

APPROVED

**TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
January 8, 2018**

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

Acting Secretary Diane Chubb called roll:

PRESENT: David Hennessey, Svetlana Paliy, Bill Kearney (arrived at approximately 7:18pm), Diane Chubb, Alternate Deb Ryan, Alternate Darlene Culbert, Alternate Lance Ouellette (arrived at approximately 7:06pm), Alternate Thomas Kenney, Alternate Heather Patterson, Planner/Zoning Administrator Jennifer Beauregard

ABSENT: Peter McNamara

PLEDGE OF ALLEGIANCE

HEARING(S)

Case #ZO2018-00002

Map 4 Lot 9-146-7

ROEMER, John - 212 Arlene Drive – Seeking a Special Exception concerning Article XII, Section 307-74 to permit an accessory dwelling unit.

Ms. Patterson and Mr. Kenney were appointed to vote.

Ms. Chubb 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.

Representing the applicant was Mr. Michael Danis of Danis Construction Company. He explained they were requesting a Special Exception to put an addition onto their existing single-family home. The lower level would have an accessory dwelling unit for a family member; the second floor would be a family room for the existing house. He told the Board that the septic design had been completed and approved by the State. He provided copies of the approval to the Board.

Mr. Ouellette arrived.

Mr. Danis believed they had met all the criteria in the Ordinance for Special Exception. Ms. Beauregard told the Board that the applicant had met the criteria.

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

Mr. Hennessey noted accessory apartments, per State Law, could be rented as long as the owner lived on the premises.

Mr. Danis confirmed there was a thirty (30) day right of appeal for accessory dwelling units. Mr. Hennessey answered yes; building could not be started until after that timeframe.

BALLOT VOTE Mr. Hennessey – Yes
#ZO2018-00002: Ms. Paliy - Yes
 Ms. Chubb –Yes
 Ms. Patterson – Yes
 Mr. Kenney – Yes

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

SPECIAL EXCEPTION GRANTED

Mr. Hennessey noted there was a 30-day right of appeal.

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.

Ms. Chubb 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.

Under State Statute, Mr. Hennessey stepped down because he was a direct abutter. Vice Chair Paliy conducted the hearing.

Ms. Paliy appointed Ms. Culbert, Ms. Ryan and Ms. Patterson to vote.

Representing the applicant was Shayne Gendron of Herbert Associates. He discussed the request and told the Board that the parcel contained approximately 3.87 acres located in the residential district with frontage on Hidden Hollow Drive and West Shore Drive. The proposal is to subdivide the property and set up a new lot with frontage on Hidden Hollow Drive. Currently the lot has an existing home close to the water. Both lots will be set up to meet all lot size criteria and the Town's Subdivision Regulations. He noted the only thing they were short on was having frontage on a Class V road. Both lots contain more than two hundred (200) feet of frontage. The existing home will have over four hundred (400) feet of frontage on West Shore Drive and the proposed lot (Map 30-11-111-1) will have over three hundred (300) feet of frontage on Hidden Hollow Drive. Mr. Gendron explained that the applicant wanted to set up a lot to build a home for himself and would like to grant the existing home to his son. When reviewing the criteria, they are requesting relief from, they looked at two things: 1) does it provide safe access, and 2) is there proper separation between the dwelling units. In this case he believed there was good separation and proper access being provided to both properties. He pointed out there were nine (9) residential properties beyond the proposed lot on Hidden Hollow Drive and sixteen (16) additional residential structures beyond the existing home on West Shore Drive. He stated the homes had proper access for emergency response and didn't feel the additional home would negate that access.

Mr. Kearney arrived. Ms. Paliy summarized the hearing to that point. Mr. Kearney felt he was ready to be a seated voting member. Ms. Paliy informed Ms. Patterson she would not be voting on the case.

Mr. Gendron read aloud the responses to the Variance criteria as submitted with the application. He commented that the property had been in Mr. Hanlon's family for approximately 60+ years. The applicant would like to set up a home for himself and have his son close to him.

Ms. Paliy opened the discussion to public input.

Mr. Joe Roddericks, 130 West Shore Drive told the Board he didn't object to granting Mr. Hanlon a variance; however, he felt Herbert Associates made a blatant mistake in labeling where Mr. Hanlon's septic was located. Ms. Paliy asked if he had any documentation. Mr. Roddericks referenced the plan submitted by Herbert Associates and pointed to where they indicated the septic was located. He commented that the area marked as the septic was actually the leach field. He then referenced the septic construction plan that showed the Hanlon's septic tank being located next to the existing house. The plan was displayed for the public to view. Mr. Gendron replied in 2013 the lot lines were slightly reconfigured, so the plan may look slightly different from the septic design. He believed Mr. Roddericks was referencing the existing septic tank, which was located close to the side of the existing cottage. He stated the plan showed the location of the septic leach field, which in his estimation was the septic system. He noted the plan didn't show the septic tank on the subdivision plan but agreed with Mr. Roddericks that it was beside the house.

Mr. Roddericks reiterated he didn't object to the variance, but wanted clarification on the drawing that labeled the leach field as the septic. He didn't know why the septic near the house wasn't labeled. Mr. Gendron replied it was all part of the same septic system; they didn't show the tank, they only showed the leach field. Mr. Roddericks questioned the validity of the survey if a leach field was mislabeled as the septic. He wondered what else might be incorrect on the plan. He also noted that the applicant would have to weave in and out of wetlands to get to the house. Mr. Kearney didn't see that it was a valid point for now. Ms. Paliy agreed.

Mr. Dave Hennessey, 71 Dutton Road told the Board he was not opposed. He commented there were a lot of wetlands on the property and abutting it. He noted that the land in between his land and the applicant's land was designated a prime wetland. He believed there should be a one hundred (100) foot setback. He felt the issue of the prime wetland needed to be settled. Mr. Hennessey stated there were a number of wetlands on the property with drainage going into Little Island Pond. He suggested that the Board invite the Conservation Commission to join them on a site walk.

Ms. Ryan wanted to know if it was legal to put a road in if the land behind Mr. Hennessey's land was designated a prime wetland and required a one hundred (100) foot setback. Mr. Hennessey replied there was a snowmobile trail and stream (created by the use of all terrain vehicles). He noted that area was not proposed for use by the applicant. He explained that West Shore Drive and Hollow Hidden Hollow Drive were both rights-of-way, but not accepted streets. He spoke of his experience as a realtor regarding mortgage and title companies relating to class VI roads because most municipalities won't maintain the roads. He stated most towns were requiring a road agreement (for maintenance/plowing) before any new construction was allowed. Most mortgage companies were insisting on seeing the road agreement indicating emergency vehicles had access. He felt at some point Pelham should require road agreements. He recalled seeing and/or reading about a one hundred (100) foot setback and didn't know if it was still required and would look to the Conservation Commission for their expertise in the matter.

Mr. Gendron didn't have an answer on the question about prime wetlands. He mentioned that Gove Environmental was their wetland scientist who had done all the wetland flagging. He would seek an answer to the question.

Mr. Kearney wanted to know the size of the new lot. Mr. Gendron replied the new lot for the proposed home would be approximately 2.5 acres, with approximately 1.5 acres of (usable dry) upland.

Mr. Hal Lynde, 114 Jeremy Hill Road was curious about the private roads that bisected the property and wanted to know if the applicant owned the roads. Mr. Gendron answered yes. Mr. Lynde understood that they were basically a private driveway.

Mr. Kearney felt the Board needed more information regarding the prime wetland and one hundred (100) buffer prior to making a decision. He also felt it would be prudent for the Board to conduct a site walk.

Mr. Kearney made a motion to conduct a site walk and advise/invite the Conservation Commission. Ms. Chubb seconded the motion.

Mr. Ouellette wanted the Board to understand the depth of snow on the site, which would make it near impossible to see the wetlands in the area. He knew the area extremely well and stated it was extremely wet in both proposed locations. Ms. Paliy also knew the area very well and agreed with Mr. Ouellette. Mr. Gendron noted that the wetlands were flagged by Gove in late November and believed they were still visible. He offered to stake the house and well locations. Ms. Chubb asked that the Board be provided with photographs of the flagged areas. Ms. Paliy asked if Google Earth would help in understanding the topography. Mr. Gendron believed the survey crew sometimes took photos when they were on site. Mr. Ouellette noted there was a motion on the table to conduct a site walk and have the Conservation Commission involved. He had a lot of questions and not enough information. He would like the applicant to map out the septic field.

For the record, Ms. Paliy stated approximately three-four years ago a company she owned removed trees from around the septic area from the property where the house currently sits and also trees on abutting properties. This was why she was familiar with the area. Mr. Ouellette believed the trees were removed from the lots across the street where existing cottages were located. Going by the map/scale, he wanted to know if the setback requirements would be met. Mr. Gendron stated the existing septic system was correct on their plan. He said the 4K areas were simply proposed areas and highlighted them on a displayed plan for the Board.

Ms. Chubb stated she wanted the Conservation Commission to review the plans and possibly have them at another meeting, so they could ask questions and provide the Board with an opinion given the sensitivity of the area. She was curious if the application would be affected if the Town or State was to do something about the roads (i.e. an agreement for maintenance aspects). Ms. Paliy wanted to know if the roads were owned by different people. Mr. Gendron explained that they were private roads. Everyone living beyond the applicant had the right (per the deed) to pass and re-pass. The width varies between approximately 18ft-20ft. He spoke to how road maintenance was performed by everyone paying in a portion of the cost. Mr. Lynde came forward and told the Board the only thing the Town did for private roads was offer snow clearing in the winter for emergency purposes, provided the individuals pay for the cost of the service. He said they were prohibited by law to spend money on private roads. The only way the Town gets involved with any of the roads was if they were brought up to Town standards.

Mr. Ouellette added that he met with the Town Administrator and told the Board that the Town wanted to get away from supporting private roads. He said the reasoning was because the Town had grown and expanded the road systems that they didn't have the personnel to maintain those roads. He knew that the association in connection with the applicant's road system stopped the Town's involvement three years ago because they couldn't afford the cost. Mr. Ouellette recalled there was an association that came in front of the Board less than a year ago (on South Shore Drive) that denied the variance request for a lot. He questioned if the applicant's association knew that a lot was being proposed. Ms. Paliy asked the applicant if there was an association. Mr. Hanlon was only aware of an association for the pond. Mr. Ouellette believed there was an association for West Shore Drive and for Little Island Pond. Ms. Chubb felt that point was relevant because it brought forward the safety factor. Mr. Gendron noted that the applicant paid in (with other properties) for the road to be plowed.

Ms. Paliy asked that the Board focus on the site walk and conservation. Mr. Gendron agreed that the Board should conduct a site walk with the Conservation Commission. He will get additional information from Gove Environmental.

MOTION: (Kearney/Chubb) To conduct a site walk and advise/invite the Conservation Commission.

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

A site walk was scheduled for January 27, 2018 beginning at 8AM. The Conservation Commission will be invited to attend.

The case was date specified for February 12, 2018.

Mr. Hennessey returned to the Board and resumed his position as Chair.

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.

Ms. Beauregard explained that the proposal was to change the By-Laws for the application submission date to be consistent with the Planning Board. Any By-law change requires two (2) public hearings.

Ms. Chubb questioned if the time frame under “Application/Appeals” that reads “*fifteen (15) days*” should be changed to “*thirty (30) days*”. Ms. Beauregard believed it should have been changed when the Board changed the timeframe for appeals. She suggested the Board consider amending that section of the By-Laws as well. Mr. Hennessey believed the Board could consider amending the section since the posted meeting indicated they would be reviewing By-Laws. Ms. Beauregard noted that State Statute required them to accept appeals within a reasonable time; the time had been set for thirty days. She believed the language was a misprint. Mr. Hennessey stated the Board would only deal with the proposal in front of them for application submissions.

Under the heading “Meetings” – numeral 5 (currently reads):

At each meeting, the Planning Department shall present to the Board all complete applications received at least fifteen (15) days before the date of the meeting.

Will be amended to read:

*At each meeting, the Planning Department shall present to the Board all complete applications received at least **twenty-one (21)** days before the date of the meeting.*

MOTION: To approve the proposed amendment to the By-Laws (application submission timeframe).

VOTE: (3-1-0) The motion carried. Ms. Paliy voted in opposition.

Ms. Paliy stated technology was getting faster and felt increasing the number of days to submit could push applications back to later months. She questioned why they would push applications out if the current fifteen-day timeframe was working. Mr. Kearney understood the point, but felt it was important for the Zoning Board to be consistent within the Town and the Planning Board. Ms. Beauregard stated that the Planning Board had twenty-one days per State Statute. She commented the additional days would also

provide the office more time. She told the Board that they had asked for Town Counsel's opinion, and were told by them that being consistent would be good.

Mr. Hennessey agreed with being consistent. There was further discussion regarding the amendment question. The Board decided to reconsider their previous vote.

MOTION: (Chubb/Paliy) To approve (by reconsideration of previous motion) the proposed amendment to the By-Laws (application submission timeframe)

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

SITE WALK – January 27, 2018 beginning at 8AM

Case #ZO2018-00001 - Map 30 Lot 11-111- HANLON, Richard A. - 124 West Shore Drive

DATE SPECIFIED CASE(S)- February 12, 2018

Case #ZO2018-00001 - Map 30 Lot 11-111- HANLON, Richard A. - 124 West Shore Drive

MINUTES REVIEW

December 11, 2017

MOTION: (Chubb/Paliy) To approve the December 11, 2017 meeting minutes as amended.

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

ADJOURNMENT

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

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

The meeting was adjourned at approximately 8:29pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary