

APPROVED

**TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
November 9, 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, Alternate Lance Ouellette
Planning Director/Zoning Administrator Jeff Gowan

ABSENT: Alternate Pauline Guay, Alternate Kevin O'Sullivan

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 Hennessey informed a letter had been received from the applicant's representative asking that the case be withdrawn without prejudice.

MOTION: (McNamara/Kearney) To allow Case #ZO2015-00013 to be withdrawn without prejudice.

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

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. Hennessey noted that the Board along with the Conservation Commission and members of the public conducted a site walk on Saturday, October 31, 2015. He was happy that they walked the site as it helped him understand and clarify the request. He asked the applicant if they had anything else to add.

Mr. Scott Corliss, appeared on behalf of his wife Donna Corliss, came forward. He thanked the Board to taking time to review the site. He had nothing to add.

Mr. Hennessey said there were a number of comments from the Conservation Commission that could be added as conditions, or the Board could rely on the Administrative Decision. He read aloud the Conservation Commission letter dated November 2, 2015. They suggested the following:

- 1) Requested that the homeowner voluntarily move the location of the proposed swimming pool to the north, or alter its shape, to minimize the WCD impacts;

Should a portion of the pool or surrounding pad and fence remain within the WCD, they request the following stipulations:

- 2) Runoff from the pool and pad be directed across the lawn area, toward the road and away from the wetland.
- 3) The pool pump and filter be located such that backwash water also be directed across the lawn area, toward the road and away from the wetland.

Mr. McNamara asked Mr. Corliss if he received response from his insurance company. Mr. Corliss answered yes and stated there were no conditions from them.

Mr. LaFrance appreciated the Conservation Commission's comments. From his view of the site, rather than forcing the homeowner to move the pool, it was his opinion that the approval contain the #2 & #3 stipulations. Mr. McNamara agreed with Mr. LaFrance based on the topography of the site and the fact that the applicant was proposing a salt water pool and no chemicals would be stored.

Mr. Hennessey said it was clear that the natural runoff from the site went away from the wetlands. He noted the proposed wasn't a typical wetland or Wetland Conservation District ('WCD') incursion.

Mr. Gowan told the Board that he spoke with the owner and they agreed to post WCD signs as they should have been by the builder.

MOTION: (McNamara/) To attach the following two conditions to any approval:

- 1) Runoff from the pool and pad be directed across the lawn area, toward the road and away from the wetland.
- 2) The pool pump and filter be located such that backwash water also be directed across the lawn area, toward the road and away from the wetland.

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

BALLOT VOTE
#ZO2015-00024:

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 conditions in motion.
Mr. LaFrance – Yes to all criteria – with conditions.

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

VARIANCE GRANTED

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)

(This case was heard simultaneous with Case #ZO2015-00026)

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.

Mr. Hennessey informed Case #ZO2015-00025 & Case #ZO2015-00026 would be heard together. He stated a site walk was conducted Saturday, October 31, 2015. He read aloud a letter submitted by the Building Inspector, who had been asked by Mr. Gowan to review the site. With regard to fire rating and chimneys, the letter referenced the International Building Code's requirements for structures close to a property line.

Mr. Hennessey asked how close the proposed structure would be to the side property line. The applicant, Cindy Ronning came forward and replied her house was 5ft. from the property line. She didn't know how far the abutter was to their property line.

Mr. Gowan told the Board that the Building Inspector reviewed the property. He said regardless of whether or not zoning relief was provided, he would review any plans submitted for building permit and the Building Inspector would scrutinize them.

Mr. Ouellette informed he was an abutter to the applicant. He stepped down and sat with the public.

Mr. Hennessey stated his real concern was the building height. The Building Inspector's letter indicates that the chimney should extend two feet above any portion of a building within ten feet. Ms. Ronning didn't know if the abutting house was within ten feet. She had five feet from her property line but didn't know the distance of the abutter. Mr. Gowan recalled from the site walk there was a stone wall and some distance to the abutter's structure. He said if there was any change to the structure, it would be required to follow building code. Mr. Hennessey said he would welcome some kind of definitive statement about height to be included in Zoning, not just for areas around the pond. He said it was clear that the proposal was a vast improvement to the existing structure. Mr. Kearney recalled the applicant indicating the proposed structure would be 38ft. from grade; however, the information provided to the Board during the meeting showed the structure as being 26.10ft. from grade. Ms. Ronning noted that the Board had to make a decision if they would count the height from the garage basement floor (which was proposed to be under the structure) or if they were counting it from the first floor to the top. Mr. Gowan believed in general when people refer to the height of a structure it's measured from grade to ridge height.

Mr. Gowan commented that the Board typically wrestled with how a structure fit in with a neighborhood. The proposed wouldn't be dramatically different from the surrounding.

Ms. Paliy felt the proposal was a bit unusual, because if they started to look at the neighborhood they would have to consider if certain structures should be condemned. She questioned at what point they would have to do so. Mr. Gowan replied that was not the Board's role or task. Ms. Paliy asked if there a minimum size for a building. Mr. Gowan answered no; he was not aware of a minimum square footage in the Town's Regulations or Health Code.

Mr. McNamara questioned if the Board still had two competing requests to consider. He noted both proposals moved the property 5ft closer to the front line. He was concerned that doing so would bring the structure closer to the chimney on the abutting house. Mr. Hennessey said the Building Inspector would review the building against the code and Mr. Gowan would review the regulations. Ms. Paliy didn't recall the Board reviewing the distance between the structures. Ms. Hennessey replied the abutter raised the question. He was satisfied that the issue would be reviewed when considering a building permit and didn't feel the Board should attach a stipulation.

Procedurally, Mr. Gowan said the Board would review the first variance request. If approved, the applicant would then withdraw the second request. With that information, the Board voiced no objection to proceeding.

Mr. McNamara made a motion that any approval will be conditioned upon the height of the building not exceeding 26ft10in. from grade. Mr. LaFrance seconded the motion. Mr. Kearney pointed out that the grade was actually lower. Mr. McNamara wanted to know what the proposed height from grade would be. Mr. Hennessey recalled the discussion being at roughly 30ft., which should provide the applicant with 'wobble' room. He believed 30ft. was close to what the Board had approved in the past. Mr. McNamara amended his motion to a height not to exceed 30ft from grade, conditioned on the Building Inspector's approval of all setbacks. Mr. LaFrance felt the Board should be a little more specific with the term 'grade'. Mr. Hennessey said realtors historically used the bottom of the front step(s). Mr. LaFrance felt it would be more than fair to use the base of the bottom stair. Mr. Gowan clarified with the Board their intent was to use the existing foundation grade from the base of the step as the base mark measurement. The Board agreed. Ms. Ronning asked for further clarification. To be clear, Mr. LaFrance used the photographs submitted with the application and stated the height was not to exceed 30ft. from the existing top of foundation.

MOTION: (McNamara/LaFrance) Any approval will be conditioned upon the height of the building not to exceed 30ft from grade, which was clarified to be the top of the existing foundation.

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

PUBLIC INPUT

Mr. Lance Ouellette, 13 Gaston Road and also an abutter at 5 Andover Street said he was present at the site walk. He pointed out that the abutter on the right (when facing the house) was also present for the site walk and had no opposition. He commented that the Building Inspector, Roland Soucy provided input at the site walk. He recalled Ms. Ronning indicating she would speak to the abutter regarding the chimney to alleviate concerns. Regarding the structure size and neighborhood, Mr. Ouellette pointed out that the Board had allowed many seasonal camps to develop with second floors and septic system etc., and the proposal was a similar request. He felt the height limit set by the Board was more than fair and consistent with other applications. He liked how the Board set the grade and agreed it was usually was set using the first floor sill. He felt it would be hard to use 'grade'. He was in favor of the proposal.

Mr. Hennessey stated the Board would consider Case #ZO2015-00025.

BALLOT VOTE	Mr. Hennessey – Yes to all criteria
#ZO2015-00025:	Ms. Paliy – Yes to all criteria
	Mr. Kearney – Yes to all criteria
	Mr. McNamara – Yes to all criteria -with conditions in motion.
	Mr. LaFrance – Yes to all criteria

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

VARIANCE GRANTED

Mr. Ronning stated she withdraw the second variance (Case #ZO2015-00026).

MINUTES REVIEW

October 15, 2015:

MOTION: (Kearney/LaFrance) To approve the October 15, 2015 meeting minutes as written.

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

October 31, 2015:

MOTION: (McNamara/LaFrance) To approve the October 31, 2015 site walk 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 7:45pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary