

1 **APPROVED**

2
3 **TOWN OF PELHAM**
4 **ZONING BOARD OF ADJUSTMENT MEETING**
5 **August 13, 2018**
6

7
8 The acting Chairman Diane Chubb called the meeting to order at approximately 7:00 pm.
9

10 The acting Secretary Peter McNamara called roll:
11

PRESENT: Diane Chubb, David Hennessey, Peter McNamara, Alternate Heather
Patterson, Planning Director Jeff Gowan

ABSENT: Bill Kearney, Svetlana Paliy, Alternate Darlene Culbert, Alternate Deb
Ryan, Alternate Thomas Kenney, Alternate Lance Ouellette

12
13 Ms. Chubb explained that the Board had only four members present; any tied vote (2-2) would fail. She
14 said if an applicant wanted to have their case heard they must receive three votes to succeed. She stated
15 applicants had a right to continue their cases until a full Board was present.
16

17 Ms. Patterson was appointed to vote for the evening's proceedings.
18

19 **PLEDGE OF ALLEGIANCE**

20
21 **HEARING(S)**
22

23 **Case #ZO2018-00022**

24 **Map 28 Lot 2-33-10**

25 **BURGESS, Barbara - 15 Jennifer Drive - Seeking a Special Exception concerning Article XII,**
26 **Section 307-74 to permit an accessory dwelling unit.**
27

28 Mr. McNamara read the list of abutters aloud. There were no persons present who asserted standing in
29 the case, who did not have their name read, or who had difficulty with notification.
30

31 Ms. Burgess came forward to discuss her request for Special Exception for an accessory dwelling unit to
32 be used as an in-law apartment. She explained that it was existing when she moved in but during the
33 closing on the house she found out there had never been permits pulled for any of the work. To move
34 forward with the closing the parties had agreed to do everything to meet Pelham's criteria for such.
35

36 The Board explained the rules for an accessory apartment and the fact that if an applicant met the criteria,
37 the Board had to grant such. In looking at the Planner/Zoning Administrator's notes, Mr. Gowan
38 confirmed that everything was all set with the application. The Building Inspector has confirmed the
39 square footage is compliant. The inspections have passed 'after the fact'. Ms. Chubb asked Mr. Gowan
40 to confirm that the common wall was compliant. Mr. Gowan answered yes; both the common wall and
41 square footage were in compliance.
42

43 Mr. Hennessey questioned if the application referred to a septic design or a septic in place for 5.5
44 bedrooms. Mr. Gowan believed it was a State approved system that was in place; they would have to
45 have a redesign if they went above that. Ms. Burgess replied that the existing system was an older
46 installed system, but they have a recent State plan in place should they need it.

47

48 Ms. Chubb opened the hearing to public input. No one came forward.

49

BALLOT VOTE Ms. Chubb - Yes
#ZO2018-00022: Mr. McNamara – Yes
Mr. Hennessey – Yes
Ms. Patterson– Yes

(4-0-0) The Special Exception was Granted

50 **SPECIAL EXCEPTION GRANTED**

51 (There is a 30-day right of appeal)

52

53 **Case #ZO2018-00025**54 **Map 8 Lot 9-69-10**55 **TURNQUIST, Kyla 100 Arlene Drive - Seeking a Special Exception concerning Article XII, Section**
56 **307-74 to permit an accessory dwelling unit.**

57

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

60

61 Representing the applicant was Carol Turnquist (applicant's mother) who told the Board they were
62 seeking a Special Exception for an in-law apartment. She said it was a studio apartment and believed Mr.
63 Gowan had all the information for what had already passed and noted Joe Maynard (Benchmark
64 Engineering) had prepared a septic plan to be installed as needed.

65

66 Mr. Gowan told the Board they had received information regarding the case. He said the Planner/Zoning
67 Administrator had submitted a memo that the Building Inspector had confirmed the square footage
68 requirement and maximum common wall requirement. He noted that Town Counsel had advised of a pre-
69 trial procedure for the accessory dwelling units. He read a portion of such aloud.

70

71 Ms. Chubb asked if an approved septic plan was submitted. Mr. Maynard came forward and told the
72 Board that the septic plan was approved at the end of last week.

73

74 Mr. Hennessey asked for clarification of the contingent occupancy permit (as specified in Town
75 Counsel's correspondence). Mr. Gowan replied the property would not be able to be conveyed without
76 'wrapping up' the process contained in Town Counsel's letter. Mr. Hennessey was concerned there may
77 be outstanding issues. Mr. Gowan explained that the agreement would be signed recorded agreement
78 included with the chain of title.

79

80 Ms. Chubb opened the hearing to public input. No one came forward.

81

BALLOT VOTE Ms. Chubb - Yes
#ZO2018-00025: Mr. McNamara – Yes
Mr. Hennessey – Yes
Ms. Patterson– Yes

(4-0-0) The Special Exception was Granted

82 **SPECIAL EXCEPTION GRANTED**

83 (There is a 30-day right of appeal)

84

85 **CONTINUED**

86

87 **Case #ZO2017-00029**

88 **Map 31 Lot 11-33**

89 **KLECZKOWSKI, Charles Jr. - Spring Street Off - Seeking a Variance concerning Articles X,**
90 **XIII, III & XV Sections 307-58 (B) (3), 307-83 (C), 307-84, 307-86, 30787 (C), 307-88 (A) (2a), 307-**
91 **12, Table 1, 307-14 & 307-100 to permit the construction, operation and maintenance of a Wireless**
92 **Communication Facility**

93

94 **AND**

95

96 **Case #ZO2018-00015**

97 **Map 31 Lot 11-33 (site) and Map 31 Lot 11-37 (access)**

98 **KLECZKOWSKI, Charles Jr. (site owner) & American Towers, LLC (applicant) - Spring Street**
99 **Off (site) and 64 Blueberry Circle (access) - Seeking a Variance concerning Section 307-58(B)(3) of**
100 **the Town of Pelham Zoning Ordinance (hereinafter, the “Ordinance” for a Wireless**
101 **Communications Facility pursuant to: Sections 307-83(C) and 30788(A); a dimensional variance**
102 **from the minimum frontage requirements of Section 307-12, Table 1 and 307-14; dimensional**
103 **variances from the terms of Sections 307-58(C)(2) (175’ setback) and 307-58(C)(3) (fall zone) of the**
104 **Ordinance; and to the extent necessary, all rights reserved, a variance from the frontage and access**
105 **requirements of Section 307-100 of the Ordinance; NH Revised Statutes, Annotated Chapters 12-K**
106 **and 674:33; and the Federal Telecommunications Act of 1996 (the “TCA”) for the construction,**
107 **operation and maintenance of a Wireless Communications Facility, and such other relief as deemed**
108 **necessary, all right reserved.**

109

110 Representing American Towers, LLC and TMobile was Attorney Ed Pare of Brown Rudnick. He stated
111 they would not proceed without a full Board. He brought an extension for the shot clock of the first
112 application. He requested that both applications be continued to the September 10, 2018 meeting. There
113 was no disagreement by Board members to extend the shot clock of the first case to September 28, 2018.
114 Attorney Pare noted that the shot clock for the second case wouldn’t expire until October 18, 2018. A
115 copy of the extension was submitted for the record.

116

117 Mr. Hennessey provided a brief explanation regarding an applicant’s right to have a full Board hear their
118 case. He then discussed the ‘shot clock’ based on the Federal Communications Act.

119

120 Both applications were continued to September 10, 2018.

121

122 **Case #ZO2018-00023**

123 **Map 27 Lot 2-52**

124 **BOISSONNEAULT, Rene & Abigail - 339 Mammoth Road – Seeking a Variance concerning**
125 **Articles III & VII, Sections 307-7, 307-8, 307-13 (A), 307-14, 307-13, 307-12, Table 1 & 307-39 to**
126 **permit the subdivision of a 5 acre-parcel that currently has a pre-existing nonconforming business**
127 **with 4 detached residential single-family buildings into 4 residential building lots with one of the**
128 **lots retaining the business. Also, to permit numerous out buildings to remain with some requiring**
129 **relief to lot line setbacks and wetland conservation district setbacks.**

130

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

133

134 Given there were four seated Board members, Ms. Chubb asked the applicant if they wanted to proceed
135 with the hearing or continue to a later date. The applicant’s representative Joseph Maynard of Benchmark
136 Engineering stated they would proceed.

137

138 Mr. Maynard stated that the applicant owned a piece of land (approximately five acres) on Mammoth
139 Road in the residential zone. Currently there are four detached single-family houses on the one lot by one
140 deed. The property dates back prior to Zoning in Pelham. There is also a pre-existing business
141 (Boissonneault Wood Cutting and Construction) on the property. Mr. Maynard explained that the
142 applicant was working on getting a mortgage on the lot and the banks have indicated that the four
143 dwellings made the lot convoluted (given it was a pre-existing/non-conforming lot). Therefore, the
144 applicant is looking to bring the lot into conformance. Mr. Maynard spoke to the Planning Department
145 about the pre-existing business and was told they didn't need a variance for such because it would remain
146 on a lot containing 1.5 acres. The Zoning Administrator followed up with Town Counsel and received a
147 consensus to that opinion. He said he left it in his write up to the Board, so they would be aware of what
148 the applicant was trying to achieve. Ultimately, the applicant would like to take the four detached single-
149 family homes and put them all onto their own lots. Mr. Maynard discussed how those lots would be
150 created and delineated. Mr. Maynard then read aloud the responses to the variance criteria as submitted
151 with the application.

152

153 Mr. McNamara saw that the applicant was attempting to 'normalize' lots that were extremely non-
154 conforming. He said there were a lot of things in the request that were troublesome. Mr. Maynard
155 reviewed the requests being made and noted they met all the one-acre requirements. He understood the
156 wetland impacts were of concern and noted that a lot of the buildings were in place well before the
157 adoption of the Wetland Conservation District ('WCD') buffer. Mr. Boissonneault noted if the mill shut
158 down most of the buildings wouldn't be needed because they were sheds/wood storage.

159

160 Mr. Hennessey believed the matter in front of the Board 'mingled' planning and zoning. On the plan he
161 saw two dug wells and asked what the other water supplies were. Mr. Boissonneault stated there was also
162 an artesian well. He noted one of the dug wells supplied two of the homes. Mr. Hennessey asked for
163 information about the septic system. Mr. Maynard pointed out that each lot had its own septic system and
164 showed their location on the plan. Mr. Boissonneault noted there was also a cesspool on the lot. Mr.
165 Hennessey asked for the age of the dwelling units. Mr. Boissonneault said the ages varied; his was the
166 latest one built in the 1980s. Mr. Hennessey was concerned about Mr. Boissonneault having a failed well,
167 a dug well shared with two units and having non-State approved septic systems. He felt it might be better
168 to have a single lot with condo-style ownership having separate deeds for each unit. He was also
169 concerned with the existence of shared dug wells. Mr. Boissonneault noted that the water had all been
170 tested. Mr. Hennessey was concerned with there being four different owners. Mr. Boissonneault replied
171 his boys lived in the other houses. Mr. Maynard provided a brief history of the property and explained
172 that Mr. Boissonneault bought his brothers properties, which had mortgages on the houses. He said they
173 were now all under one note and Mr. Boissonneault was seeking a mortgage. The Planning Department
174 indicated they could continue to operate in a pre-existing non-conforming fashion and the bank said they
175 couldn't; it would need to go to private lenders to do anything with the property. Mr. Maynard told the
176 Board they were trying to divide the property and make it more compliant, so each individual lot could
177 have its own mortgage. He told the Board they were open to an approval with conditions and noted he
178 wasn't concerned about putting a septic on the property given its sandy soil or the State's subdivision
179 approval. He felt the property would meet the States Department of Environmental Services approval.
180 He said at this point the Town's requirements were more restrictive.

181

182 Mr. Hennessey believed the request was a case study for a joint meeting with the Planning Board. He
183 also wanted to conduct a joint site walk with Planning and the Conservation Commission. He
184 summarized his concerns and issues that he believed didn't necessarily deal with Zoning and wanted
185 input. Mr. McNamara agreed that a site walk would be necessary and couldn't vote on the application at
186 this time. Mr. Maynard reiterated they were trying to correct errors that occurred with the property and
187 felt the proposed plan was the best way to divide it up.

188

189 Ms. Chubb was also concerned with what would occur if the business ceased operation. She would like
190 to have restrictions added to remove some of the buildings in the WCD if the business didn't continue.

191

192 Mr. Gowan told the Board he had met with Mr. Maynard regarding the property and an earlier version of
193 the plan several years ago and was frustrated it didn't come to fruition at that time. Regarding the current
194 plan he created a proposed list of conditions for the Board to consider and read them aloud. He felt the
195 Town had an obligation to have the Building Inspector review the homes. He thought Mr. Maynard had
196 done an amazing job trying to make sense of the parcel, which was a difficult challenging situation.

197

198 Mr. Hennessey discussed how a site walk would benefit his review and the fact that he would like input
199 from the Planning Board. Mr. Boissonneault commented even if nothing was done the property would
200 probably change hands and go to someone else. Mr. McNamara suggested that the applicant submit for
201 conceptual review by the Planning Board. Mr. Gowan felt the proper route would be to file for a joint
202 hearing with Planning Board, so a site walk could be scheduled (including the Conservation
203 Commission).

204 There was a brief discussion; the applicant understood the suggestion and would move forward. Mr.
205 Gowan explained the process. The Board made a motion to continue the case knowing that the applicant
206 would possibly submit for a joint hearing with the Planning Board under a different case number.

207

MOTION: (McNamara/Hennessey) To date specify the case to October 11, 2018.

VOTE: (4-0-0) The motion carried.

208

209 The case was date specified to the October 11, 2018 meeting.

210

211 **Case #ZO2018-00024**

212 **Map 30 Lot 11332**

213 **BLUEBERRY ISLAND REALTY TRUST Island Property Little Island Pond - Seeking a Variance**
214 **concerning Articles III & VII, Sections 307-8, 307-14, 307-12, Table 1, 307-14, 307-39 & 307-41 (B)**
215 **to permit portions of the existing home to be razed and for an addition to the existing home, along**
216 **with new deck areas and connection to other decks that exist now. New home will also have a deck**
217 **on the roof of the proposed addition on a lot having no frontage, a lot having less than 1 acre in size**
218 **and no direct access on a public right-of-way.**

219

220 There were no properties within 200ft. of the property. There were no persons present who asserted
221 standing in the case.

222

223 Representing the applicant was Mr. Joseph Maynard of Benchmark Engineering. Mr. Maynard explained
224 that the property was zoned residential and was approximately 18,000SF in size. He said it contained an
225 existing single-family home and had a septic system that used lake water. The applicant has applied to
226 the NH Wetland Board for a Dredge and Fill. He described how they would run a line for septic under
227 water. The applicant was seeking to remove the existing 10ftx17ft addition on the north side of the
228 structure and instead construct a 22ftx18ft addition on the east side of the dwelling. They would like to
229 construct a deck on the north side that would run along the structure to the east side and wrap around to
230 the south side connecting to an existing deck. Under Shore Line Protection, because it's an existing
231 house within the 50ft. primary setback they can put a deck up to 12ft. into such setback. Because it has
232 the proposed addition they've filed a Shore Line application with the State.

233

234 Mr. Maynard reviewed the submitted variance requests and read aloud the responses to the variance
235 criteria as submitted with the application.

236

237 Mr. McNamara questioned if the Board could consider views from the shore. Mr. Maynard commented
238 that the existing home was unique; it was approximately 17ft. wide with two stories. The base (middle)
239 house was approximately 22ft-24ft wide with 10ft-12ft porches off each end of the original house. He
240 said the addition being removed would be replaced with a deck. The new addition was primarily a big
241 room with a bedroom on the second floor.

242

243 Ms. Chubb wanted to know if the application was in front of the Board because it was a non-conforming
244 use and the proposed changes would continue that non-conforming use. Mr. Hennessey said the non-
245 conforming use was being expanded.

246

247 Mr. Hennessey said traditionally when anyone comes in front of the Board for anything on Little Island
248 Pond the Board asks about height to avoid obstruction. He understood obstruction wasn't the case but
249 was still concerned with the height because of the visual on the pond. Mr. Maynard replied he hadn't
250 measured the structure; however, the existing was a two-story structure approximately 8ft. per floor. The
251 second story is an old farmhouse style with a knee wall (5ft. tall) and a 12-pitch; overall, he believed the
252 height was under 30ft., but probably close to it. He noted his client was looking to do upgrades to
253 electrical etc. while it was being renovated. Mr. Hennessey felt the proposal met the criteria.

254

255 Ms. Chubb opened the hearing to public input. No one came forward.

256

BALLOT VOTE	Ms. Chubb – Yes to all criteria
#ZO2018-00024:	Mr. McNamara – Yes to all criteria
	Mr. Hennessey – Yes to all criteria
	Ms. Patterson – Yes to all criteria

(4-0-0) The Variances were Granted

257 **VARIANCES GRANTED**

258 (There is a 30-day right of appeal)

259

260

261 **MINUTES REVIEW**

262

263 **July 9, 2018** – deferred to the next meeting.

264

265 **DATE SPECIFIED CASES**

266

267 **September 10, 2018**

268 1) Case #ZO2017-00029 - Map 31 Lot 11-33 - KLECZKOWSKI, Charles Jr. - Spring Street Off

269 2) Case #ZO2018-00015 - Map 31 Lot 11-33 (site) and Map 31 Lot 11-37 (access) -

270 KLECZKOWSKI, Charles Jr. (site owner) & American Towers, LLC (applicant) - Spring Street

271 Off (site) and 64 Blueberry Circle (access)

272

273 **October 11, 2018**

274 Case #ZO2018-00023 - Map 27 Lot 2-52 - BOISSONNEAULT, Rene & Abigail - 339 Mammoth Road

275

276 **ADJOURNMENT**

277

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

VOTE: (4-0-0) The motion carried.

278

279 The meeting was adjourned at approximately 8:45pm.

280

281

Respectfully submitted,

282

Charity A. Landry

283

Recording Secretary