

1 **APPROVED**

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3 **TOWN OF PELHAM**  
4 **ZONING BOARD OF ADJUSTMENT MEETING**  
5 **February 8, 2021**  
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7 Chairman Bill Kearney called the meeting to order at approximately 7:00 pm.  
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9 **PLEDGE OF ALLEGIANCE**

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11 Secretary Matthew Hopkinson called roll:  
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13 PRESENT ROLL CALL: Bill Kearney – Present  
14 Dave Hennessey – Present  
15 Matthew Hopkinson – Present  
16 Peter McNamara – Present  
17 Alternate David Wing – Present  
18 Alternate Jeff Caira – Present  
19 Planning/Zoning Administrator Jennifer Beauregard – Present  
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21 ABSENT/NOT PARTICIPATING: Jim Bergeron  
22 Alternate John Westwood  
23 Alternate Karen Plumley  
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25 The following notice was read aloud "A Checklist To Ensure Meetings Are Compliant With The Right-  
26 to-Know Law During The State Of Emergency" (*regarding access to the meeting*)  
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28 Mr. Kearney explained the Board's role and hearing procedure.  
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31 **MEETING MINUTES**

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33 **January 11, 2021**

34 **MOTION:** (McNamara/Hennessey) To approve the January 11, 2021 meeting minutes as  
35 amended.  
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37 **VOTE:** (5-0-0) The motion carried.  
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39 **Site Walk Minutes**

40 **January 23, 2021**

41 **MOTION:** (McNamara/Hennessey) To approve the January 23, 2021 site walk minutes as  
42 amended.  
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44 **VOTE:** (5-0-0) The motion carried.  
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47 **CASE #ZO2021-00005**

48 **STACY, Kathleen – 192 Westfall Road – Map 33 Lot 1-160-8 – Seeking a Special Exception to**  
49 **Article XII, Section 307-74 of the Zoning Ordinance to permit an existing Accessory Dwelling Unit**  
50 **located within the basement to remain in order to come into compliance with the Town of Pelham**  
51 **Zoning Regulations.**

Mr. Kearney appointed Mr. Wing to vote in the absence of Mr. Bergeron.

Mr. Hopkinson 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.

Ms. Kathleen Stacy of 192 Westfall Road came forward to discuss the case. She informed that she currently has an in-law apartment attached to her home that her mother lives in. She stated that she is seeking an exception to permit the dwelling legally.

Mr. Kearney asked Ms. Beauregard if the applicant was in compliance with the criteria. Ms. Beauregard replied that they were. She stated that they had already installed a six-bedroom septic system and were in compliance with all other criteria.

Mr. Kearney opened the discussion up to the Public. No one from the Public came forward.

**Case #ZO2021-00005**

**ROLL CALL VOTE:** Bill Kearney – Yes  
Dave Hennessey – Yes  
Matthew Hopkinson – Yes  
Peter McNamara – Yes  
Alternate David Wing – Yes

**SPECIAL EXCEPTION GRANTED**

**CASE#ZO2020-00006**

**HANNON, Charles & Debra – 46 Dutton Road – Map 35 Lot 10-357 – Seeking a Special Exception to Article XII, Section 307-74 of the Zoning Ordinance to permit the construction of a 1-bedroom Accessory Dwelling Unit attached to the existing home.**

Mr. Hopkinson 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. Charles Hannon of 46 Dutton Road came forward to discuss the case. He stated that he and his wife wanted to construct a 1-bedroom Accessory Dwelling off their current home for his mother-in-law to reside in. He informed that she is 74 years of age and currently lives alone.

Mr. Kearney asked if the applicants were in compliance with the conditions to meet the Special Exception. Ms. Beauregard replied that they were in compliance. She stated that the applicant had a State-approved septic design and had already received approval from both the Fire Inspector and Building Inspector on the floor plan.

Mr. Kearney opened the discussion to the Public. No one from the Public came forward.

Mr. Kearney asked Mr. Caira to vote on this case.

**Case #ZO2021-00006**

**ROLL CALL VOTE:** Bill Kearney – Yes  
Dave Hennessey – Yes

Matthew Hopkinson – Yes

Peter McNamara – Yes

Alternate Jeff Caira – Yes

**SPECIAL EXCEPTION GRANTED**

**CASE #ZO2021-00004**

**KOSIK, Thomas & KOSIK, Walter – 16 Webster Avenue – Map 23 Lots 8-15 – Seeking a Variance to Article II, Section 307-6-10 & Article III, Section 307-7, 307-12, Table 1, 307-13,B,1 & 307-14 of Zoning Ordinance to permit a 3-Lot Subdivision of an existing 18.7-acre lot resulting in 15.0', 15.42', & 24.3' of frontage for the new lots which would front on Webster Avenue. An 18' wide private driveway is being proposed to provide access to the lots from Webster Avenue.**

Mr. Hopkinson 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. Kearney appointed Mr. Wing to vote on this case.

Mr. Shane Gendron of Edward N. Herbert Associates, Inc. came forward to represent the applicants. He explained that 16 Webster Ave. had been in the Kosik family for more than 40 years. He informed that the parcel was 18.7 acres in size with only 54.7 feet of frontage. He stated that the property originally belonged to Mr. Walter Kosik, the Town's previous Plumbing Inspector. He informed that the applicants wanted to subdivide the property into three lots to go to Walter and Thomas's kids. The three-building lots would be 11.4 acres in size with 15.42 feet of frontage, 1 acre in size with 15 feet of frontage, and 6.2 acres in size with 24.3 feet of frontage. Mr. Gendron explained that the applicants were trying to split the frontage up relatively equally. The plan would be to have a private driveway shared between the three lots to give access to the properties. He stated that the only setback on the property that required a variance was the frontage. All other parts of the lot conformed to current Zoning Regulations. He did not believe that three houses warranted building a Town road, which is why he was coming to the Zoning Board. Mr. Gendron then read aloud the responses to the five criteria as submitted with the application.

Mr. Kearney asked if Mr. Gendron could explain the configuration of the proposed driveway. Mr. Gendron explained that the driveway doesn't necessarily sit in the frontages. He stated that they subdivided the lot so that they would all have some frontage for each lot. The driveway is going to be a shared driveway laid out over those three lots. It would be set up so that each lot would have deeded right and shared costs of maintaining the driveway. Mr. Gendron knew that there would be specific requests from the Fire Department and Planning Department with the driveway, but that would come later in the planning process.

Mr. Hennessey pointed out that Mr. Walter Kosik has also been the Chair of the Zoning Board for many years, in addition to being the Town's Plumbing Inspector. He stated that he had many fond memories of Walter from over the years. Mr. Hennessey informed that he was concerned about multi-family homes being built on these lots. He asked if they could make a stipulation that only single-family homes be built.

**MOTION:** (Hennessey/McNamara) To only allow single-family lots to be built on the subdivided lots.

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

Mr. McNamara asked how long the driveway would be. Mr. Gendron replied that the driveway would be about 855 feet to the farthest house. He stated that he was aware that there would be some issues from the Fire Department wanting a turnaround for any trucks that would need to go there. He informed that the property was not steep and had a gradual slope from Webster Ave.

Mr. McNamara wanted to echo what Mr. Hennessey said about Mr. Walter Kosik. Walter was the Chairman when Mr. McNamara joined the Board. He informed that he had many fond memories of Walter. He stated that some of his concerns with the plan were alleviated by the stipulation put forth by Mr. Hennessey. He stated that he had some problems with the driveway's length; as it is a very long driveway, there is the possibility of blocked access. Mr. McNamara stated that they could build a road to the back lot and recognized the added cost.

Mr. Gendron stated he was unsure of the rest of the 11.4-acre lot's building potential, as the back of the lot was impacted by wetlands. Mr. McNamara asked how much wetland was on the parcel. Mr. Gendron replied that he was unsure of how much there was but knew that over 6.5 acres of upland were usable. They did not go behind the flagging that was done as those 6.5 acres satisfied what the owners wanted to do with the lot. He felt that a road would be challenging to complete.

Mr. Kearney asked if the driveway went over any of the wetlands. Mr. Gendron responded that there was no wetland impact in the proposal. However, there was some WWPD impact that they would need to work with Planning and Conservation on.

Mr. Wing asked if wetlands entirely surrounded the house on the 6-acre property. Mr. Gendron replied that the line he was most likely looking at was the WCD line that is a 50-foot buffer from the wetlands. He stated that there is dryness all the way from Webster Ave. to the properties. The wetlands are to the north and northwest of the lot, not near the proposed houses.

Mr. Kearney stated that as there is a fair amount of wetland on the property, he expects them to keep the WCD very well marked during development. Mr. Gendron responded that they would and that the Planning Board usually requires them to show the markers on the plan before development starts.

Mr. Wing asked if there was a rock wall in the southern area of the plan. Mr. Gendron replied that there was an interior stone rock wall shown on the plan.

Mr. Kearney opened the discussion to the Public.

Ms. Linda Rouleau of 10 and 12 Webster Ave. came forward to speak in favor of the plan. She stated that she was very curious about what would be taking place in her backyard. She informed that she is a very outdoorsy person and spends much time in her backyard, and very much enjoys the privacy she has there. She stated she was also worried about preserving the rock wall that is on the lot. Ms. Rouleau noted that after looking at the plan, she was not concerned about being affected by the building at all. She believed that she would still be able to enjoy the privacy that she has.

Mr. Kearney closed the discussion to the Public, as no one else came forward.

Mr. Hopkinson stated that he had many concerns with this plan, including concerns of emergency vehicle access to the properties. He stated that they were not dealing with a variance that was short 10 feet on road frontage, but a variance that was short 550 feet. He believed it would break up the homogeneity of the community and set a bad precedent moving forward. He stated that when looking at the hardship, they need to consider if the hardship is on the land itself or on someone's wallet. Mr. Hopkinson noted that they need to keep the spirit of the ordinance in mind when they go to vote. His opinion was that the spirit

of the ordinance would dictate a road be put in, not an 855-foot driveway on the 17-feet worth of frontage for each house.

Mr. Hennessey stated that he agreed with Mr. Hopkinson's concerns. He noted that there is no guarantee that these lots will stay within the same family. He informed that the cost of putting a road in at this time is at a historic high. He believed that if a road were to be put in, it would open the door to building many more houses. Mr. Hennessey stated that they have the opportunity to keep the neighborhood relatively similar to as it is now, sparsely populated, with lots of space in the back. He would prefer to keep the area to a lower density and let Planning work out the engineering with the applicants for that driveway. He stated that it is a balancing act and was not disputing Mr. Hopkinson's reservations.

Mr. Hopkinson understood that the cost of building a road was high but did not believe it should be of concern to the Zoning Board. He stated that he also did not think it would be a bad idea to develop the area eventually if they put a road in. He knows that many people in Pelham want to keep the Town rural. However, as the Town borders Massachusetts, it will continue to grow in time regardless.

Mr. Wing stated that this was his second or third time seeing a property come before the Board asking for a variance on frontage. He informed that in his brief history with the Board, they have been approved as opposed to seeking the addition of a road. He stated that he agreed with Mr. Hennessey that putting a road in could increase the area's density by five or six houses.

Mr. McNamara asked Mr. Hennessey if he was suggesting that the hardship was the cost of the road. Mr. Hennessey replied that he had not thought of it but could see the cost being associated with the hardship. He believed that it was a balancing act for any applicant as they considered the highest and best use of the property. He stated that they now had testimony from Mr. Gendron that this is the highest and best use of this property. Mr. Hennessey noted that this would also be better for the Town, as opposed to putting a road in for an additional five or six houses. Mr. McNamara stated that he asked the question because he agreed with a lot of what Mr. Hopkinson stated. He noted that he was having trouble seeing the cost of putting a road in satisfying the hardship. Mr. Kearney stated that the hardship needed to be on the physical property. He stated that the cost of putting a road in had very little relevance to what they were going to decide on. He saw the hardship as the lot already being nonconforming, which would meet the hardship criteria.

Mr. Hopkinson stated that if someone wanted to build one house on the lot with only 54.7 feet of frontage, that would be one thing. He thought that putting multiple dwellings on the lot raises issues and sets a bad precedent in general. He stated that if they are already increasing the area's density, then a road should go in instead of a driveway.

Mr. Wing stated that he favored the stipulation that Mr. Hennessey made on the lots.

**Case #ZO2021-00004**

**ROLL CALL VOTE:**

Bill Kearney – Yes to all criteria; with motion as stipulated; final vote YES  
Dave Hennessey – Yes to all criteria; with motion as stipulated; final vote YES

Matthew Hopkinson – Four Yes's, one No; final vote NO

Peter McNamara – Four No's, one Yes; final vote NO

Alternate David Wing – Yes to all criteria; with motion as stipulated; final vote YES

(3-0-2) The motion carried.

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**VARIANCE GRANTED.**

Mr. Kearney explained that there was a 30 day right to appeal.

**ADJOURNMENT**

**MOTION:** (Hopkinson/Hennessey) to adjourn the meeting.

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

The meeting was adjourned at approximately 7:51 pm.

Respectfully submitted,  
Jordyn M. Isabelle  
Recording Secretary