

APPROVED
TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
February 12, 2018

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, Diane Chubb, Alternate Deb Ryan, Alternate Lance Ouellette, Alternate Heather Patterson, Planner/Zoning Administrator Jennifer Beauregard

ABSENT: Alternate Darlene Culbert, Alternate Thomas Kenney

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

Public Hearing to make changes to the Zoning Board of Adjustment By-Laws to update the application submission date to twenty-one (21) days prior to the meeting rather than fifteen (15) days.

Mr. Hennessey stated this was the second public hearing regarding a proposed change to the By-Laws as specified. He opened the discussion to public input. No one came forward. The Board had no additional comments or questions.

MOTION: To approve the By-Law amendment to update the application submission date from fifteen (15) days to twenty-one (21) days.

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

CONTINUED HEARING(S)

Case #ZO2017-00029

Map 31 Lot 11-33

KLECZKOWSKI, Charles, Jr. - Spring Street Off - Seeking a Variance concerning Articles X, XIII, III & XV Section 307-58 (B)(3), 307-83(C), 307-84, 307-86, 307-87(C), 307-88(A)(2a), 307-12, Table 1, 307-14 & 307-100 - to permit the construction operation and maintenance of a Wireless Communication Facility

Mr. Hennessey informed that the applicant requested a continuance to a later meeting to allow them to consider alternate choices. They have also requested to 'reset the clock' (push back the deadline) for the cell tower application.

MOTION: To allow a continuance/extension to the April 9, 2018 Board meeting.

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

Case #ZO2018-00001**Map 30 Lot 11-111**

HANLON, Richard A. - 124 West Shore Drive – Seeking a Variance concerning Article III, Sections 307-12 (Table 1), 307-13 (B) 1&2 & 307-14 to permit a lot to be subdivided into two lots which do not meet the requirements of 200 feet on a public right-of-way.

Under State Statute, Mr. Hennessey stepped down because he was a direct abutter. Vice Chair Paliy conducted the hearing. She appointed Ms. Ryan to vote.

Representing the applicant was Shayne Gendron of Herbert Associates. Ms. Paliy asked if anyone on the Board felt they needed to recuse themselves from hearing the case. There were no additional members who stepped down. Ms. Paliy asked Mr. Ouellette if he felt comfortable with the case. Mr. Ouellette answered yes. Ms. Paliy asked Mr. Gendron if he had any objection to Mr. Ouellette remaining seated with the Board even though Mr. Ouellette would not be voting on the case. Mr. Gendron had no objection.

Mr. Gendron believed they had a nice site walk with a good turnout. He felt most of the questions at the site walk seemed to revolve around wetlands, wetland conservation districts ('WCD') and didn't pertain to the request regarding road frontage. He said they took the questions and requests into consideration. Mr. Gendron summarized the amendments that had been made to the plan, such as: 1) moving the house and building it into the hill, 2) added a drip edge detail around the house, 3) added a leaching trench along the low side of the driveway, and 4) shortened the driveway for reduced impervious surface. He commented that the system was simple and at the same time maintainable. Mr. Gendron provided the Board with a copy of the Department of Environmental Services ('DES') Prime Wetlands Map. He noted that the wetland across the street from the site was a prime wetland, but not one that takes 100ft. buffer. He said that prime wetland was more than 120ft. from the site. He stated they complied with the 50ft. WCD buffer.

Ms. Paliy questioned if the Conservation Commission submitted a letter to the Board. Ms. Beauregard commented an email was received from Paul Gagnon (Conservation Chairman) as a resident, not in representation of the commission. Mr. Kearney read aloud Mr. Gagnon's email. In closing the email indicated giving the sensitivity of the area, the vague design and the lack of hardship, Mr. Gagnon recommended that the Board deny the variance. Ms. Paliy confirmed that the Board had read the site walk minutes.

Mr. Gendron stated that the applicant had a good size parcel and felt there was a hardship. He added they were only asking for a variance to the frontage requirement because they were on a private road. He noted they had plenty of frontage; there was over 300ft. of frontage on the proposed lot and over 400ft. of frontage on the existing lot. Both lots exceeded required lot sizing. He believed they had done as much as they could to help divert the water from the pond.

Mr. McNamara confirmed that the new lot would contain a single-family home. Mr. Gendron answered yes.

Ms. Chubb asked for more information regarding the leaching trench. Mr. Gendron explained that it's a 2ftx2ft. deep trench that contains stone and filter fabric. The proposal on the property is similar to something they would propose in a subdivision project, but on a smaller scale. The driveway will be elevated so water will flow across it into the trench. During a rainstorm event water will go into the trench and leach directly into the ground water. The dredge bed around the house has the same concept with stone and filter fabric so water will go directly into the ground and not runoff.

Ms. Paliy questioned the size of the continuous dry land. Mr. Gendron replied they had over 1.5 acres of contiguous dry land on the proposed lot.

Ms. Paliy opened the discussion to public input. No one came forward.

Mr. Kearney commended Mr. Gendron for amending the plan based on input and comments by the Board and those present for the site walk.

Mr. McNamara confirmed that the applicant was proposing a single-family home. Mr. Gendron answered yes.

MOTION: (McNamara/Kearney) Approval conditioned upon the new lot be limited to a single-family home.

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

BALLOT VOTE Ms. Paliy – Yes to all criteria
#ZO2018-00001: Mr. Kearney – Yes to all criteria; with single-family home as stipulated
Mr. McNamara – Yes to all criteria; with condition in motion
Ms. Chubb – Yes to all criteria
Ms. Ryan – Yes to all criteria

(5-0-0) The Variance was Granted

VARIANCE GRANTED

(There is a 30-day right of appeal)

HEARING(S)

Case #ZO2018-00003

Map 30 Lot 11-157

CROOKER, Kevin & Constance - 2 Andover Street - Seeking a Variance concerning Article III, Sections 307-8 (C), 307-12 (Table I) & 307-14 to permit a 22x24 addition with a 5x10 bump out and garage underneath. Also, a 6x30 porch onto existing house.

Vice Chair Ms. Paliy conducted the hearing.

Mr. Hennessey had previously stepped down because he felt there would be a conflict given that the owner of the land was his wife's first cousin. Also stepping down for the case were Alternates Ouellette and Patterson.

Ms. Paliy appointed Ms. Ryan to vote.

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.

The applicant, Kevin Crooker of 2 Andover Street came forward to discuss the variance request. He told the Board he lived at his home since 1979. He read aloud the responses to the variance criteria as submitted in the application.

Ms. Chubb asked if the reason the case was in front of the Board was because the applicant was requesting a change on a lot that was already non-conforming. Ms. Beauregard answered yes; the applicant was expanding a non-conforming use on a non-conforming lot and not having road frontage on a public road.

Mr. McNamara confirmed that the size of the lot was approximately 1.76 acres. Mr. Crooker answered yes. Mr. McNamara asked for the size/square footage of the existing house. Mr. Crooker didn't have the exact measurements but believed it may be approximately 1500SF-1600SF. Mr. McNamara questioned if the side setbacks and rear setbacks were met. Mr. Crooker answered yes. He noted that he had road frontage, it was just not on a public way. He said he hadn't realized that fact until he submitted an application for a permit. He told the Board that he had spent the better part of two year to try and make his land conforming. He couldn't change the fact that he lived on a private road.

Mr. Crooker spoke about the proposed bump out and explained it was not a square rectangle shape. He said it would be more of an octagonal shape. His architect requested to have more room from the 5ft.x10ft. indicated on the application. He said they would like permission to change the size to 8ft.x12ft. Ms. Beauregard stated the increased size would still meet the setbacks. Mr. McNamara understood that the bump out was for the addition. Mr. Crooker answered yes. There was no objection to the request.

Ms. Paliy understood that the structure was far enough from the lake to not fall within the Shore Land Protection area. Mr. Crooker said that was correct.

Mr. Paliy opened the hearing to public input.

Mr. Lance Ouellette, 13 Gaston Road and 5 Andover Street understood that the applicant's application met all the criteria. He explained that they all lived on a private road (Class VI). He stated that he had worked in Mr. Crooker's yard; the lot was well taken care of. He believed the proposal was an honest one and asked that the Board vote in favor of it.

Mr. John Patterson, 7 Gaston Road and 7 Andover Street told the Board he was a direct abutter and saw nothing wrong with the proposal.

Speaking for Connie Loschi of 77 Dutton Road was Mr. Dave Hennessey of 71 Dutton Road. He saw there was a small block (indication of a building) located within the setback. He asked what the building was. Mr. Crooker told the Board the building was a shed approximately 8ft.x12ft. located close to the property line. He understood that structures under 100SF could be on a property line; although the shed was not on the line. He had no objection to anyone measuring the shed.

Mr. Kearney felt the request was reasonable and there was plenty of land. He said nothing would be obstructed and neighbors wouldn't be affected. He believed it was a rather modest and fair project. Mr. McNamara agreed that it was an appropriate proposal and met the criteria. Ms. Chubb and Ms. Ryan both agreed.

BALLOT VOTE
#ZO2018-00003:

Ms. Paliy – Yes to all criteria
Mr. Kearney – Yes to all criteria
Mr. McNamara – Yes to all criteria
Ms. Chubb – Yes to all criteria
Ms. Ryan – Yes to all criteria

(5-0-0) The Variance was Granted

VARIANCE GRANTED

Ms. Beauregard noted there is a 30-day right of appeal.

Mr. Hennessey, Mr. Ouellette and Ms. Patterson returned to the Board.

Case #ZO2018-00004**Map 22 Lot 7-1**

DOHERTY, Stephen J., Trustee of the Debra Ann Trust - 9 Atwood Road - Seeking an Appeal concerning Article III, Section 307-96. Applicant is appealing the written Administrative Decision of Jennifer (Hovey) Beauregard, Planner & Zoning Administrator dated December 14, 2017.

AND**Case #ZO2018-00005****Map 22 Lot 7-1**

DOHERTY, Stephen J., Trustee of the Debra Ann Trust - 9 Atwood Road – Seeking a Variance concerning Article XV, Section 307-106 which states that in the Residential Conservation, there must be “200 feet or more” of frontage on an existing road.

Mr. Hennessey informed that the applicant has requested a delay on their two cases (ZO2018-00004 and ZO2018-00005) because they are re-doing their plan. Ms. Beauregard explained that the applicant's request is considered a 'stay'. She said if they come back in front of the Zoning Board the abutters would need to be re-notified.

MOTION: To grant the applicant a 'stay', with the understanding if they come back in front of the Board, the abutters will need to be re-notified.

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

Case #ZO2018-00006**Map 22 Lot 7-277**

CARNAZZO, Christopher & Emma (of 7 Chagnon Lane) - 14 Atwood Road - Seeking a Variance concerning Articles: III & XII Sections: 307-8, 307-12, Table I, 307-13(A) & 307-74(O) permit construction of an addition to an existing single-family home on an undersized lot, to permit use of the property as a single-family home with an accessory dwelling unit.

Mr. Hennessey noted that the abutter's list would be read once for Case #ZO2018-00006 and #ZO2018-00007.

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 commented that he would not be recusing himself. He stated that the attorney in the case was the brother of one of the agents who work for him. He didn't feel there was a conflict. There were no objections to Mr. Hennessey remaining seated.

Representing the applicants was Attorney David Groff. He explained that the applicants would like to build an addition to the existing house. Their elderly father would live in the accessory dwelling unit, and the applicants would live next door, in the new section of the property. Attorney Groff told the Board that proposal met all the criteria, except for lot size. The Board was provided with a copy of the Google map showing the location of the property and a copy of the tax map showing the property dimensions and its location in relation to the surrounding (commercial) properties.

Mr. Hennessey explained to the public that there were two cases in front of the Board, one was a request for Variance, the other was a request for Special Exception. He spoke about the requirements that each must meet to be approved.

Attorney Groff read aloud the responses to the variance criteria as submitted with the application. He offered additional explanation to each.

Mr. McNamara confirmed that the size of existing home was 800SF. Attorney Groff answered yes. Mr. McNamara wanted to know the size of the proposed addition. Attorney Groff noted that the Board was provided with a plan set for the proposed addition. Ms. Carnazzo believed the addition would be approximately 1700SF. She explained that the addition would have two bedrooms; the accessory unit would have one bedroom. She noted that the septic design was approved for a three-bedroom addition with one-bedroom accessory dwelling.

Mr. Kearney inquired if there would be a garage. Ms. Carnazzo replied there would be a three-car garage. Mr. Ouellette questioned if there would be rooms above the garage. Ms. Carnazzo replied it would be a one-story garage.

Ms. Paliy understood the Board was reviewing the variance request. Mr. Hennessey answered yes; if the variance is approved, the Board would then consider the request for special exception.

Mr. Hennessey opened the hearing to public input.

Mr. Michael Brawn, 15 Atwood Road told the Board he resided in the area for approximately thirty years and understood that the applicant's house had a cesspool and not a full septic. He questioned the number of bedrooms that were being proposed. Mr. Hennessey noted that the State had regulations regarding the septic. Ms. Carnazzo stated that the house currently sat on the Town Assessor's database as a three-bedroom, two-bathroom house. She explained that it was a one-bedroom house because the half-story upstairs was unfinished space. Mr. Brawn was familiar with the house as he had been in the home as a child. He understood that the applicants had done some work on the home.

Mr. Hennessey asked if there was currently a working septic system on the property. Ms. Carnazzo answered yes. Mr. Hennessey asked if the septic met the criteria for a one-bedroom house. Ms. Carnazzo replied it met the criteria for a three-bedroom house. She explained that the house was vacant for many years and said she couldn't speak to how the house was used prior to her owning the house. She said she could only speak to what the house was approved for, what they used it as and what the actual finished space was within the house. She commented that they ensured they could have the correct septic in place for the proposal. Mr. Hennessey questioned if the applicant would have a State approved design for a larger septic system. Attorney Groff replied the applicant had approval for construction (from the State); a copy of which was in the Board's packet.

Mr. Brawn spoke about the applicant's property being located in the neighborhood's lowest natural depression spot. He asked if there were any drainage plans. Mr. Hennessey didn't see anything on the plan marked as a wetland. Mr. Brawn replied he could provide pictures that showed the area of the proposed garage being under water. He said it wasn't a wetland, it was just a natural low point. Mr. Hennessey replied the area wasn't a wetland so there would be no specific regulation.

Given that the cases were essentially co-mingled, Ms. Paliy asked for clarification regarding the septic capacity. Ms. Beauregard explained that the septic was approved for a three-bedroom, plus one-bedroom accessory dwelling unit.

Mr. Hennessey stated the Board would take up the matter of the variance, which dealt with the undersized lot.

BALLOT VOTE

Mr. Hennessey – Yes to all criteria

#ZO2018-00006: Ms. Paliy – Yes to all criteria
 Mr. Kearney – Yes to all criteria
 Mr. McNamara – Yes to all criteria
 Ms. Chubb – Yes to all criteria

(5-0-0) The Variance was Granted

VARIANCE GRANTED

(There is a 30-day right of appeal)

Case #ZO2018-00007

Map 22 Lot 7-277

CARNAZZO, Christopher & Emma (of 7 Chagnon Lane)- 14 Atwood Road - Seeking a Special Exception concerning Article XII, Section 307-74 to permit an accessory dwelling unit

(Abutters list read aloud at the start of Case #ZO2018-00006)

Representing the applicant was Attorney David Groff. He understood that the Board had the applicant's request and it met all the criteria. He stated that they had the approved septic system. He noted it was a permitted use in the zone.

Mr. Hennessey confirmed with Ms. Beauregard that the proposed plan met the criteria. Ms. Beauregard stated that it met the criteria. He noted that the Building Inspector approved the plan and asked that the Board stipulate that the upstairs rooms (in the accessory unit) could never be used as bedrooms. That area was marked as 'storage' on the plan.

MOTION: (McNamara/Kearney) To stipulate that the upstairs room in the accessory dwelling unit can never be used as bedrooms.

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

Mr. McNamara confirmed that there was a 75% common wall. Ms. Beauregard answered yes; everything met the criteria.

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

Mr. Ouellette asked for an explanation on the stipulation. Mr. Hennessey replied the 'space' on the second floor of the original building (to become the accessory dwelling unit) can never be used as bedrooms.

BALLOT VOTE Mr. Hennessey – Yes – subject to stipulation on second floor
#ZO2018-00007: Ms. Paliy – Yes
 Mr. Kearney – Yes – stipulation of second floor storage only
 Mr. McNamara – Yes with stipulation
 Ms. Chubb – Yes – with stipulation as existing house

(5-0-0) The Special Exception was Granted

SPECIAL EXCEPTION GRANTED

(There is a 30-day right of appeal)

DATE SPECIFIED CASE(S)- April 9, 2018

Case #ZO2017-00029 - Map 31 Lot 11-33 - KLECZKOWSKI, Charles, Jr. - Spring Street Off

MINUTES REVIEW

January 8, 2018

MOTION: (Chubb/Kearney) To approve the January 8, 2018 meeting minutes as written.

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

ADJOURNMENT

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

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

The meeting was adjourned at approximately 8:00pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary