

APPROVED

**TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
January 12, 2015**

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

The Secretary Bill Kearney called roll:

PRESENT: David Hennessey, Svetlana Paliy, Bill Kearney, Peter McNamara,
Chris LaFrance, Alternate Lance Ouellette, Alternate Darlene Culbert,
Planning Director/Zoning Administrator Jeff Gowan

ABSENT: Alternate Pauline Guay, Alternate Kevin O'Sullivan

HEARING

Case #ZO2014-00026

Map 31 Lot 11-260

TANNER, Donna - 65 South Shore Drive - Seeking a Variance concerning Article III, Sections 307-7, 307-8 & 307-12 to permit the existing single family structure to be razed and to allow construction of a new single family dwelling to be 9-feet from the easterly property line with 15-feet required, to allow the west side of the home to be 7-feet from the property line with 15 feet required to allow construction of a new home to be within 29-feet of the high water mark of Little Island Pond with 50-feet required and to allow the new structure to be 27-feet from the row with 30-feet required. Also to allow steps from the building's deck to be within 4-feet of the property line with 15-feet required and to within 25-feet of the high water mark of Little Island Pond with 50-feet required.

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. Joseph Maynard of Benchmark Engineering, representing the applicant, came forward to discuss the requested variance. He explained there was an existing home on the property located close proximity to the lake. The applicant would like to raze the existing home and construct a new single-family dwelling. The property is approximately 6,500SF in size. The property has some form of a septic system, but historically utilized lake water. The location of the existing home is approximately 4ft from the westerly lot line, 8ft. from the easterly lot line and has front steps approximately 4ft to the edge of water. The proposal includes a new well and locate the new home approximately 29ft. from the lake. The home itself will sit approximately 7ft from the westerly lot line, but in order to install egress steps down the side they will remain at 4ft. from the side lot line. Mr. Maynard noted a new Clean Solutions septic system would be installed up on the street side of the property and would serve as the replacement for what was there today.

Mr. Kearney wanted to know the height of the current house. Mr. Maynard replied the cape-style home was a story and a half. He noted the home sat relatively low because of a 'hump' in the lot. He believed the height to be approximately 28ft. from the ground to the peak. He commented that some of the grade would be used to their advantage on the basement level on the water side, given that the proposed new home would be constructed into the 'hump' and there will be a one-car garage. Mr. Kearney asked for

the height of the proposed house. Mr. Maynard believed it would be approximately 31ft to the roof peak on the water side; the height on the street side would have a height of approximately 21ft. He explained the 'hump' was approximately 6ft tall. Mr. Kearney wanted to know, visually from the road, how much taller the new structure would be compared to the existing. Mr. Maynard believed the new structure would be approximately 14ft – 16ft visually higher from the road. He noted that the house to the east of the lot sat on the top of the hump and would remain predominantly higher than the proposed house at full construction. He further noted that the land behind the applicant's lot was held in a trust with the purpose of saving and protecting the land; therefore, the proposed home wouldn't be blocking anyone's view.

Mr. McNamara asked for the square footage of the existing house compared to the proposed house. Mr. Maynard believed the existing house was approximately 600SF-700SF. The base living space of the proposed house will be approximately 1,160SF; there is also a three-season porch, a deck, a covered porch and garage. With everything included the total would be just under 2,000SF. The second floor is built into the roof and would be roughly 1,200SF. From a real estate point of view, Mr. Hennessey asked for the square footage of gross living area above ground. Mr. Maynard replied in real estate language he wouldn't include decks or garage, which would make the living space approximately 2,400SF.

Mr. McNamara questioned if someone was presently living in the house. Mr. Maynard replied someone had been living in the existing home year round up until the applicant purchased the property in November/December 2014.

Mr. Maynard read aloud the variance criteria as submitted with the application.

Mr. McNamara asked if the basement would remain unfinished and have a walk-out. Mr. Maynard stated the intent was to get as much of the foundation into the ground as possible. Because of the way the 'hump' comes around the property, the southwestern corner of the foundation would end up being close to walk-out grade.

Mr. Hennessey believed the application was unusual in that there wasn't an attempt for the proposed structure to stay on foundation. He also noticed that the applicant was seeking a variance prior to going to Shoreland Protection. Mr. Maynard was told by the Shoreland Bureau that zoning relief for pre-existing, non-conforming lots of record would probably be more strict than their requirements. Mr. Hennessey was unsure if that would be the case with Pelham. Mr. Maynard commented that the State permit cost was \$750; if the variance is turned down, it would become expensive to go back and begin with the State again. He's always felt the zoning relief should occur prior to going to Shoreland. He said Shoreland was looking at things like moving structures away from lakes, installing new septic systems, etc. when approving new waivers. Mr. Hennessey commented that the Board was acting more like a legislative than judicial body in cases by Long Pond and Little Island Pond. The Board has been sensitive to the height of homes being rebuilt in these areas. He said using the same foundation and altering structures seemed to be okay, but razing a dwelling and constructing a home in a new location doesn't seem to be okay. He was astonished that the residents of Little Island Pond hadn't come forward with a suggestion for tighter zoning ordinance.

Mr. Ouellette recalled the Board hearing a similar case off Berthel and Woekel and conducting a site walk. In that case the existing structure was proposed to be torn down and moved closer to the road away from the water. In calculating height from the street view, he found the proposed home came in at approximately 27ft. He believed that height was fair since a normal two-story house would come in at roughly 32ft.-34ft. Mr. Ouellette told the Board he resided on the other side of the pond. He said during the Little Island Pond Association meetings they discuss the hardship of renovating existing

camps and bringing them up to code; at times its more affordable to raze a structure and construct new rather than update it.

Mr. Hennessey noted every case was different and the Board was not bound by precedent. Nonetheless, especially down by Little Island Pond, he felt they were creating new rules every time a case came in front of the Board. He felt doing so was unfair for everyone.

Mr. Ouellette commented that the Board discusses the renovation of septic systems, which was a concern along the water ways and conservation lands. He felt it was important for systems that had been in place for 40-50 years to be updated. Mr. Hennessey said there were always factors weighed in regard to benefits and alteration to the zoning code. He agreed one of the benefits was an upgraded septic system.

Mr. LaFrance wanted to know the approximate size of the two abutting homes. Mr. Maynard replied he hadn't pulled the tax cards for those properties. One house was about the same length, but was a full two-stories. He felt the proposed home was comparable to the homes along the specific portion of the road; further down the road the house sizes tend to get bigger. Mr. LaFrance was very familiar with the area and surrounding homes, which were quite a bit larger. He felt it was hard to compare the houses because the existing home was very very small. Mr. Hennessey commented that the nature and character of the surrounding was germane and should be considered. Mr. LaFrance said the existing home was stand alone. Mr. Hennessey agreed.

Mr. McNamara told the Board he couldn't vote on the variance without conducting a site walk. The proposal concerned him because the applicant wouldn't be meeting side, front or rear setbacks and the size of the home would be significantly increased. He understood the concerns with having a new septic, upgrading the property and bringing it up to code; but he noted there was also a concern regarding scale and size of the lot and the neighborhood.

Mr. Hennessey opened the hearing up to public input. Mr. Maynard provided the Board with letter of support from abutters/neighbors. He reiterated Mr. LaFrance's comment that the existing home was the stand alone structure (eyesore) in the neighborhood. Mr. Hennessey read aloud the letters from abutters; all of which supported the request for variance and the proposal.

No one from the public came forward to offer comment.

MOTION: (McNamara/ Kearney) To conduct a site walk.

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

A site walk was scheduled for Saturday, January 24, 2015 beginning at 8:30am.

The case was date specified to the February 9, 2015 meeting.

DATE SPECIFIED HEARING – February 9, 2015

Case #ZO2014-00026 - Map 31 Lot 11-260 - TANNER, Donna - 65 South Shore Drive

MINUTES REVIEW

December 8, 2014:

MOTION: (LaFrance/Kearney) To approve the December 8, 2014 meeting minutes as written.

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

ADJOURNMENT

MOTION: (LaFrance/Paliy) To adjourn the meeting.

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

The meeting was adjourned at approximately 7:43 pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary