Board) and have it stamped. She said that plan was stamped and submitted to the Town. Mr. Hennessey recalled when the plan initially came in front of the Board it had not been stamped and that was the reason for the variance stipulation.

Ms. Ronning questioned the meaning of a stamped survey without boundaries and markers. She said the plan given for the permit was different than the plan given to the Board. The plan given to the Board indicates "This plan does not constitute a boundary survey"; however, the plan given for the permit doesn't include that statement. Mr. Soucy reiterated that boundary surveys are not required for houses or garages. He told the Board they crossed every 'T' and dotted every 'I' when the building permit was issued.

Mr. Hennessey read aloud a letter submitted by George LaBonte, 5 Gaston Street (directly across the street from the structure at issue) who had no problem with the issuance of the Building Inspector. Mr. LaBonte felt a hearing at this point was unfair and spiteful as prior hearings were held in regard to the property and structure and no grievance was voted at that time. Mr. Hennessey reiterated that the hearing was not an appeal of the Board's variance, it was an appeal of the administrative decision to issue the building permit. Mr. LaBonte wrote it seemed unfair to the owner given there were other projects in the neighborhood (in close approximation) that had no appeals filed. Mr. Hennessey stated the Board was not bound on precedent and took each case on its own.

Mr. Hennessey read aloud a letter submitted by Javier Rivera, 21 Gaston Street in support of the project/construction at 1 Andover Street. He then read aloud a letter submitted by Madeline and Lucien Carrier, owner of 4 Andover Street also in support of the proposal.

Mr. John Patterson, owner of 1 Andover Street and Mr. Timothy Peloquin, Promised Land Survey came forward. Mr. Patterson believed that the only issue Ms. Ronning had was the stamped and unstamped plot plan. He felt he had done everything right. He pointed out Ms. Ronning testified that she had no problem with the structure, but (at the same time) was filing an appeal of the structure. He said she was filing an appeal on behalf of the Board, which was well over the 30-day appeal timeframe. Mr. Hennessey stated Ms. Ronning's appeal was not from their decision. He noted she was appealing the decision of the Town (Building Inspector and Zoning Administrator) to issue a building permit based on the variance granted by the Board. Mr. Patterson replied the appeal was about the building permit, and Ms. Ronning had stated she had no problem with the structure or the building permit. He felt everything she had a problem with had to do with the variance.

Mr. Peloquin read aloud his letter to the Board dated March 27, 2017. The letter described the research and ground work done at the site. The letter indicated Promise Land Survey technically did not perform a

boundary survey, it performed sufficient land survey work within the realm of their profession to certify the building siting and location within a very reasonable certainty. He had much confidence in the survey and resulting plot plan as being as accurate as possible. Mr. Peloquin provided the Board with the April, 1941 plan that (basically) called out everyone's deeds in the area and that the road had curves. They put that 1941 plan as best they could on the ground.

Mr. Hennessey understood that Mr. Peloquin was stating they had satisfied the requirement put on the variance. Mr. Peloquin replied they had, 100%.

Mr. McNamara held a copy of the plan and saw that it indicated it was certified plot plan containing a stamp by Mr. Peloquin. Mr. Patterson told the Board when his surveyor started working, Ms. Ronning removed the survey stakes and spoke of who she was in Town. Mr. Hennessey replied the Board was only dealing with the issuance of the building permit based on the granted variance. He believed the surveyor had answered the Board's question. The issues between the parties were separate.

Ms. Ronning said her only problem was one of the plans had a boundary approximately 78ft on her lot line, which didn't show on the second plan. Also, that second plan states it's not a boundary survey. She wanted to know what a survey was, if it wasn't a boundary survey. She stated the structure was bigger than any house in the area and yet the Town wasn't requiring a boundary survey on it. She said maybe that should be changed, although it might be too late for the structure being discussed. Ms. Ronning said the project would have been fine if the whole lot hadn't been excavated. She said it wasn't disclosed until it was being done. She felt the abutters should be protected. Mr. Hennessey heard and understood Ms. Ronning's points. Based on discussion (at the meeting and site walk), he made the requirement for a survey stamp when he didn't see one on the survey submitted to the Board. Mr. Hennessey said at present the only thing in front of the Board was whether the Building Inspector and Zoning Administrator correctly issued the building permit based on the Board's variance. He asked Ms. Ronning if she agreed the permit was issued based on what Mr. Patterson and Mr. Peloquin were saying. Ms. Ronning answered no, because she felt the lot lines couldn't be done and the road was moved. Mr. Patterson replied he had pictures of the road being exactly where it was. He questioned why Ms. Ronning didn't have her own survey done if she disagreed with what had been done.

Mr. Randy Favreau, 11 Gaston Street told the Board his family had been at that residence for seventy years. He spoke in favor of the Patterson's proposal and told the Board that Mr. Patterson had been proactive in communicating with everyone in regard to what he was doing. He noted that the survey crew was present in the area at least four times and felt if anyone had a problem they should have stepped up, spoken out and resolved issues at that time. Mr. Favreau told the Board there had been a very high level of harassment in the neighborhood for the past fifteen years. Mr. Hennessey pointed out that the hearing had a narrow focus regarding if the building permit was issued correctly in accordance with the variance. Mr. Favreau felt he needed to speak on behalf of everyone in the area that had been harassed.

Mr. Peloquin wanted the Board to know he had no problem stamping the plan from the 'get-go'. He stated it was inadvertently not stamped at the time of the initial presentation. Mr. Hennessey replied he didn't see that as an issue; he made the stipulation because in his view the plot plan wasn't complete without the stamp, which is why he made the stipulation. He said it wasn't a reflection on his professionalism. Mr. Peloquin explained the only reason the note ended up on the certified plot plan of the existing foundation was because he knew there was a hornet's nest being 'stirred up' and he wanted to be able to cover himself. Although he stated he would stand behind the property lines.

Ms. Ronning stated there were two separate certified plot plans. She wanted to know why, if the plan wasn't a certified boundary, it was indicated on the first one. She said maybe there could have been more work done on the boundaries, because originally she and Mr. Patterson were supposed to come to terms with the lot line, knowing it was not possible to get a legitimate one.

Mr. Hennessey reviewed the last portion of the Appeals in the Ordinance. Mr. McNamara felt Ms. Ronning brought up some legitimate points; however, the Board was constrained with what they could do. He said the variance was granted with the condition that the applicant was to provide a plot plan stamped by a certified land surveyor prior to obtaining a building permit. He stated that was done; a stamped certified plot plan had been received. In addition the Building Inspector required a plan showing the exact location of the foundation. The Board had also heard from the Building Inspector that a boundary plan has never been required. Mr. McNamara didn't see that the Board could do anything other than uphold the Town. Mr. Hennessey agreed. He felt the appeal was based on what the Board did at the hearing; not an appeal of their decision, it was an appeal of the Building Inspector and Zoning Administrator. He believed they had done what the Board asked, based on their decision.

Ms. Ronning wanted to know why there were two separate plot plans. Mr. Peloquin replied the plot plans were identical, with the exception of the distance notation between Mr. Patterson and Ms. Ronning's lot line; however, that lot line is not germane to the variance. He said Mr. Patterson simply needed the setback to Ms. Ronning's property line. Mr. Peloquin said the second thing added was the notation indicating that the survey was not a boundary survey.

SHOW OF HANDS VOTE – Case #ZO2017-00007

Voting – Mr. Hennessey, Mr. Kearney, Mr. McNamara, Ms. Chubb, Mr. Kenney.

Mr. Hennessey asked the Board members to raise their hand if they were in favor of overturning the Administrative Decision of the Building Inspector and the Town to issue a building permit (Ms. Ronning's request). No one raised their hand.

Mr. Hennessey then asked the Board members to raise their hand if they wanted to vote against the request (of Ms. Ronning) to overturn the decision (Administrative Decision of the Building Inspector and the Town to issue a building permit). The five seated Board members voted unanimously by raising their hands, to vote against overturning the Administrative Decision. The Administrative Decision was upheld.

TOWN'S ADMINISTRATIVE DECISION WAS UPHELD

Mr. Ouellette and Ms. Hovey rejoined the Board.

Case #ZO2017-00008

Map 2 Lot 5-85

ROSAMILIO, Edmund & Paula 44 Keyes Hill Road - Seeking a Variance concerning Article III, Sections 307-12 (Table 1), 307-13 (B) & 307-14 to permit a 2-lot subdivision of an existing approximately 3acre lot improved with and existing single-family home. The proposal includes providing 180' of frontage for the existing home on lot 5-85 and creating a new lot 5-85-1 with 20' of frontage on Keyes Hill Road.

Mr. Ouellette and Mr. Kenney were appointed to vote.

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Hennessey discussed how the Statutes address conflicts. He knew a number of the people involved either with the case or that were abutters to such; however, he didn't feel he had statutory conflict. He asked if anyone felt he had a conflict. No one spoke out.

Stepping forward to represent the applicant was Attorney David Groff and Shayne Gendron of Herbert Associates. Attorney Groff told the Board that Mr. & Mrs. Rosamilio live on Keyes Hill Road and have a lot approximately three acres in size. He said they would like to construct a driveway along their lot line and build a second house (small ranch) in the back of the parcel where they would live. He noted they didn't have enough frontage, but met all other criteria.

Attorney Groff read aloud the variance criteria as submitted with the application. He referenced an aerial photograph that showed the parcel as being heavily wooded and said it was doubtful that anybody would know there was a house, except for the fact that there would be a driveway. He had a letter from an abutter (and provided a copy to the Board) that indicated the proposal would be an improvement because the houses on either side were in a state of disrepair.

In speaking to the back lot, Mr. Hennessey questioned if there was 35,000SF of relatively flat, high and dry land. Mr. Gendron answered yes. He explained the plan was presented at forty scale. The slopes on the property were pretty gentle. The land in the front with the existing house was very flat. There was a gentle slope (10ft elevation change) from front to back. The proposed house would sit approximately 450ft. from the street.

Mr. Ouellette saw that the proposed house appeared to be substantially smaller than the existing house and asked for the dimensions. Mr. Gendron replied they were looking to build a ranch style (one story) house. The plan showed a box for the house to be approximately 28ftx40ft.

Mr. Kearney wanted to know the length of the proposed driveway. Mr. Gendron replied it was approximately 450ft.

Mr. Hennessey asked for the distance to the house on the right side of the lot (as facing the existing house) to the lot line. Mr. Gendron did a rough scale using the aerial photograph and measured approximately 40ft. Attorney Groff pointed out that the house to the right was abandoned and looked as if it was falling down.

PUBLIC INPUT

Mr. James Beacotte, 50 Keyes Hill Road told the Board he was not against the applicant's request. He confirmed the testimony that the roof of the abutting house was caving in.

Ms. Susan Tisbert, 36 Keyes Hill Road told the Board she wasn't notified of the meeting. She said she had been away and didn't make it to her post office box. Mr. Hennessey saw that the plan had a post office box listed for her address. Mr. Kearney reviewed the abutter's list and confirmed Ms. Tisbert's address is listed as a post office box. Ms. Tisbert didn't understand why a certified letter would be sent to a post office box and not to her home. Attorney Groff replied he received certified letters at the post office all the time. He explained they were required by Statute to send notification to the address listed on the tax records. Mr. Hennessey stated the applicant was correct and the letter was delivered to the address on record, which is the post office box. Ms. Tisbert stated the letter had been delivered, but she didn't receive it in advance of the meeting. She told the Board that her neighbor notified her of the hearing. She went to the applicant's house and Mr. Rosamilio explained the plan to her. She was concerned about water in the area. She felt she didn't have time for discovery and to understand how the proposal would affect her.

Mr. Hennessey noted when a parcel contained two acres a duplex could be constructed. Based on the size of the applicant's lot, they could build a duplex instead of two single family dwellings. He understood there are some people opposed to similar type lots and wanted to know how Ms. Tisbert felt. Ms. Tisbert said there was pond on the applicant's lot and asked where it was located on the plan. Mr. Gendron pointed it out. Ms. Tisbert stated she was friends with the applicant. She told the Board she was opposed to the

proposal only because of the non-conforming lot and her worry about the water. She felt her lot would be effected if she lost her well and couldn't put another one in.

Mr. McNamara asked Ms. Tisbert how far away her property was from the lot line of the applicant's property. Ms. Tisbert believed her lot was a couple hundred feet away.

Mr. Joseph Fritz, 11 Castle Hill Road was concerned with having a lack of privacy in his back yard. He heard the testimony about the area being heavily wooded, but noted the land from the applicant's property sloped down to his property. He felt there would be a sight line from the proposed house into his back yard, which was currently private. He believed it would take away from his house value. Mr. Hennessey asked for the distance of his house from the back lot line of the applicant's property. Attorney Groff provided the Board with a copy of the aerial photograph. The best Mr. Fritz could ascertain was that his house would be approximately 150ft. from the location of the proposed house. Mr. Gendron scaled the distance at closer to 280ft. from the proposed house to the back of the Fritz house.

Mr. Hennessey asked Mr. Fritz if he had frontage onto Castle Hill Road. Mr. Fritz answered no. Mr. Hennessey questioned if Mr. Fritz had a well and if he had any issues with it. Mr. Fritz stated he had a well and had cut the sprinklers off at the end of last season because he was fearful.

Mr. Hal Lynde, Jeremy Hill Road was troubled by the application. He stated the applicant's lot had no hardship and met all requirements of zoning. The proposal would create two non-conforming lots out of a single conforming lot. He didn't feel the request (20ft. of frontage) kept with the spirit of the ordinance. He also didn't feel the Board should be in the business of creating non-conforming lots. He stated the issue of the deterioration of abutting houses was not germane. Mr. Lynde stated he had two lots on Jeremy Hill Road, one being 3.5 acres and the other being 6.4 acres and couldn't imagine adding anything in the area because he would have to create non-conforming lots to do so. Mr. Lynde reiterated there was no hardship with the land and didn't feel the request kept with the spirit of the ordinance. He believed the proposal would open pandora's box because there were other similar lots that would qualify.

Attorney Groff told the Board he didn't know the situation with Ms. Tisbert's well. He stated the applicant had a well on his property and assumed a new one would be drilled (for the proposed home). There were no problems with the setback or radius requirements. With regard to the concerns voiced by Mr. Fritz, Attorney Groff pointed out there was plenty of buffer (none of which would be touched) for the proposed house lot. He said Mr. Lynde could speak because it was a public hearing, but noted he wasn't an abutter.

Mr. Lynde asked if Attorney Groff's statement was indicating that he had not right to speak up on the issues. Mr. Hennessey replied that's not what was said and noted it was a public hearing and anyone could speak.

Mr. McNamara saw that the proposal could create two non-conforming lots out a conforming lot that had an existing house. He understood the argument about the acreage. He said the Board had similar situations in the past with a lot going from 200ft. of frontage to having 20ft. access. He stated an abutter had submitted a letter indicating that the proposal would improve property values. He noted if the property was going to be so set back, no one would see it from the street. He commented that he also heard the concerns raised by abutters.

Ms. Chubb questioned if the proposal could be done with an easement. Mr. Hennessey said the lot could use the access, but would still need to show frontage. He stated the Board had allowed access to non-conforming lots to the rear, but had tried very hard to make sure one of the lots remained conforming. He noted every lot was different and with the proposal there was an occupied lot to the rear of the applicant's property. One of the issues in the case was the creation of two non-conforming lots.

Mr. Kearney concurred with the comments made by Mr. McNamara and Mr. Hennessey regarding the creation of two non-conforming lots. He was concerned with the potential water issue and the 450ft. driveway. He didn't want to create issues.

Mr. Ouellette pointed out if the owner torn down the existing house and build a 5,000SF duplex with 450ft. driveway, they would have every right to do so. He said a duplex would have two wells and septic systems. He discussed substantial justice and considered the applicant's options. He felt sometimes the Board could do more harm than good and in this application a denial may do more harm than good. Mr. Hennessey replied the Board had to focus on the application in front of them. Mr. McNamara noted they were also dealing with a long driveway where Police and Fire access may need to be considered.

The Board discussed the five criteria.

- 1) Public Interest: Mr. Hennessey noted the lot was zoned residential and met all criteria for such, other than frontage. Mr. Kearney felt creating two non-conforming lots and having a 450ft. driveway was contrary to public interest. Mr. McNamara was unsure if adding the one proposed house was contrary; however, if everyone who had 2-4 acre lots decided to do the same thing, it would be different.
- 2) Spirit of the Ordinance: Mr. Hennessey said the answer was with the Master Plan and separation of lots per Zoning, which he felt were probably observed in this case; however, two non-conforming lots caused him to pause. He noted there was no regulation prohibiting a driveway from being built immediately adjacent to a lot line. Mr. Ouellette asked if there was a regulation on length. Mr. Hennessey replied if it was a road, the public safety committees would have an issue with no turn around area.
- 3) Substantial Justice: Mr. Hennessey noted there was a large piece of land with one house. He said this criteria was tied into the second criteria.
- 4) Values of the Surrounding Properties: Mr. Hennessey recognized the concern regarding water, but felt it was hard to judge ahead. He said people had a right to use their property and didn't see how any right by a regulatory body could use the water issue that was the reflection of a drought. He found it hard to see how surrounding properties would be significantly affected by the proposal.
- 5) Hardship: Mr. Hennessey stated the hardship went with the land.

BALLOT VOTE
#ZO2017-00008:

Mr. Hennessey – 1) Yes 2) Yes 3) Yes 4) Yes 5) No
 Mr. Kearney – 1) Yes 2) Yes 3) Yes 4) Yes 5) No
 Mr. McNamara - 1) No 2) Yes 3) Yes 4) Yes 5) No
 Mr. Ouellette – 1) Yes 2) Yes 3) Yes 4) Yes 5) No
 Mr. Kenney - 1) No 2) Yes 3) No 4) No 5) No

(0-5-0) The Variance was Denied.

VARIANCE DENIED

Mr. Hennessey noted there was a 30-day right of appeal.

Case #ZO2017-00010
Map 30 Lot 1194-1

COVEY, Joseph Jr & Ruth & HAMILTON, Madeline 11 A&B Armand - Seeking a Variance concerning Article III, Sections 307-12 (Table 1) & 307-14 to permit a subdivision of land on a lot

with 335.9' of frontage on a private road where 200' of frontage on a class V or better road is required in the Residential District.

Ms. Chubb and Mr. Kenney were appointed to vote.

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case. Mr. Steven Pieslak, 4 South Shore Drive asked if his name had been called. Mr. Kearney acknowledged his name on the abutter list. A gentleman in the public told the Board he didn't believe Smith Trust, 4 South Shore Drive had received notification. Mr. Kearney stated 4 South Shore Drive was listed as Steve & Juliette Pieslak. He said Smith Trust was also listed with the name Steve Pieslak, 4 South Shore Drive. Ms. Hovey believed what typically happens is when there are two listings for one property, they only receive one notice.

Representing the applicants was Mr. Robert Balquist of Meisner Brem. He said the applicants would like to subdivide their property that contained 336ft. of frontage on a private road owned by Smith Trust. He said the private road was known as Smith Road, which was paved and in good condition (no potholes). The applicant's property contains five acres with an existing two-family dwelling with access off Armand Drive. Mr. Balquist told the Board as a condition of any sale for the proposed new lot would be that the buyers join the Little Island Pond Watershed Association and contribute to the upkeep and maintenance of Smith Road. He noted the property did not have frontage on Little Island Pond and was at least 500ft. removed from such. The neighborhood was comprised of some seasonal homes and other year-round homes mostly on Armand Drive. He believed there was a senior housing complex (either approved or potential shown on the tax map) that proposed to use Smith Road for access. Ms. Hovey stated that development was approved some time ago but was never built. The approval expired and that property has since been developed by one owner.

Mr. Balquist read aloud the responses to the variance criteria as submitted with the application. In the application package he included a copy of the variance granted in 1991 that allowed applicant's property to be subdivided. He noted they were requesting the same variance that was granted in 1991. Mr. Balquist stated there had been a Special Exception granted in 1995 for the proximity of the existing driveway off Armand Drive; the Zoning Board and Conservation Commission voted to allow the driveway to be within the 50ft. buffer adjacent to wetlands. He understood access from Armand Drive was not feasible; therefore, they are proposing access to come off Smith Road, which they acknowledge is a privately controlled road. He reiterated that the future owners of the proposed lot would agree (at the time of purchase through their deed) to join the private association, pay dues and their fair share for maintenance upkeep.

Mr. Kearney questioned how much of the proposed lot was wetland. Mr. Balquist replied it was possibly one acre out of 2.5 acres. He said it was poorly drained soil (Group 5 soil), not a cattail swamp. Mr. Hennessey asked if any part of the construction or septic within the wetland setback. Mr. Balquist answered no. He stated the setback lines for the building envelope are shown on the plot plan (as a dashed line). Mr. Hennessey understood Smith Road was private and questioned if it was considered an emergency road or right-of-way plowed by the Town. Ms. Hovey believed it was a private road.

PUBLIC INPUT

Smith Trust Trustees Mr. John Picard, Mr. Steve Morin, Mr. Steve Pieslak and Ms. Leanne Withrow came forward. Mr. Picard told the Board that the Smith Trust owned the road. He said they had won a court case in the 1990's that confirmed this fact. He stated they do not give permission for the road to be used.

Mr. Pieslak told the Board that there were serious concerns about storm water in the area and the property contained a legitimate pond. He noted there was a massive elevation change from the proposed location of the house down to South Shore Drive. They experience a major issue with storm water runoff that has

wiped out driveways. Personally, Mr. Pieslak stated his back yard and basement would be affected by the proposal. He told the Board there were numerous families in the audience who also felt their properties would be negatively affected. He also noted that Smith Road had potholes, contrary to what Mr. Balquist stated. Mr. Pieslak discussed the variance criteria and didn't see how the applicant met any of them. He understood hardship went with the property. In his opinion not everyone with a large lot and existing two-family house is facing a hardship because they can't develop a wet portion of a back lot with private access. He believed the proposal would negatively affect the surrounding neighborhood, road and values.

Mr. McNamara wanted to confirm that they (Smith Trust) had the legal right to deny access to the applicant from using Smith Road. Mr. Picard answered in the affirmative.

Mr. Philip Kane, 75 South Shore Drive told the Board that he plowed the road. The road is maintained by the association and volunteers; they fill their own potholes. Mr. Hennessey commented that there were some private roads in Town declared as emergency roads. Given that there was an association that maintained the road, he felt the assertion that the road was privately owned was correct.

Mr. Mike Doucot, 2 South Shore Drive told the Board there was a stream that flowed from the upper topography, but because of prior construction the water didn't always follow the stream and it ended up in his basement. He described the problems he encountered because of the amount of water that entered into his basement.

Mr. Balquist pointed out that the application included an email from the owners stating that they would have any potential buyers of the new lot join the association and/or trust and contribute to the maintenance.

Mr. Hennessey read aloud a letter submitted by Julia Steed Mawson dated April 7, 2017 that expressed her concerns regarding the proposed development and access onto the private road. She opposed the proposal because of the needs to protect the wetlands which were part of the Little Island Pond watershed. She spoke to the problems that had occurred because of prior development. She strongly opposed the use of the private road by anyone who didn't own property on South Shore Drive. She referenced difficulties/violations arising in the past from people using the road who were not authorized to do so.

The applicant Joseph Covey told the Board that he was not the person cited in Ms. Steed Mawson's letter.

Mr. Ouellette questioned if the lot in question was a lot of record. Mr. Hennessey said it would be a lot of record if the Planning Board approved the subdivision. He understood land and road usage in New Hampshire was convoluted. The Board heard testimony that the road was private and only allowed to be used by members (of the association). Mr. Hennessey stated he heard no testimony to contradict such, therefore he would accept that the road was privately owned and operated.

Mr. Hennessey stated the Board had no way of voting in favor of a variance for the case without public road access. Mr. Ouellette questioned if the applicant was able to withdraw without prejudice. Mr. Hennessey replied the applicant could make the request and the Board could decide whether to accept.

The applicant requested a withdrawal without prejudice.

MOTION: (Kearney/Kenney) To allow the applicant to withdraw the application without prejudice.

VOTE: (5-0-0) The motion carried.

Map 24 Lot 12-191-11

RUSSELL, John & Lisa 32 Wellesley Drive - Seeking a Variance concerning Article III, Section 307-12 (E) to permit the installation of a 12x16 shed less than 15 feet from the property line.

Ms. Chubb and Mr. Kenney were appointed to vote.

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Russell was seeking permission for a 12ftx16ft. shed to be less than 15ft. from his property line. He noted Wellesley Drive was part of a twelve home, half acre community and his house was set back to the rear of his lot. There was approximately 50ft. from his home to the property boundary. The back yard is fenced in and beyond the corner of the property is wooded. The application included a photograph of a proposed shed they felt would be aesthetically pleasing. Due to the sloping topography the shed would be out of view.

Mr. Russell read aloud the responses to the variance criteria as submitted with the application.

Mr. Hennessey asked Mr. Russell if he had spoken to his abutter about his proposal. Mr. Russell said he had and the abutters had verbally approved.

Mr. McNamara questioned the distance from the proposed shed to the abutting houses. Mr. Russell replied the closest house would be 34 Wellesley; however, their house was closer to the street than his, possibly 100ft. Mr. McNamara wanted to know if the photograph of the shed was a depiction of what would be built. Mr. Russell hoped it was. Mr. McNamara asked what the shed would be used for. Mr. Russell said it would be used for lawn mowers, shovels, rakes, patio furniture etc.

Mr. Hennessey inquired if there were any wetlands in the area. Mr. Russell answered no.

Mr. Kearney wanted to know how far off the property line the shed would be located. Mr. Russell explained his fence was approximately 2ft. from the back property line and the shed company requires it to be at least 2 ft. from the fence. Mr. Hennessey asked for the height of the shed. Mr. Russell believed it would be approximately 10ft. in height.

PUBLIC INPUT

Ms. Charlene Takesian felt people that had purchased houses in the conservation districts had a hardship created by the Town. She said those people had a hardship because the Town was making them adhere to a zoning ordinance that everyone else on an acre of land had to adhere to. She felt the variance should be granted because the Town created the hardship in the land. She suggested creating additional zoning regulations for conservation districts so they don't have to come in front of the Board to put a shed next to their lot line and not in the middle of their lot. Mr. Hennessey drove past the lot and said 90% of the cases variances have been approved; however there were a few cases where sheds don't belong on a lot of a similar size because of the configuration, wetlands, drainage etc.

BALLOT VOTE**#ZO2017-00011:**

Mr. Hennessey – Yes to all criteria
Mr. Kearney – Yes to all criteria
Mr. McNamara – Yes to all criteria
Ms. Chubb – Yes to all criteria
Mr. Kenney – Yes to all criteria

(5-0-0) The Variance was Granted.

VARIANCE GRANTED

Mr. Hennessey noted there was a 30-day right of appeal.

Case #ZO2017-00012

Map 7 Lot 9-136-5

MENDES, David 99 Simpson Road - Seeking a Variance concerning Article IX, Section 307-52 (A) to permit a senior housing development on a site containing more than 8 acres.

Mr. Hennessey informed that the applicant requested a continuance to the May meeting.

The case was continued to May 8, 2017

DATE SPECIFIED CASE - May 8, 2017

Case #ZO2017-00012 - Map 7 Lot 9-136-5 - MENDES, David 99 Simpson Road

MINUTES REVIEW

February 23, 2017 – (Joint hearing with Planning Board) – Deferred.

March 13, 2017 – Deferred.

ADJOURNMENT

MOTION: (Kearney/McNamara) To adjourn the meeting.

VOTE: (5-0-0) The motion carried.

The meeting was adjourned at approximately 10:32pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary