

APPROVED

**TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
May 12, 2014**

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

The Secretary Chris LaFrance called roll:

PRESENT: David Hennessey, Svetlana Paliy, Peter McNamara, Chris LaFrance, Bill Kearney(arrived shortly after the meeting commenced), Alternate Pauline Guay, Alternate Lance Ouellette, Planning Director/Zoning Administrator Jeff Gowan

ABSENT: Alternate Darlene Culbert, Alternate Kevin O’Sullivan

(See Below for ELECTION OF OFFICERS)

CONTINUED

Case #ZO2014-00002

HARRIS, George III & John - Off Shelly Drive - Map 3 Lot 5-174 - Seeking a Variance concerning Article III, Sections 307-7, 307-12 & 307-14 to permit construction of a single family or duplex home on a lot containing approximately 7.5 acres but having less than 200 feet of frontage of a Town Road.

Mr. Hennessey said the Board had received a request from the applicant to continue the hearing.

Attorney David Groff, representing the applicant, came forward and asked the Board that the hearing be continued to the Board’s meeting in June. He said there was additional engineering that needed to be reviewed by road safety. Mr. Hennessey urged the applicant to proceed at the next hearing or pull the item off the agenda. He said there were abutters present that were asking to be heard.

MOTION: (McNamara/LaFrance) To grant the request for a continuance to the June 9, 2014 Board meeting.

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

A member of the public said he would appreciate prior notification if the case was not going to be heard. Mr. Hennessey said the Board generally didn’t grant more than two requests for extension. Attorney Groff said he would be glad to notify anyone if they let him know they would be coming to speak about the case. He apologized and said he wasn’t aware anyone was coming to the hearing.

Case #ZO2014-00005

MCCANN, Keith - 24 Woekel Circle - Map 31 Lot 11-285 – Seeking a Variance concerning Article III, Sections 307-12 & Table I to permit an existing shed (that is

currently over the lot line by approximately 2ft) to be relocated so that it is completely on the subject property.

Mr. LaFrance stepped down.

Ms. Guay and Mr. Ouellette were appointed to vote in the absences of Mr. LaFrance and Mr. Kearney. Mr. Ouellette said he missed the Board's site walk, but had gone on his own to review the site and spoke to one of the abutters.

Mr. Joseph Maynard of Benchmark Engineering, representing the applicant, came forward to discuss the requested variance. He provided an overview of the case for the Board. The applicant has a shed that is over the lot line by approximately 2ft. and is requesting to move that shed to be completely within their own property approximately one inch off the lot line. As viewed during the site walk there is a retaining wall and driveway that exists on the other side of the shed; therefore, it cannot be moved further over or it would impede with the width of the driveway and the access to the boat ramp.

Mr. Hennessey summarized the case. He said during the site walk the Board saw clearly that there was an encroachment issue. There was a question whether moving the shed over more substantially would interfere with the use of the remaining lot as a boat ramp to access the lake.

Mr. Gowan wanted to be sure that the Board had the opportunity to review the member packet for the case that contained photographs and additional information.

Mr. Kearney arrived.

Mr. Hennessey said the Board received a copy of the Assessor's records that contained a photograph of the shed. The attached note said the photograph showed many things from 2002, such as the shed had been altered and moved since that time. Mr. Gowan suggested addressing that information during the public portion of the hearing; he believed the abutter who submitted the information was present in the audience.

PUBLIC INPUT

Mr. Ken Cooley, 29 Woelke Circle, came forward representing himself, as well as his in-laws the Radcliffes. He referenced the property card submitted to the Board. He said the photograph (from 2002) showed the previous location of the wall that appeared to be approximately 4ft. into the driveway. The shed door and window were nothing like they currently exist. He said the boat ramp and concrete was never there; it was a grass strip with a walkway in between. He said that could be further evidenced by comparing the photograph and the satellite view.

Mr. Hennessey questioned how Mr. Cooley knew the photograph was from 2002. Mr. Cooley believed the record indicated that date. Mr. Hennessey said the print date was October, 2002; however, there was no indication as to when the photograph was taken. Mr. Cooley believed the comparison with the satellite photograph clarified the situation a bit more. He told the Board that his Mother and Father-in-law's ex-tenant (2003-2004) was the person who rebuilt the shed. He had rent receipts from tax records that could support the testimony.

Mr. McNamara asked if Mr. Cooley was making a point that the property had significantly changed since the photography was taken. Mr. Cooley answered yes; without permits. Mr. McNamara questioned if the concrete wall had been moved over. Mr. Cooley answered yes; it was approximately four feet closer to the property line. Mr. McNamara confirmed that the boat ramp was used by other neighbors. Mr. Cooley said the neighbors had used the public boat ramp because it was difficult to have the neighbor line come up to put a boat in.

Ms. Guay wanted to know if the size of the shed had changed over the course of time. Mr. Cooley didn't know, but pointed out that it had been altered. He said based on the photographs, the shed appeared to have been turned. He recalled Mr. McCann telling him the shed was previously in the middle of the lot and it was pushed more toward his property. He told the Board that the beach lot and all the walls in the area were built and rebuilt by the previous owner of 23 Woekel in the timeframe of 2003-2005. He said there had been a lot of alteration in the area done without permits. Mr. Cooley believed if the Board did enough research on the property, they would come up with the same information being presented, which he didn't feel met the criteria. He said they weren't asking for anything but the two feet or even one foot. He said they would like enough space to install the fence post.

Mr. Richard Koebrick, owner of the property abutting Mr. McCann where the boat ramp was located, told the Board he was at the location for fifty-four years and had used the boat ramp for the last fifty years. He said the people in the back had used the ramp for thirty to forty years.

Mr. Hennessey commented that Mr. Cooley was requesting that the shed be moved over. He asked Mr. Koebrick if he would be able to get his boat into the water if the Board acceded to moving the shed over by two feet. Mr. Koebrick replied he would still be able to use the ramp. He wanted the Board to know that the residents had used the ramp for many years; it had been lawn and was simply paved to make an area going toward the lake. Mr. Hennessey once again asked if the ramp could be used if the shed was moved over by two feet. Mr. Koebrick answered yes. He said the ramp could be used without any problems at all.

To clarify the property line, Mr. Cooley pointed out that Mr. McCann owned approximately one foot from the rear of his house to the boat ramp.

Mr. Maynard said at the abutter's request, the applicant was seeking to move the shed onto their own property. He said they didn't leave room in their application to move the shed further. If that is the conclusion of the Board Mr. Maynard pointed out that he would need to re-notify abutters and submit a different request. He said the Board could make a request for a greater distance on one side, but it would cause the other side to have less than the requested distance of 10ft. Mr. Hennessey said there were case studies that showed the Board could make amendments at the hearing. Mr. McNamara understood that the Board could place reasonable conditions. It was Mr. Maynard's personal experience that in similar situations he was required to file additional applications for variance because of it. He noted any additional movement of the shed off the corner of the wall would push the structure over the applicant's driveway. He told the Board he needed to build a retaining wall around the area and to raise the height on the driveway side to get the grading for the septic system and so the shed could be placed back on a level surface. Ultimately there will be a retaining wall face on the abutter's side of the lot line to meet the grading for the septic system that was part of a State approved permit.

Mr. Kearney understood that the area would be raised 18 inches and a wall would be installed. Mr. Maynard said the grade under the shed needed to be raised. He said the proposal that went to the Department of Environmental Services was to rebuild the retaining wall around the driveway side, the back and along the lot line. This will allow for a level grade for placement of the shed.

If the Board allowed the shed to be moved within 1 inch, Mr. Hennessey asked Mr. Maynard if he could make assurances that the abutter would have access to the fence for maintenance and installation of the posts. Mr. Maynard said it was no different from where the fence was currently located on the lot line. He said any maintenance from the McCann side would need to be approached from the McCann side. He noted that it was a plastic fence that had low/no maintenance.

Being in the business, Mr. Ouellette had installed a lot of fences. He said the burden in the maintenance was on the fence owner. He said by placing the fence on the line the owner of that fence was basically giving up the ability to do any maintenance. They would need the abutting land owner's permission to conduct maintenance. He said the Planning Department's suggestion has been to place fences approximately 1 foot onto the owner's property to allow for maintenance. Mr. Gowan added that the finished side of the fence is always supposed to face the abutter. He responded to the comment about pulling permits and informed that a permit doesn't need to be pulled for a wall until it's four feet (or greater) in height.

Mr. Hennessey stated the Zoning Board was not an enforcement board. He said they adjudicated based on State RSA's and local zoning. When dealing with Little Island Pond in particular, the Board wrestled with unpleasant alternatives and tried to ensure they wouldn't cause more damage by granting a variance from what was already there.

Ms. Paliy discussed her understanding of the applicant's request. She wondered if the case would end up coming back in front of the Board because the applicant would be raising the grade of the area and having a retaining wall to the property line where the fence would be installed at a different height because of that grading. Essentially the shed, retaining wall and shed would be in the same location, but at different levels. Mr. Hennessey said the shed was encroaching on the abutter and had to be moved. Ms. Paliy reiterated her concern about the case coming back in front of them because the applicant and the abutter wanted to locate the shed, fence and retaining wall all in the same area.

Mr. Maynard said any work done by the applicant would be completely within their lot. The shed that is presently two feet over the lot line will be moved completely onto the applicant's lot. The face of the retaining wall will face the neighbor and the shed will sit behind it at the top of the graded area.

Ms. Gail Radcliffe, 17 Woekel Circle the owner (with her husband) of abutting property, told the Board they weren't trying to make a big case out of the situation. They would like the abutter's shed off their property and to have 6in-12in; not just 1in off the property line.

Mr. Ouellette wanted to know the actual size of the shed. Mr. Maynard believed it was possibly 14ftx20ft. He noted they had the ability to adjust the location to install the septic.

Mr. Hennessey commented every time the Board dealt with Little Island Pond, they were dealing with exceptions. There were very few properties in that area that abided by sideline setbacks. He said the request of the abutter sounded reasonable until it's realized that there was DES involvement. He said aside from the boat ramp there were other complications with the septic system that needed State permitting.

Mr. Ouellette agreed that the Board couldn't impose a hardship and the engineering work was done. He pointed out that the shed owner in violation was moving that shed onto their own property by one inch; which he felt was sufficient because the abutter installing the fence was looking to put it directly on the line. He questioned how the Board could say how far into the property the shed should be moved, when it would be on the owner's property.

Mr. Maynard said the abutter indicated they could work with 6inches; he said the applicant could also work with 6inches to the face of the building. He noted the drip edge wouldn't make the 6inches, but the building itself would.

Mr. Hennessey said the Board would individually review the criteria questions.

Mr. McNamara questioned if the applicant would be forced to tear down the shed if the variance was denied. Mr. Gowan answered yes; that had been indicated. Mr. Maynard said the owner needed storage space and with the limited area around the pond, they would come back in front of the Board.

Ms. Paliy suggested accepting the applicant's offer to move the shed 6inches.

MOTION: (Paliy/McNamara) The Board accepted the applicant's offer and stipulated that the face of the shed structure would be 6inches from the property line.

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

The Board reviewed the variance criteria.

BALLOT VOTE Mr. Hennessey – Yes to all criteria
#ZO2014-00005: Ms. Paliy – Yes to all criteria; per stipulation 6in away from property line
 Mr. McNamara – 1) Yes; 2) Yes; 3) Yes; 4) Yes; 5a) No; 5b) No
 Mr. Ouellette – Yes to all criteria; 6in setback from face of shed as stipulated
 Ms. Guay – Yes to all criteria; with stipulation

VOTE: (4-1-0) The motion carried.

VARIANCE GRANTED

ELECTION OF OFFICERS

Nomination was open the following appointments were made:

MOTION: (McNamara/Kearney) To appoint David Hennessey as Chair.

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

MOTION: (McNamara/LaFrance) To appoint Svetlana Paliy as Vice Chair.

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

MOTION: (LaFrance/McNamara) To appoint Bill Kearney as Secretary.

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

Case #ZO2014-00006

CONSTANT, Daniel & Debra - 2 Springdale Lane - Map 30 Lot 11-335 – Seeking a Variance concerning Article III, Sections 307-12 & Table I to permit construction of a single family dwelling on a lot having no frontage on a Town Road and less than the required 1 acre.

Mr. Hennessey told the public that the Board would take the following two variance cases one at a time; although the parcels were co-mingled. Case#ZO2014-00006 is referred to as the ‘*smaller lot*’. He said there were a good number of people in attendance at the site walk and they had a good discussion.

Mr. Joseph Maynard of Benchmark Engineering, representing the applicant, came forward to discuss the variance requests. He provided the Board with a plan that represented the two lots and shows the proposed house and garage for the smaller lot (Map 30-Lot 11-335). It also represents where the existing dwelling and shed will be relocated on the larger parcel. He had the opportunity to meet with the Highway Safety Committee (‘HSC’) and understood that they had no overall issue with the proposal. The HSC members said they currently had difficulty backing out of the location, so the applicant offered to create a turn-around on the two acre lot along the middle of the frontage and is now represented on the plan. Mr. Gowan concurred with the comments.

Mr. Maynard heard the Board’s concern that the smaller lot was not a full acre in size. The applicant owns a couple other smaller lots in the area and in order to bring it into compliance, would be willing to try and add those to the lot, which would ultimately bring the lot area up to approximately .98acre.

Mr. Hennessey asked if the applicant was requesting the Board to separate the two variances for Lot 11-335: 1) no frontage; and 2) lot size. Mr. Maynard answered yes.

During the site walk, Mr. Maynard heard the concern that trees had been cut on the two acre property. It was his understanding from the applicant and Mr. Gowan that the proper permits for an Intent to Cut had been drawn from the Town.

Mr. McNamara said there was concern about drainage, setbacks, emergency vehicle access and the maintenance and upkeep of the road if there were going to be year-round dwellings. He heard the testimony that the lot size would be brought up to just under an acre, but felt the applicant

could easily get the necessary acreage from the adjoining property. Mr. Maynard said that was the reason he was fine with breaking the variances apart; if the Board grants permission to build on the lot, but he doesn't get the variance for the size, he would increase the size to one acre. He said the lot line was set based on aspects of the area; the line would need to be brought over approximately 18 inches to meet the one acre lot size requirement. He said if he had to do so, he would. Mr. McNamara said he would prefer to have the lot be one acre. He questioned if the Town had any liability in the event the road is blocked to emergency responders. Mr. Gowan suggested it would be property owner taking the risk by living on that road year round. He didn't believe the Town would have any liability. They would make an attempt to get to the home, but he didn't see that the Town would have liability if they were unable to gain access because of an obstruction in the road. Mr. McNamara understood there would be no association agreement to maintain/control the road. He also recalled there was concern about construction vehicles coming in and undermining the roadway.

Mr. Gowan pointed out that the lot line adjustment would still need to go to the Planning Board, who under their purview had the authority to require improvements to the road. Mr. McNamara believed the safety concerns discussed by the abutters would remain.

PUBLIC INPUT

Ms. Liz Toabe, 8 Springdale Lane read aloud a prepared statement. She agreed with the neighbors sentiments about the startling change to the landscape and amount of trees that were removed. At the same time she believed the property owners were within their rights as long as permit were pulled, which had been testified to. She said road maintenance sounded like it could be addressed at some point. Ms. Toabe believed if the variance was approved, the proposal would breathe new life into the community. She said most of the structures in the neighborhood dated back approximately eighty years and to ensure it continued for another eighty years, improvements, rebuilt and sometimes new construction would have to occur. Ms. Toabe said as long as the property owners took measures to ensure protection of the lake, reconstruction didn't have to mean the end of life as they knew it.

A family friend and architect (no name stated) came forward acting as an agent for Dave & Lynne Hegarty of 11 Springdale Lane. He said there were concerns about protecting the rights of those around the pond, which were for the most part seasonal homes used from mid-June to Labor Day.

Mr. Hennessey explained there were two variance requests in front of the Board for two different lots. He said he suggested that the undersized lot (Map 30 Lot 11-335) be broken into two variances within the same request: 1) not on a Town road – zero frontage; and 2) undersized lot. He said hypothetically, if the Board approves the variance for no frontage, but turns down the undersized lot, the applicant will have to make a lot line adjustment with the Planning Board who may place conditions on an approval. Mr. Gowan had the same understanding.

The Hegarty's representative believed the surrounding owners could take opposition to the variance because there was zero frontage. He was unsure about the hardship criteria since they weren't buildable lots. He said the Hegartys were looking for the builders to be reasonable, maintain the road, make assurances about runoff and to ensure construction didn't occur during the weekend. He wanted to know what means could be used to ensure a reasonable process.

Mr. Maynard said during the site walk the applicant agreed that construction on the new home wouldn't begin until after Labor Day. The Hegarty's representative asked what would happen the following year. Mr. Maynard replied the house would be up by the following year. The Hegarty's representative questioned what recourse neighbors had in the event construction occurred on Saturdays. It was reiterated that the applicant stipulated they wouldn't start construction until after Labor Day; Mr. Maynard noted the applicant also wanted to enjoy the summer at the location.

The Hegarty's representative questioned if the Board had seen additional drawings for the proposed home, other than what was displayed. He asked how big the house would be. Mr. Maynard said the home would be a ranch-style dwelling with a farmer's porch. Mr. McNamara commented even if the variance was approved, the proposal would then go to the Planning Board who had jurisdiction regarding the size and placement of the home, location of the driveway and how drainage would be set up. Mr. Maynard noted that the proposed house on the smaller lot would need Shore Land Protection approval which would regulate more drainage than the Town board. The Hegarty's representative believed the Board would want to see images of the house to understand how large and tall the structure would be. Mr. Hennessey said the Board was considering the approval of a lot, which is land use not site approval. He said on lake front property, the Board has stipulated 'not to exceed' heights to avoid properties from being blocked from lake front; however, the applicant's property is not directly on the water. With regard to the proposal being reviewed, he said the request was for a single-family home on a 2.2 acre property. He said it wasn't the Board's purview to review architectural drawings. The Hegarty's representative didn't feel the applicant had a hardship other than the fact that they wanted to construct two houses. He believed the Board would want to view a schematic of the home they were approving. He didn't know why the applicant wasn't showing the Board what the proposed home would look like.

Mr. Hennessey left the public hearing open, but brought the discussion back to the Board.

Mr. Maynard commented that the applicant had two lots that were larger than many of the other lots on Springdale Lane. There were year-round homes fronting Webster Avenue that shared a common property line with the applicant's lots. The biggest difference was the applicant's lots having access off a private road. He said from the standpoint of available land and cost of construction, it wouldn't be practical to build a road to Town standard for two existing lots. Mr. Maynard reiterated the applicant would stipulate that construction of the home wouldn't start until after Labor Day. They agreed to provide a turn-around for the Fire Department. The applicant still needed State approved septic designs and they had to seek approval from Shore Land Protection. He stated the lots were substantial in size with the existing access for 80+ years.

Mr. McNamara asked if the applicant anticipated any waivers. Mr. Maynard answered no; the lot line adjustment had already been approved by the Planning Board. He said to bring the size to an acre it would need amending. He didn't anticipate any waivers.

Ms. Paliy heard the applicant's offer for construction to begin after Labor Day. She questioned if the daily noise on the water (from boats and jet skis) would drown out any construction noise. Mr. Maynard replied the applicant wanted to enjoy the existing camp (during the summer) and didn't want to begin construction of the structure until after Labor Day.

Ms. Guay saw that the displayed map indicated some little parcels that were not originally indicated. She questioned if those smaller parcels were those referenced by Mr. Maynard to be used to make Lot 11-335 conforming in size. Mr. Maynard said those lots are separate parcels by deed owned by the applicant. He said when those lots are combined they would be a 'smidge' under one acre in lot size. He said he would then have to adjust the long lot line (along the wall intersection) by 18inches to one foot to make up the additional area. Ms. Guay questioned if the applicant owned the other properties. Mr. Maynard said the applicant owned the other properties by deed.

Mr. Charles Hegarty, 6 Springdale Lane questioned what happened to the law that indicates a house couldn't be built on a private road. Mr. Hennessey said the Zoning Board was in place for people to request relief from the rules. He wanted the public to understand if they wanted the Board to strictly apply that rule across the board, in the event a property along Springdale Lane was irreparably damaged and the owner made a request to rebuild, according to Mr. Hegarty's comment, the Board should turn the request down. Mr. Hegarty understood. Mr. Hennessey said the Board weighed requests to bend the rules by people making an application for variance. Mr. Hegarty understood, but didn't feel it was right for the Board to bend the laws.

Mr. McNamara said the Board reviewed applications on a case-by-case basis. He said New Hampshire State Law requires having relief available for those who meet the specified criteria. Mr. Hegarty said the road had been in place for as long as he could remember and fire trucks and tree cutting trucks have been able to access the area. He said the law was in place for a reason.

Mr. Gowan said the restriction for building on a non-Town / non-State road was contained in Zoning, which was the mechanism for the Board to provide relief to that requirement.

Mr. Hennessey said fundamentally the Board was discussing taking an existing lot and cutting it in two. He said given the size of the lot it was hard to argue splitting the lots into two. Given the size of the larger lot the applicant could construct a duplex if the variance for frontage was granted.

Mr. LaFrance commented even if the Board pushed to have the smaller lot become an acre, the larger lot would still have the size to become a duplex lot. Given this fact, he didn't see what there was to gain by pushing the smaller lot to become an acre.

Mr. Ouellette noted the application for the smaller lot clearly indicated there would be a single-family home, not a duplex. Mr. Hennessey said the larger lot didn't have a stipulation. Mr. Ouellette said that wasn't before the Board since the applicant already had an approval for a lot line adjustment. Mr. Hennessey said the applicant didn't have two legal lots because the Zoning Board hadn't approved zero frontage for either.

There were three variances in front of the Board: For Lot 11-335 – 1) no frontage on a Town road; and 2) less than the required one acre in size; for Lot 11-352 – 3) no frontage on a Town road. Mr. Hennessey said the Board had always had issues with creating lots on zero frontage that were less than the required acre.

Ms. Paliy had a problem with the fact that the applicant had land available to make the smaller lot a full acre and had offered to do so. She said she wouldn't accept the lot with less than one acre.

Mr. Hennessey said voting against the variance would essentially for the applicant to back in front of the Planning Board, which he felt was appropriate in this case. Ms. Guay noted the smaller parcels weren't contiguous and didn't agree that they should be added to make up the acreage. She believed the land to make the smaller lot an acre had to come from the larger lot through a lot line adjustment. She felt the application to the Zoning Board was premature.

The Board discussed how to proceed. There appeared to be a consensus that the Board didn't see a hardship for the undersized lot.

BALLOT VOTE	Mr. Hennessey – Yes to all criteria
#ZO2014-00006a:	Ms. Paliy – Yes to all criteria
Lot 11-335	Mr. Kearney – Yes to all criteria
No frontage on Town Road	Mr. McNamara – Yes to all criteria
	Mr. LaFrance – Yes to all criteria

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

VARIANCE GRANTED – *(per the agenda: To Lot 11-335 allow construction of a single family dwelling on a lot having no frontage on a Town road.*

BALLOT VOTE	Mr. Hennessey – No to all criteria
#ZO2014-00006b:	Ms. Paliy – No to all criteria
Lot 11-335	Mr. Kearney – No to all criteria
Less than required one acre	Mr. McNamara – No to all criteria
	Mr. LaFrance – 1) Yes; 2) No; 3) No; 4) Yes; 5) No

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

VARIANCE DENIED – *(per the agenda: To Lot 11-335 allow construction of a single family dwelling on a lot having less than the required one acre.*

Case #ZO2014-00007

CONSTANT, Daniel & Debra – Springdale Lane – Map 23 Lot 11-352 - Seeking a Variance concerning Article III, Sections 307-12 & Table I to permit construction of a single family dwelling on a lot having no frontage on a Town Road.

Mr. Hennessey believed the Board was clear regarding the request based on the site walk and the testimony previously given. He asked if anyone would like to provide comment. No one offered comment.

Ms. Guay questioned how the Board could vote knowing that something had to be done to the lot size. Mr. Hennessey said the Planning Board had approved two lots. He said although the Board had denied the variance for the undersized lot; the applicant still had a lot with over two acres. Presumably, he believed the lot would be slightly diminished, but would remain well over the

one acre requirement for a house lot. Mr. Gowan believed an argument could be made if the frontage, whether or not it was on a Town road, was reduced. Mr. Hennessey said the lot currently had zero frontage. Mr. Maynard said their request was based on zero feet of frontage. He said the Board could make a stipulation regarding lot size, because he would only be taking the minimum to bring the smaller lot up to one acre. Mr. Hennessey said he was concerned that the applicant may be able to build a duplex on the larger lot. Mr. Maynard said there was no intention for that.

Mr. Hennessey didn't believe a stipulation was needed. He said there was zero frontage and a plan would have to go in front of the Planning Board for a lot line.

BALLOT VOTE
#ZO2014-00007:
Lot 11-352

Mr. Hennessey – Yes to all criteria
 Ms. Paliy – Yes to all criteria
 Mr. Kearney – Yes to all criteria
 Mr. McNamara – Yes to all criteria
 Mr. LaFrance – Yes to all criteria

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

VARIANCE GRANTED – (*per the agenda:* To Lot 11-352 to allow construction of a single family dwelling on a lot having no frontage on a Town road.

HEARING(S)

Case#ZO2014-00010

HARRIS PELHAM INN - Bridge Street - Map 17 Lot 13-73 – Seeking a Variance concerning Article III, Section 307-12 & Table 1 to permit construction of a single family dwelling on a lot with less than 1 acre.

Mr. LaFrance stated the Harris Family were family friends. He was not aware of the case and had nothing to gain or lose from it. He told the Board he could render an objective decision. No one objected to Mr. LaFrance remaining seated.

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 variance request. He described the property location and told the Board the property was in existence prior to Route 38 going in. It was a residual piece of land dating back to the early 1900's. The size of the lot is approximately 20,000SF and bounded on a few of the sides by stone walls. He said they met the frontage requirement, but not the required one acre lot size. There is no additional land available to purchase. Mr. Maynard noted that the surrounding lot was a bit larger than normal, but was currently under application for a duplex and needed all the available land in order to overcome the requirements. He said the applicant is looking to construct a single family dwelling. The new structure will meet all building setbacks. A State approved septic system design has been completed that meets the Town's standards for a 3-bedroom dwelling. A curb cut application has been submitted to the State. Because the lot was created prior to 1971, by right the lot is allowed at least one driveway entrance. The driveway

shown on the plan has more than the required 400ft. of sight distance. Mr. Maynard said the only waiver to be requested is to the well radius that extends onto the abutting property behind the applicant's lot. However, the majority of the land behind is steep slopes and Wetland Conservation District ('WCD') and relatively precluded from development.

Mr. Hennessey questioned if there were any wetlands on the applicant's parcel. Mr. Maynard answered no.

Mr. Kearney asked for the total lot size and frontage. Mr. Maynard said it contained approximately 20,000SF (half acre) with well over 200ft. frontage (roughly 240ft).

Mr. McNamara asked for the size of the proposed house. Mr. Maynard said with the site loading and Town requirements, it would be designed for three-bedrooms. The house would be a two story (1120SF each floor) with a walk-out. The dimensions are approximately 28ft.x40ft. with a garage on the side. There was no request for relief of setbacks.

There was a brief discussion regarding the curb cut for the driveway. Mr. Maynard noted with the amount of frontage available, the applicant could request three curb cuts, but was only requesting one. Ms. Paliy said based on the driveway coming out onto Route 38, she would prefer to see two curb cuts so vehicles wouldn't have to back out onto the roadway. Mr. Gowan said there was a proposal for a hammer head turnaround for vehicles. There was a brief discussion regarding the zone and the area uses. Ms. Paliy questioned if the proposal illustrated what the lot needed to be in that specific area.

Mr. McNamara suggested conducting a site walk. Ms. Guay said she's reviewed the area and saw single family homes and woods. Ms. Paliy replied the lot was located on a State highway.

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

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

A site walk was scheduled for May 17, 2014 beginning at 8:30am.

The case was date specified to the June 9, 2014 meeting.

DISCUSSION

Discussion of Zoning Board of Adjustment By-Laws

The Board will review/discuss at their next meeting.

SITE WALK – May 17, 2014 – 8:30am

Case#ZO2014-00010 - HARRIS PELHAM INN - Bridge Street - Map 17 Lot 13-73

DATE SPECIFIED PLANS - June 9, 2014

Case#ZO2014-00010 - HARRIS PELHAM INN - Bridge Street - Map 17 Lot 13-73

MINUTES REVIEW

April 14, 2014:

MOTION: (McNamara/LaFrance) To approve the April 14, 2014 meeting minutes as amended.

VOTE: (4-0-1) The motion carried. Ms. Paliy abstained from voting because she was absent for the April 14th meeting.

April 19, 2014 – Site Walk Minutes:

MOTION: (McNamara/LaFrance) To approve the April 19, 2014 meeting minutes as written.

VOTE: (4-0-1) The motion carried. Ms. Paliy abstained from voting because she was absent for the April 19th site walk.

ADJOURNMENT

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

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

The meeting was adjourned at approximately 9:00 pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary