

APPROVED
TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
January 13, 2020

Chairman Bill Kearney called the meeting to order at approximately 7:00 pm.

Secretary Diane Chubb called roll:

PRESENT: Bill Kearney, Diane Chubb, David Hennessey, Peter McNamara,
Alternate Matthew Hopkinson, Planning/Zoning Administrator Jennifer
Beauregard

ABSENT: Alternate Deb Ryan, Alternate Heather Patterson, Alternate John
Westwood, Alternate Karen Plumley

Mr. Kearney appointed Mr. Hopkinson to vote.

PLEDGE OF ALLEGIANCE

Mr. Kearney explained the Board's role and hearing process.

HEARING(S)

Case #ZO2019-00026

Map 18 Lot 12-16

MAKO DEVELOPMENT LLC - Old Gage Hill Road - Seeking a Variance concerning Article III, Section 307-13(B)(1) & (2) of the Zoning Ordinance to permit the subdivision of the subject parcel located at the east of Old Gage Hill Road into residential building lots from a public way located in the Town of Salem, NH known as Beechwood Road (*Note: This case will be continued and not heard at this meeting*)

Mr. Kearney informed the Board was awaiting input from the regional planning commissions.

The case is date specified to February 10, 2020.

Case #ZO2020-00001

Map 28 Lot 2-36

HUBERT, Paul – 422 Mammoth Road – Seeking a Special Exception concerning Article XII, Section 307-74 of the Zoning Ordinance to permit unused storage space above attached garage to be converted to a 665sf Accessory Dwelling Unit

Ms. Chubb 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.

Applicant Paul Hubert came forward and explained he was seeking permission to have an accessory unit (one bedroom/one bath) above his garage. The reason for the request is to have his stepson move in to help with his mother.

Ms. Beauregard stated the applicant had been meeting with the Building Inspector to ensure they met all conditions and make the common wall straightened out. They have a septic design for a two-bedroom house with one-bedroom accessory dwelling unit.

Mr. Kearney opened discussion to public input. No one came forward.

BALLOT VOTE Mr. Kearney – Yes
#ZO2020-00001: Ms. Chubb – Yes
Mr. Hennessey – Yes
Mr. McNamara - Yes
Mr. Hopkinson - Yes

(5-0-0) The motion carried.

SPECIAL EXCEPTION GRANTED

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

Case #ZO2020-00002
Map 17 Lot 13-23

HALE, Elaine – 13 Koper Lane — Seeking a Special Exception concerning Article XII, Section 307-74 of the Zoning Ordinance to permit a previously unpermitted Accessory Dwelling Unit to bring it into compliance

Ms. Chubb 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.

Applicant Elaine Hale came forward to discuss her request to bring an existing accessory dwelling unit into compliance so the property can be sold.

Ms. Beauregard informed the Board the applicant had gone back and forth with the Planning Department and has made sure to meet all the criteria. The septic has already been installed. The Health Agent reviewed the plan and confirmed it was adequate for a three-bedroom house with a one-bedroom accessory dwelling unit.

PUBLIC INPUT

Mr. Troy Babb, 14 Gumpas Lane spoke in favor of the request. He said the applicant had been a good neighbor for close to fourteen years. He stated the in-law apartment was always there and house and yard has been kept very clean and neat.

Mr. Hennessey hoped more other people in Town who had unpermitted accessory dwelling units would come to the Board to make them legal and increase the value of their homes and housing supply in town. He noted they could now be rented in the open market and not occupied by a relative.

BALLOT VOTE Mr. Kearney – Yes
#ZO2020-00002: Ms. Chubb – Yes
Mr. Hennessey – Yes
Mr. McNamara - Yes
Mr. Hopkinson - Yes

(5-0-0) The motion carried.

SPECIAL EXCEPTION GRANTED

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

Case #ZO2020-00003**Map 39 49Lot 1**

WILIAMS, Bruce & Rhonda – 157 Mammoth Road – Seeking a Variance concerning Article II, Sections 307-6, 10-Frontage of the Zoning Ordinance to permit a 4-lot subdivision where 3 of the lots will have a shared access from the public right of way.

Ms. Chubb 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 Shayne Gendron of Herbert Associates. He spoke about the property and informed it contained approximately 10.5 acres with an existing home and frontage of approximately 1,200ft. along Mammoth Road. The parcel is located near the intersection with Marsh Road and also Sherburne Road. He stated they had been working on a subdivision for several months and previously gone back and forth with the Conservation Commission. The commission had no interest in purchasing the parcel; therefore, the owner is looking to develop the parcel. The plan shows house lots with one access onto Mammoth Road. The reason for this was minimizing the number of crossings over the sizable wetlands. The proposal shows a minimal wetland impact of approximately 360SF; the Wetland Conservation District ('WCD') impact was approximately 3,887SF. Mr. Gendron pointed out the plan was submitted to the Highway Safety Committee ('HSC'); they received support (as proposed to the Zoning Board). He believed they supported the plan because 1) one entrance to development, 2) staying away from intersections of Marsh Road and Sherburne Road and 3) reduction of wetland and WCD impacts. A copy of the HSC letter of recommendation (with conditions) was provided to the Board with the variance application. He noted all conditions would be met. Mr. Gendron told the Board all lots would meet regulations in terms of size and frontage; it was just the access being through other lots.

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

Mr. McNamara pointed out the area was delicate in terms of traffic. He saw a right-of-way from Chestnut Lane into open space and questioned if there was any feasible way to put a road or driveway through that area rather than going through to Mammoth Road. Ms. Beauregard believed the access was for the residents of the Chestnut Road subdivision to have access to the open space lot. Mr. Gendron added the easement was for local people to have access to the open space; the access was 10ft. wide. Mr. McNamara inquired about the status to reconfigure the area (State roundabout project). Ms. Beauregard didn't know how the project would affect the applicant's parcel. Mr. McNamara recalled someone having discussion to tie-in the intersection with the development. Mr. Gendron believed the Planning Director had preliminarily approached the owner about getting an easement onto the front of the property in the area of Lot 149-6 for the purpose of doing some sort of roundabout at Mammoth Road/Marsh Road. He informed the owner was open to it; however, the project is so preliminary the Planning Director can't approach the owner to ask for anything at this point.

Mr. Hennessey understood the intersection project at Sherburne Road/Mammoth Road was on the State's 10-year plan. Ms. Beauregard added the project was a dual roundabout that came over to the Marsh Road area. Mr. Hennessey stated until he could get information from the Planning Department about where the Town stood on the project, he would be a little concerned about approving the request. Mr. McNamara noted even with a variance approval the Planning Board would need to address the plan. Mr. Hennessey noted Pelham had voted to appropriate money for the intersection on Sherburne Road and suggested the

money could also be used at the end of Marsh Road. He pointed out Sherburne and Mammoth were both State roads and was concerned a variance would throw a 'monkey wrench' into the project. He reiterated the intersection project was on the State's 10-year plan; if they didn't take advantage of it the project wouldn't happen. He wanted to know the plans for the intersections before granting a variance.

Mr. Kearney understood the State's 10-year plan was hard to get on but would eventually come to fruition. In reviewing the plan submitted to the Board, he asked the distance from the proposed driveway to the Mammoth/Marsh intersection. Mr. Gendron replied the distance was approximately 400ft.; they were trying to avoid that intersection. He said their plan didn't propose any changes in the area of Marsh Road. He said the owner had a brief conversation with the Planning Director, but the Planning Director had no way to move because there was no plan in place. He didn't see a difference if the proposal was approved given there was frontage in the area of the intersection that would allow the State to take a portion of which by eminent domain. He reiterated the access was 400ft. from the intersection but respected the Board's desire to obtain input from the Planning Director and/or State. Mr. Hennessey asked if the applicant had discussions with the State regarding a curb cut onto Mammoth Road. Mr. Gendron replied they would need a driveway permit from the State but couldn't move forward until they had a variance.

Ms. Chubb was concerned about flood plains (wetland/WCD areas). During the State's project, they may have to re-route the wetlands to allow for more drainage. She worried how doing so would affect the remainder of the lot.

Mr. Hennessey questioned if the plan had been presented to the Conservation Commission. Mr. Gendron didn't know if had gone to the commission as a formal application. He noted the commission was aware of it because they tried to purchase the property. Ms. Beauregard told the Board she forwarded the plan to the Conservation Commission so their Chairman (Paul Gagnon) has seen it. Mr. Gendron had no objection presenting the commission the plan as it was a better configuration than the previous three (wetland) crossings. Mr. Hennessey suggested delaying action so the Board could communicate with the Planning Director, Selectmen and Conservation Commission. He reiterated it was a very sensitive site.

Mr. McNamara agreed with Ms. Chubb's and Mr. Hennessey's concerns. He had no objection to continuing the case until the Board received a letter from the Planning Director. However, it would be unfair to the applicant to delay if they couldn't get answers regarding the State's plan. He noted the applicant would have to go to the Conservation Commission because of the Planning Board process. He had no objection delaying for a short period of time. Mr. Hennessey didn't want to delay project approval forever, but felt he needed additional information.

Ms. Chubb felt additional information would be helpful for the Board to include a request for the Planning Board to include stipulations. At present, without additional information she didn't know what to suggest.

Mr. Kearney opened the discussion to public input. No one came forward.

Mr. Kearney stated he would feel more comfortable continuing the case and receiving comments from the Conservation Commission. Mr. Hennessey believed the Board would need to make a decision at their next meeting. He said ordinarily when the Conservation Commission is asked to get involved it's to conduct a joint site walk; in this case it's a site lines issue. He wanted to be cautious and notify everyone internally because of each department's involvement in getting the intersection on the State's 10-year plan. He wanted the Board to learn if there were issues, they were unaware of. Ms. Beauregard told the Board she could ask the commission for comments. Mr. Gendron offered to seek the commission's input.

Mr. Kearney asked for input from the Conservation Commission and any information the Planning Director could share regarding the reconfiguration of Mammoth Road as it relates to the Marsh/Mammoth intersection.

The case was date specified to February 10, 2020.

Case # ZO2020-00004

Map 24 Lots 11-308 & 11-309

RIEL, Zachary & SIROIS, Jennifer – 1 & 3 Little Island Park – Seeking a Variance concerning Article III, Sections 307-8:A, 307-12, 307-13 & 307-14 of the Zoning Ordinance to permit conversion of one non-conforming use to another. To permit structures that do not conform to the setback requirements and development of a lot that does not conform to the area and frontage requirements. To permit development of a lot that does not have the required buildable area. To permit development of a lot that does not have the required frontage on a public road.

Ms. Chubb 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.

The applicant Zachary Riel came forward with his representative Peter Stoddard of S&H Land Services. Mr. Stoddard provided a summary of the request. The owners own two parcels of land - Lot 308, 6,000SF containing an existing house of approximately 1,100SF living space and Lot 309, 3,000SF with a small cottage approximately 600SF. The two lots were owned separately prior to 1990 and since have traveled in common ownership; the applicant purchased both lots in 2016 and currently resided in the larger house. The proposal is to tear down both structures, merge the two lots and build a new two-bedroom house. The new house will be served by a new well and septic system. Because the existing lots are non-conforming to the existing requirements, variances are being requested for lot size, frontage and building setbacks. Mr. Stoddard reviewed the information provided the Board with the application which included the septic system design (and State approval for Clean Solutions and Geo Mat) and Shore Land plan. He then read aloud the responses to the variance criteria as submitted with the application.

Ms. Chubb asked for the height of the existing structures. Mr. Stoddard didn't have the exact measurement; however, the new structure would be two-story and increase in height approximately 19.5ft from the existing structure. Ms. Chubb questioned if the position of the building would remain the same or be turned. Mr. Stoddard replied it would be turned more parallel to the lake although the footprint would remain almost identical. Mr. Riel noted the existing house was a two-story structure. Mr. Stoddard provided the Board with a photograph of the existing structures.

Mr. Hennessey wanted to know the total height (from grade) of the proposed structure. Starting from the sill to the peak, Mr. Stoddard replied the height would be 28.04ft. which was a typical two-story structure. He explained the sill was ground level and sloped so the structure would have a walk-out lower level.

Mr. Hennessey asked about the common beach shown on the plan. Mr. Stoddard replied the residents in the area all had interest in the common beach area; technically the applicant didn't have frontage on Little Island Pond.

PUBLIC INPUT

Mr. John Murphy, 91 Honor Roll Road told the Board he wanted the applicant to have their dream house. He said he would like to understand what his view would be and felt he didn't have all the information. Currently he has a view of the lake but didn't know how much impact the project would have. He didn't believe the house would have much of an impact; however, he was concerned about the impacts from the garage. He reiterated he wanted the applicant to be able to build their home and believed it would look nicer than the existing structure, but he wished he had more information.

Mr. Jeff Norton, president of the beach area stated they liked the idea of the new house and wished everyone else would bring their properties up to value. He understood the applicant had the property surveyed and questioned if the encroachments on the outside of their boundary would go away (specifically on Little Island Park and on the beach). A copy of the proposed plan was displayed for Mr. Norton to show the Board the areas of concern. Mention was made of a fence on the beach and a retaining wall.

Mr. Kearney asked if the items mentioned (as encroachments) would be removed. Mr. Riel replied the piece in front could be removed; however, the concrete retaining wall on Little Island Park was significant in size. If it was removed it would cause serious problems with the lot as it was holding the lot grade in place. Mr. Stoddard commented part of the retaining wall for the lot was within the private road. He said Mr. Riel would be willing to work with the association, since the association controlled what happens within the private road. He reiterated the wall was a 6-foot wide concrete wall that substantially held up the grade along the lot. Mr. Nelson ended by saying he was in favor of the applicant building their house.

Ms. Paulette Bulmer spoke in support of the proposal. She noted the walls that were encroaching were installed by the previous owner in the 1980s when they built their property out on a couple of the sides. She said they hoped as part of the destruction of the existing home if that area could be brought into their own boundary lines. She understood it was a campsite years ago and things happened that shouldn't have. She commented it was a private road and beach owned (collectively) by the coffee lots. Ms. Bulmer understood there would be a garage and wanted to know more information regarding how it would be situated on the lot. Mr. Hennessey replied it was shown on the proposed plan.

Mr. Murphy asked for information on the proposed garage. Mr. Kearney reviewed the plan and described what was shown for the two proposed structures. Mr. Murphy wanted to know the height of the garage. Mr. Riel replied they didn't have a plan for the garage at this time. Mr. Hennessey asked for the size of the proposed garage. Mr. Riel believed it would be approximately 24ft.x28ft; the same footprint of the existing cottage. He reiterated he didn't have a specific height as there was no plan at this time. Mr. Stoddard noted the proposed garage would be pushed back on the lot and conform better with setbacks and easement.

Mr. Hennessey stated the Board usually performed site walks in the pond area, but he hoped to avoid doing so. He noted they had the plans for the house and asked if the applicant would oppose to having a height restriction for the garage. He understood the abutter was concerned with sight lines, which was a subject the Board ran into all the time. Mr. Riel asked what the Board designated as a common height restriction. Mr. Hennessey replied 30ft. Mr. Riel didn't object to 30ft.

Mr. McNamara explained the Board usually conducted site walks at the ponds because they were concerned about the small postage stamp size of the lots and obstruction of views. He heard abutter's concerns regarding view obstruction and was concerned about the proposed garage. He also heard concern about the existing retaining wall and the abutter's question about it being moved back (out of the easement). Ms. Chubb wasn't sure if the Board could do anything about the retaining wall because it was in a private road. Also, she understood it was significantly holding the property together. Mr. McNamara said it might be a civil matter. Ms. Chubb stated the Board could be mindful of the abutter's concerns.

Mr. Hennessey offered a motion to stipulate the height of the garage roof not to exceed 30ft. from grade. Ms. Chubb said she would second. Mr. McNamara felt the stated height was more than generous. Mr. Hennessey understood they didn't have a height restriction in the rules. Mr. Kearney stated an individual house at 30ft. was generous and viable; however, having a house and garage at the same height on a small piece of property would be a big wall. Mr. Hennessey replied they had testimony regarding the size of the foundation. He had no objection to reducing the height and felt 25ft. would be the lowest.

Mr. Hopkinson heard the applicant say it was a sloping lot. He pointed out theoretically if the house and garage were at the same height, the garage could supersede the height of the house if it was located near the top of the slope. This was a concern to him.

Mr. Hennessey asked the applicant if they would agree with a 25ft. height (for the garage). Mr. Riel preferred to stay with 30ft. as it was mentioned by the Board to be a common height restriction. Mr. Kearney replied that height was usually for a house, not a house and garage together. Mr. Hennessey said the concern was blocking the abutter's view of the pond. He changed his motion to stipulate the height of the roof for the garage was not to exceed the height of the house from the street grade. Mr. Riel replied that would be drastic. Mr. Stoddard pointed out the garage sat higher on the lot.

The Board decided to conduct a site walk. Mr. Hennessey offered a motion for site walk to include balloons for the height of the house. He told the applicant the Board would need to know the height of the garage. The location of the house and garage should be staked out.

MOTION (Hennessey/McNamara) To conduct a site walk with balloons (from grade) to the peak height of the house and garage (between 25ft-30ft)

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

Site walk was scheduled for February 1, 2020 beginning at 8am. It was explained that site walks are an extension of the public meeting, people are invited to attend.

The case was date specified to February 10, 2020.

MINUTES REVIEW

October 21, 2019 (*joint meeting with Planning Board*)

MOTION (Hennessey/McNamara) To approve the meeting minutes of October 21, 2019 as amended.

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

December 9, 2019

MOTION (Hennessey/McNamara) To approve the meeting minutes of December 9, 2019 as amended.

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

BOARD BUSINESS

Mr. Kearney informed Svetlana Paliy had resigned her position on the Board leaving a vacancy for the Vice Chair until election of officers in April 2020. He felt it was appropriate to fill the position until that time.

Mr. Hennessey nominated Mr. McNamara to the temporary position of Vice Chair through the Board's election of officers in April 2020. Mr. Hennessey accepted. Hand Vote (5-0-0) in favor.

DATE SPECIFIED CASE(S) - February 10, 2020

Case #ZO2019-00026 - Map 18 Lot 12-16 - MAKO DEVELOPMENT LLC - Old Gage Hill Road

Case #ZO2020-00003 - Map 39 49Lot 1- WILIAMS, Bruce & Rhonda – 157 Mammoth Road

Case # ZO2020-00004 - Map 24 Lots 11-308 & 11-309-RIEL, Zachary & SIROIS, Jennifer – 1 & 3 Little Island Park

ADJOURNMENT

The meeting was adjourned at approximately 8:24pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary