

**APPROVED**  
**TOWN OF PELHAM**  
**ZONING BOARD OF ADJUSTMENT MEETING**  
**October 15, 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 Darlene Culbert, Planning Director/Zoning Administrator Jeff Gowan

**ABSENT:** Alternate Pauline Guay, Alternate Lance Ouellette, Alternate Kevin O'Sullivan

Mr. Gowan noted his office heard from Mr. Ouellette, who indicated he would not be attending the meeting.

**PLEDGE OF ALLEGIANCE**

**CONTINUED HEARINGS**

**Case #ZO2015-00013**

**BROOKWOOD REALTY GROUP, LLC - Off Tina Avenue, 10 Tina Avenue & 15 Tina Avenue – Seeking a Variance concerning Article IV & V, Sections 307-16 & 307-18 to permit the temporary use of a property to store non-hazardous materials such as steel and other construction materials and to re-grade an area less than 2 acres. The closest of the stored materials is 500ft+ from the end of Tina Avenue**

Mr. Hennessey informed the applicant's representative requested a continuance of the hearing until the resolution as to whether the applicant's operations amount to an impermissible junkyard under the Town's Ordinances can be determined.

Mr. McNamara made a motion to continue the hearing. Mr. LaFrance seconded for discussion. Mr. McNamara was reluctant to grant an open ended continuance and suggested adding a stipulation for the abutters to be re-notified of a hearing date. Mr. Gowan replied he contacted the applicant's representative to advice continuances usually had an attached date. The suggestion was a 30-day continuation. Mr. Hennessey said the Board could stipulate date specification to the November 9<sup>th</sup> meeting. Mr. McNamara accepted the friendly amendment, as did the second.

**MOTION:** (McNamara/LaFrance) To continue the hearing to November 9, 2015.

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

The case was date specified to November 9, 2015.

**HEARING(S)****Case #ZO2015-00020****Map 2 Lot 5-91**

**HOLDSWORTH, Dawn - 26 Keyes Hill Road - Seeking Special Exception concerning Article XII, Section 307-74 to permit construction of an accessory dwelling to the rear of the existing single family home**

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 present the case. The applicant would like to add an accessory apartment to the rear of the existing home under the Special Exception rule. He reviewed the criteria. The proposed unit will be 672SF. The septic system design has been approved through the Deputy Health Officer Paul Zarnowski and was submitted with the State for approval. It was noted that the existing home utilized two driveways.

For public information, Mr. Hennessey explained the difference between a Special Exception and a Variance.

Mr. McNamara questioned if the side setback requirements were met. Mr. Maynard replied they met all setback requirements. There were no waiver/variance requests submitted. Mr. McNamara wanted to know why there was a notation for a parcel A and B. Mr. Maynard indicated that the deed referenced two parcels although it was all one parcel (on one deed). He stated there was no intention to split anything but wanted to clearly label the plan to be consistent with the deed description. Mr. McNamara asked who would reside in the accessory dwelling. Mr. Maynard replied the applicant's mother would reside in the dwelling. Mr. McNamara confirmed that the property owner understood that the accessory unit could not be rented out. Mr. Maynard replied the applicant understood a relative could reside in the unit.

Mr. LaFrance wanted to know if the Building Inspector (Roland Soucy) had reviewed the plan. Mr. Gowan didn't believe Mr. Soucy had, but noted as part of the process for a building permit, Mr. Soucy would confirm the square footage did not exceed 750SF.

Mr. Hennessey opened the hearing to public input. No one came forward.

<b>BALLOT VOTE</b>	Mr. Hennessey – Yes
<b>#ZO2015-00020:</b>	Ms. Paliy – Yes
	Mr. Kearney – Yes
	Mr. McNamara - Yes
	Mr. LaFrance - Yes

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

**SPECIAL EXCEPTION GRANTED****Case #ZO2015-00021****Maps 30 & 23 Lots 11-338 & 11-349**

**TOABE, Elizabeth - 8 Springdale Lane - Seeking a Variance concerning Article III, Sections 307-12 & Table 1 to permit construction of a year round single family dwelling on a lot having no frontage on a Town road and less than the required land area of 1 acre. Also to construct a new**

**home 10-feet from a private right-of-way that was never constructed and steps from deck toward the lake to within 45-feet of the 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 variance request.

Mr. Hennessey reviewed the description of the variance request and understood that the verbiage regarding the *'steps from deck toward the lake being within 45ft. where 50ft. is required'* was not included in the notification. He questioned if that portion would need to be re-noticed. Mr. Maynard pointed out that the pond itself had a Wetland Conservation District ('WCD') setback and there was an existing house within that 50ft. setback. He noted the proposal would move everything out of the setback except for the small portion of the set of stairs; however, they would remain in the area already disturbed by the existing home. As a point of conversation, Mr. Gowan said when a non-conformity is decreased from an existing condition, he reaches zoning decisions that the non-conformity has improved, and would sign off on such. Mr. Hennessey agreed it would be the correct decision to make. If other relief is granted, Mr. Gowan felt it reasonable to deal with the encroachment separately. Mr. Hennessey replied he would hold that portion for discussion during review of the case. He felt it was a minor part of the applicant's request and didn't feel the 5ft. should alter an approval or disapproval of the variance request.

Mr. Maynard reviewed the variance request. He explained that the applicant had existing properties in the area, one had an existing house. The applicant also owned the parcel behind under a separate tax map and lot number. With any approval, the lots will be merged through the Assessing Department and become one property as the rear lot would be used for the septic system and such. Mr. Maynard spoke of the issues with the existing house, which was currently approximately 5ft. over the lot line of the neighboring property and was within the 50ft. setback to the pond. They would be moving the house and deck 15ft. off the lot line to meet the setback requirement and also back out of the 50ft. setback to the pond. The only place they sought 10ft. dimensional relief (other than the short setback for the set of stairs) was the old private road (paper road known as Gage Road) never constructed between the lots. Mr. Maynard noted the applicant owned the area across from the paper road, so any encroachment was to themselves since they would be looking to merge the properties. In summary, the applicant was looking to build a new home that would be centered on the lot with a new State approved septic and well that would be permitted through Shore Land as part of the approval. He then read aloud the variance criteria as submitted with the application.

Mr. McNamara questioned who owned the right-of-way. Mr. Maynard replied it was a paper right-of-way never dedicated for Town use. Mr. McNamara saw the plan showed the right-of-way as being 20ft. wide, but understood it scaled at 30ft. wide. Mr. Maynard explained they had done an extensive boundary for a neighboring property and as part of the survey found that the old record plan scale differed from what they found when locating in the field monuments. He felt the field measurements would hold, therefore he noted the narrower of the two widths on the plan.

Mr. Gowan wanted to know where the new septic would be located. Mr. Maynard described it as being located on the other side of the gravel drive; noting a test pit had been done. Mr. Gowan questioned if he would go to Shore Land. Mr. Maynard answered yes.

#### PUBLIC INPUT

Ms. Marjorie Haggerty, 120 High Plain Road, Andover, MA stated she was an abutter through the Trust of her parents, and through a parcel co-owned with her brother. As a side note, Ms. Haggerty and her

husband purchased an additional parcel in December, 2014 located in the area on the other side of the Cottage Citizen Trust parcel. Ms. Haggerty told the Board her particular concern was the paper road and monumentation on the Toabe property that abuts the Body Trust property. She noted in the past her family had come in front of the Town with the Toabe family with an encroachment issue. Ms. Haggerty referred a plot plan surveyed by Robert Thorndike / George Wickens in 1956. This plan showed the paper road as being 20ft. wide and listed an iron pipe set as the property boundary between her property and the Toabe property on the water front. The plan also showed the front of the Toabe property extending over Ms. Haggerty's land by 6.2ft in the front and 2.15ft. in the back. She showed Mr. Maynard the referenced plan.

Mr. Hennessey understood that the plan submitted by the applicant showed the paper road as being 20ft. wide. Mr. Maynard believed the comment was in relation to the house being over the lot line. His survey showed the house as being approximately five feet. He noted Mr. Thorndike's work was extraordinary and they were holding the same monumentation (as Ms. Haggerty's plan); however present day surveys were shot with a laser. Mr. Hennessey questioned if Mr. Maynard would abide by the plot plan presented to the Board to go along with the setbacks. Mr. Maynard answered yes. Mr. Hennessey asked Ms. Haggerty if it was okay with her. Ms. Haggerty replied she was in agreement with the new house plan being moved to 6.2ft in the front off her land and 2.15ft. in the rear. She was still concerned regarding the paper road in relation to her property and future renovation to such. She noted it would be necessary for them to utilize the paper road going forward. Mr. Hennessey commented in other cases around the pond the Board had allowed septic systems to be placed across the road for subject properties. He asked Ms. Haggerty if she had issue with the placement of the septic system being on the other side of the road. Ms. Haggerty replied she had no issue with the placement of the septic system. However, she did have an issue with the paper road becoming ownership of the Toabe family as opposed to being accessible to all residents. Mr. Maynard replied they were holding the right-of-way and only requesting dimensional relief from such. Mr. Hennessey added the applicant wasn't making comment about who owned the right-of-way. The applicant was showing the width as 20ft. and respecting the fact that it may be considered a full right-of-way. Mr. Hennessey stated that the applicant was requesting a relief for the setback to the right-of-way and not commenting about the ownership.

Ms. Haggerty noted another concern was the applicant's comment about the lots being combined into one lot. She wanted to know how doing so would affect the right-of-way. Although it was not a requirement, Mr. Maynard explained they would do a voluntary lot merger (as part of the approval) to be under one ownership with one map and lot number for taxation purposes.

Mr. Maynard believed they had done everything they could to meet setbacks and the concerns of the neighbors.

Mr. Hennessey addressed the 5ft. encroachment of the proposed stairs. Mr. Maynard felt the proposal made the condition better, given that the existing house and walkway was currently in the setback. He noted the proposal showed four steps being in the encroachment area where the house was currently situated. Mr. Hennessey commented there was a question about notification; the abutters were notified about the request to be closer to the paper road but there was no notification about being five feet within the wetlands, except for being included in the description. Mr. Maynard clarified there had been a description for a 5ft. setback from the pond, not the WCD criteria. Mr. Hennessey noted the State was clear that towns need to assist applicants as much as possible. He didn't feel they were deceiving anybody by moving forward and felt it was a matter of fairness to address the matter as part of the application versus having a separate hearing. Mr. McNamara agreed and understood that the proposal would be an improvement over the existing conditions.

Mr. Hennessey asked for a motion to stipulate that included as part of the presentation was the stairs being 5ft. closer to the WCD than they should be. Mr. McNamara made the motion conditioned on Mr.

Gowan's testimony. Mr. Gowan believed the proposal would be a huge reduction in encroachment, therefore the detail of it being a separate variance would seem to be harsh. Mr. LaFrance seconded the motion.

Mr. Hennessey wanted to know if anyone in the public had a question about what the Board was doing. No one came forward.

**MOTION:** (McNamara/LaFrance) To include the 5ft. encroachment of the stairs within the WCD as part of the variance.

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

**BALLOT VOTE** Mr. Hennessey – Yes to all criteria  
**#ZO2015-00021:** 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**

### **Case #ZO2015-00022**

#### **Map 28 Lots 3-115-10 & 2-2**

**N&C REVOCABLE TRUST - 12 Luann Lane - Seeking a Variance concerning Article III, Sections 307-7, 307-12 & Table 1 to permit the existing landlocked property (Map 28 Lot 2-2) to adjust the lot line with the adjacent property (Map 28 Lot 3-115-10) so that the landlocked property would have 50-feet of frontage on Luann Lane**

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case. Mr. Harold Wright, a direct abutter, came forward and told the Board he had not received notification or had his name read aloud. He pointed out the location of his property. Mr. Joseph Maynard of Benchmark Engineering, representing the applicant, told the Board he made an error with copying an abutter to the side of the page. There didn't appear to be any additional errors with notification. Mr. Hennessey stated abutter notification was a serious matter and asked Mr. Wright if he would like the Board to push the hearing back a month, or if he wished the Board to continue. Mr. Wright was a bit disappointed with the variance request as it didn't show a proposed house and septic location. Mr. Maynard replied the frontage reduction being requested was located on the other side of the lot, away from Mr. Wright. He described where a house could be located, and noted the request in front of the Board related to frontage. Mr. Hennessey noted the matter in front of the Board was the creation of a lot that didn't meet the current zoning requirements. Mr. Wright questioned how a decision could be made without knowing if the lot could have a valid area for a septic system and house. Mr. Hennessey replied the lot would be subject to obtaining a State approved septic design. He reiterated that the abutter notice was faulty and asked Mr. Wright if he wanted the Board to put the case off for a month or if he knew enough to have the Board consider the application. Mr. Wright didn't feel he had enough information to comment.

Although Mr. LaFrance agreed that abutter notification was a big issue, he didn't feel that the questions raised by the abutter were pertinent to the applicant's request. Based on the size of the parcel, he hoped that the applicant could meet all setbacks etc.

Mr. Gowan had always thought if abutter notification was deficient and the affected person was present for hearing, it was abutter's decision whether or not a case was heard. He suggested the Board discuss whether or not the meeting could take place. Mr. McNamara agreed with Mr. Gowan, but also noted that the abutter wouldn't get any additional information if the Board put the hearing off for a month. Mr. Hennessey asked Mr. Wright if he would like the Board to defer the hearing for a month. Mr. Wright replied he was reluctant to make that request because he realized what was involved for the applicant. Mr. Hennessey replied the Board was concerned about the abutter's rights. Mr. Wright reiterated his question of why a property would be created without meeting criteria and how the Board could move forward without knowing more detail. Mr. McNamara replied that the matter in front of the Board was frontage. He noted when a lot came in for development there were separate requirements that would be reviewed by the Planning Department. Mr. Wright questioned if it was possible when the lot came in for development, if it couldn't be built on. Both Mr. McNamara and Mr. Hennessey answered yes. Mr. Wright indicated he was okay with the Board proceeding with the hearing.

Mr. Maynard explained to the Board that the applicant owned both properties, one of which contained an existing house. He said over time they purchased the four acre (+/-) land locked property behind the home. He noted prior to coming in front of the Zoning Board they had conducted test pits, done a survey and knew they would be able to make something work on the lot. They understood if the variance was approved they would need to go in front of the Planning Board and to the State for review/approval. That process would include notification to abutters.

Mr. Maynard summarized the request and noted they were trying to retain 200ft. of frontage for the primary dwelling and provide access to the land locked property from Luann Lane. He stated they were seeking to adjust the lot line so the land locked parcel would end up with 50ft. of frontage. Mr. Hennessey confirmed that the lot containing the existing home would remain a conforming lot. Mr. Maynard replied that was correct, the lot would remain a conforming lot. Mr. Maynard read aloud the variance criteria as submitted with the application.

Mr. Hennessey reviewed the dimensional requirements and questioned if the applicant was only seeking to build a single-family dwelling. Mr. Maynard replied it would be a single-family with an accessory use; the applicant has a disabled son and would be moving from the existing home into the new home in the back. Mr. Hennessey wanted to know if the applicant would accept a stipulation for a single-family with accessory apartment. Mr. Maynard answered yes.

In summary Mr. Maynard stated the owner had a land-locked lot and a front lot they could maintain dimensional requirements. He noted the other option would be to put a driveway through the existing lot for access to the back lot; however, the applicant preferred to clear the land and not have easements.

#### PUBLIC INPUT

Mr. Mitchell Mansfield, 14 Luann Lane came forward to voice concern regarding the reduced frontage (50ft.), which wasn't close to the Town's requirements of 200ft. The lot line adjustment placed the driveway for Lot 3-115-10 on top of the shared property line. He noted if the driveway was in that location at the time they purchased their home (26 years ago), they wouldn't have purchased their home. Given this, he firmly believed the driveway would negatively affect his property value or at the least cause a prospective buyer to pause. Mr. Mansfield told the Board the driveway was not screened from his back deck and was concerned about the daily traffic accessing the property and headlights shining into his home. He spoke of his concern regarding blasting to construct the new structure. He currently had two wells, since his first well was lost following the blasting to build 3-115-10. He explained the well trapped on itself trapping the pump at the bottom of the well. Mr. Mansfield spoke of the work that occurred during the past summer when the owner was clearing the area near the property line of rocks and trees.

He commented if the plan was approved they would have another summer of similar disturbance. In closing he saw only positive things for the applicant and negative things for the neighbors. He noted the surrounding homes were in compliance with the 200ft frontage and he felt it should remain as such. He strongly opposed the variance and appreciated the Board's consideration.

Mr. McNamara heard the abutter's concerns and noted that the parcel was land-locked and contained nearly five acres. He called attention to the fact that at present the owner had no use of the property and they stipulated they would construct only one house. He felt denying the 50ft right-of-way would essentially deny use of the property. He noted the intended use was probably the least restrictive use. He assumed Mr. Maynard could minimize the concerns of headlights, blasting etc. Mr. Maynard understood the Town had a blasting ordinance, therefore any blasting would have to abide by such. He noted they had done test pits and didn't have ledge.

Mr. Jacques Raby, 5 Luann Lane had similar concerns to those mentioned. He told the Board his well was not high producing and therefore was concerned about the effects from blasting. He believed the proposed would alter the character of the neighborhood and open the door for other people to come forward.

Mr. Gowan spoke in general about the Blasting Ordinance, which was overseen by the Fire Department. He believed it was the most stringent ordinance in the region. It's suggested that residents document the condition of their well (quality/quantity) and foundation prior to blasting. Mr. Gowan noted if the variance is approved, abutter should attend the Planning Board hearing to voice their opinions.

In closing Mr. Maynard stated the applicant had two existing lots and was looking to have the rear lot become 'more' conforming. The existing house lot will maintain setbacks, frontage etc. He noted they could have requested to build on a lot with no frontage, it seemed more practical to adjust the lot line.

Mr. Hennessey believed having a land-locked lot was a severe hardship. If approved he urged the abutters to attend the Planning Board meeting to learn where a home would be located and to voice concerns. He explained that the Zoning Board always had to weigh benefits versus the rights of people to develop their land. He pointed out there was a stipulation on record that the proposed would be a single-family home with an accessory apartment. He added that the lot was large enough to contain a multi-family home and felt the applicant had made a concession by not presenting such.

Ms. Paliy commented based on past rulings and what was occurring in the State, the applicant owned a lot and had a right to develop it. She felt the proposal was very reasonable for the back lot.

Mr. Hennessey discussed the voting slips and read aloud question 5B which would need to be answered if a member voted no on question 5A. He felt the 5B prong may be applicable since the property needed a variance or an easement in order to use it. Mr. McNamara believed the applicant had met the criteria and stated just because a lot didn't meet frontage didn't mean they should automatically receive a variance. Mr. Hennessey stated he would be checking off the 5B prong.

**BALLOT VOTE**  
**#ZO2015-00022:**

Mr. Hennessey – Yes to all criteria  
Ms. Paliy – Yes to all criteria  
Mr. Kearney – Yes to all criteria  
Mr. McNamara – Yes to all criteria – with stipulation of single  
family home  
Mr. LaFrance – Yes to all criteria

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

**VARIANCE GRANTED****Case #ZO2015-00023****Map 21 Lot 3-102-40****NAJEM, Raffoul - 55 Tenney Road – Seeking a Special Exception concerning Article XII, Section 307-74 to permit construction of an accessory dwelling unit addition.**

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. William Linderopoulos, representing the applicant came forward for the discussion. He explained the applicant was seeking to construct a two-car garage with a second floor accessory unit for their son.

Mr. Hennessey asked Mr. Gowan if the request met all the criteria. Mr. Gowan replied he would have the Building Inspector confirm the dimensions, common wall and setbacks prior to signing off. Mr. Linderopoulos was aware of the requirements. Mr. Hennessey questioned if the house was located in the Mixed Use Zoning District ('MUZD'). Mr. Gowan reviewed the map and replied it was not in the MUZD.

Mr. McNamara questioned how many bedrooms were in the existing house. Mr. Linderopoulos said there were three bedrooms. Mr. McNamara understood the home already had a two-car garage and questioned if there was a reason for constructing an additional two-car garage. Mr. Linderopoulos believed the owner wanted more storage.

Mr. Hennessey noted the State approved septic design had not yet been received; therefore, any approval would be subject to receipt of such. Mr. Linderopoulos believed a copy of the approved design had already been received and provided the Board with a copy of such. Mr. Hennessey reviewed the design and saw that it was for three bedrooms. Mr. Gowan indicated that the septic design would need to be for 4.5 bedrooms. Mr. Hennessey replied any approval would be subject to the Town receiving a copy of the State approved septic design for 4.5 bedrooms.

Mr. McNamara stated in cases for a Special Exception, an applicant either met the criteria or they did not. He said technically, the Board shouldn't be conditioning approvals, the vote should either be a 'yes' or 'no'. Mr. Hennessey replied if the applicant didn't get the septic design they wouldn't be issued a building permit. Mr. McNamara replied an applicant either met the criteria for special exception, or they did not. He said if they don't meet the criteria, the Board didn't have the power to grant the special exception. He felt more comfortable deferred the case for a month to await the permit. Mr. Kearney agreed.

Mr. Gowan said the submitted septic design, which was preliminary in nature and didn't meet the present standard. The applicant would need to submit a 4.5 bedroom design for him to sign off on construction. Mr. Hennessey believed the Board could approve the Special Exception, but he respected Mr. McNamara's judgement. Mr. LaFrance also respected Mr. McNamara's judgement and questioned if they could stipulate that the plan needed to be submitted within 30-days. Mr. Hennessey understood the discussion but didn't see any risk to the public by granting an approval since a building permit wouldn't be issued without the septic design.

**MOTION:** (McNamara/Kearney) To continue Case #ZO2015-00023 to the Board's November meeting.

**VOTE:** (2-3-0) The motion failed. Mr. McNamara and Mr. Kearney voted in the affirmative, the remainder of the Board opposed.



Mr. Hennessey opened the hearing to public input. No one came forward.

**BALLOT VOTE**  
**#ZO2015-00023:**

Mr. Hennessey – Yes  
Ms. Paliy – Yes  
Mr. Kearney – No  
Mr. McNamara – Yes – conditioned upon receipt of approved septic  
Mr. LaFrance – Yes – with State approved septic for 4.5 bedrooms

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

**SPECIAL EXCEPTION GRANTED**

**Case #ZO2015-00024**  
**Map 38 Lot 1-112-1**

**CORLISS, Donna - 16 Autumn Street - Seeking a Variance concerning Article VII, Section 307-37 to permit construction and installation of an 18ft.x36ft. pool. Also an 8ft. allowance on the wetlands setback, (west) side of the pool for deck and State Law required fencing.**

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. Scott Corliss, appeared on behalf of his wife Donna Corliss, came forward to discuss the variance request to construct and install an 18ftx36ft in-ground (non-chemical, saltwater) pool, with an 8ft. allowance for State Law required fencing that will encroach in the wetland setback. Mr. Corliss read aloud the variance criteria as submitted with the application. He provided the Board with photographs of the back yard area where the pool would be located.

Mr. Hennessey questioned if the applicant purchased the house new. Mr. Corliss answered yes. Mr. Hennessey asked if there were any no-cut signs around the property. Mr. Corliss answered no. He received a plot plan when they purchased the house and knew there were wetland setbacks, but didn't go through it closely. They understood they couldn't cut or encroach upon any of the trees in the area. This was the first they learned of the wetland setback being into the property.

Mr. McNamara said it appeared the existing deck went into the easement and asked if it was there when they purchased the home. Mr. Corliss answered yes and believed at the time permits were pulled. He said if permits had been pulled they would have found out sooner about the wetland line. Mr. Gowan noted regardless of whether the variance was granted, he would ask the homeowner to install no-cut signs (available in the Planning Department).

Mr. LaFrance asked if Mr. Corliss was looking to have the pool installed this year. Mr. Corliss replied they would like to install the pool this year and allow the land to settle prior to decking being constructed. Mr. LaFrance referred to the photographs and wanted to know what the orange painted (diagonal) line represented. Mr. Corliss stated it indicated the setback. The encroachment would be 11ft from the bottom left and 30ft. northward. Mr. Gowan questioned what the orange dots/ribbons on the trees indicated. Mr. Corliss identified the trees to be removed. He noted they were outside the protection area.

Mr. Hennessey opened the hearing to public input. No one came forward.

Due to the slope of the lot and the proximity to conservation land, Mr. Hennessey felt the Board should conduct a site walk and invite the Conservation Commission to attend. Mr. Kearney agreed. Mr.

LaFrance felt he had an understanding of the request based on the testimony and photographs, but would like to hear the Conservation Commission's opinion. Mr. Hennessey was intrigued by the idea of stipulating a salt water pool to minimize the effect of chemicals.

A site walk was scheduled for October 31, 2015 beginning at 8am. Mr. Gowan will invite the Conservation Commission.

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

**Case #ZO2015-00025**

**Map 30 Lot 11-160**

**RONNING, Cindy - 8 Andover Street - Seeking a Variance concerning Article III, Section 307-12 Table 1 & 307-8C to permit an existing 25ft.x25ft. year-round cottage, which is set back 2ft. from the rear property line and 25ft. from the front, to be torn down and allow a 28ft.x25ft. house with a 6ft. front deck be constructed and moving the house 5ft. closer to the front of the lot. Also to add a second story. (If Case #ZO2015-00025 were to fail the applicant will seek a Variance as described in Case #ZO2015-00026)**

Ms. Paliy informed the Board the applicant, Cindy Ronning, was a friend and had done some real estate transactions for her. She didn't see that there were any unusual requests in the application. Mr. Hennessey explained to the public that a conflict of interest could be declared by a second or third party; however, it was up to the member to make the decision if there would be a conflict by remaining seated. He asked Ms. Paliy to take a moment to decide.

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. Hennessey stated in the past, Ms. Ronning had been a member of the Zoning Board. He said she was a realtor and he had done transactions together. He didn't feel a conflict and felt he could remain impartial. Ms. Paliy stated she would remain seated as long as Ms. Ronning didn't feel her presence on the Board would cause any issues. She didn't feel there would be a conflict. Ms. Paliy and Mr. Hennessey remained seated.

Ms. Ronning reviewed her letter of intent. She explained there was an existing 25ft.x25ft. year-round cottage on the lot. Across the street (on a separate lot) there was a drilled eight year old, two-bedroom septic system. There is a well on the property that meets the standard for the number of gallons per minute. She noted the house was very tired and couldn't be renovated. To meet current building codes a new home would need to be built. Ms. Ronning would like to increase the building footprint by 3ft and add a 6ft. deck to the front of the house. Currently the home is 2ft. from the back line and she would like to move it 5ft. closer to the road. Doing so will make the property more in line with Town codes and the surrounding neighborhood. She noted there was a separate variance request (Case #ZO2015-00026) to add a second floor.

Mr. McNamara reviewed the two requests. Ms. Ronning read aloud the variance criteria as submitted with the application. She noted Andover Street was a private road, which gave them the right to cross it and put the leach field on a piece of land between Gaston and Andover.

Mr. Kearney asked if the property had a view of the pond. Ms. Ronning replied once the house was built up (with a second floor) it would see the pond over rooftops. Mr. Kearney asked about the status of the lots behind the property. Ms. Ronning said there was no one behind the lot, it was all trees. There is a

vacant lot and a lot with a foundation and septic. She noted the lot had been vacant for 20+ years and it had no road to it, since Methuen Road was only a paper road.

In reviewing the photographs, Ms. Culbert questioned if the abutting house had a chimney. She was concerned about the proposed second story adversely affecting the draft of the abutter's chimney. Ms. Ronning couldn't answer.

Mr. Gowan asked if the property was within 250ft. of the pond. Ms. Ronning answered no, but would measure it if necessary.

Mr. LaFrance questioned if the abutting homes were single-story or two-story homes. Ms. Ronning replied the home to the left was a two-story cape (log home) and the home to the right was a single story.

#### PUBLIC INPUT

Ms. Donna Bibeau, 6 Andover Street didn't see a problem with the proposed. She understood a garage would be constructed under the structure and wanted to know if the existing stone wall between the properties would remain. She was unsure about erosion and noted her house was situated down slope from the proposed home. Mr. Ronning said she may not sink the garage too low. Ms. Bibeau was fine with the proposal.

Mr. Ken Norton, 10 Andover Street told the Board that the existing house was close to the property line and if it was moved back toward the road, it would put it in line with his home. He asked if a buffer could be installed, such as trees or a fence. Ms. Ronning offered to install a fence.

Mr. Hennessey felt the Board should review the site as they generally did for property around the pond. Mr. McNamara agreed. Mr. Hennessey would like the abutters to point out the areas of concern. Mr. McNamara said given the two variance requests he felt it appropriate to physically view the property. Mr. Kearney agreed. He then made a motion to conduct a site walk. Mr. McNamara seconded. Ms. Paliy commented that the houses near the water were all two-story homes. Mr. Hennessey noted there were two variance requests. Mr. Gowan noted that if the first variance failed (for size and deck), the second variance (for height) would then be in front of the Board for consideration. Ms. Ronning stated the most important variance for her was the second story (the second variance). The Board discussed how to proceed.

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

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

The site walk was scheduled for October 31, 2015 beginning at 9am.

The case was date specified to November 9, 2015.

#### **Case #ZO2015-00026**

##### **Map 30 Lot 11-160**

**RONNING, Cindy - 8 Andover Street - Seeking a Variance concerning Article III, Section 307-8C to permit an existing 25ft.x25ft. year-round cottage, which is set back 2ft. from the rear property line and 25ft. from the front to be torn down and allow a new house with same footprint be constructed, adding a second story and moving the house 5ft. closer to the front of the lot.**

*Per the discussion in previous hearing for Case #ZO2015-00025:*

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

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

The site walk was scheduled for October 31, 2015 beginning at 9am.

The case was date specified to November 9, 2015.

**SITE WALK – October 31, 2015 – beginning at 8AM**

Case #ZO2015-00024 - Map 38 Lot 1-112-1 - CORLISS, Donna - 16 Autumn Street

Case #ZO2015-00025 & 26 - Map 30 Lot 11-160 - RONNING, Cindy - 8 Andover Street

**DATE SPECIFIED CASES – November 9, 2015**

Case #ZO2015-00013 - BROOKWOOD REALTY GROUP, LLC - Off Tina Avenue, 10 Tina Avenue & 15 Tina Avenue

Case #ZO2015-00024 - Map 38 Lot 1-112-1 - CORLISS, Donna - 16 Autumn Street

Case #ZO2015-00025 & 26 - Map 30 Lot 11-160 - RONNING, Cindy - 8 Andover Street

**MINUTES REVIEW**

**September 14, 2015:**

**MOTION:** (Kearney/LaFrance) To approve the September 14, 2015 meeting minutes as written.

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

**ADJOURNMENT**

**MOTION:** (LaFrance/Kearney) To adjourn the meeting.

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

The meeting was adjourned at approximately 9:34pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary