

APPROVED

**TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
November 15, 2018**

Chairman Bill Kearney called the meeting to order at approximately 7:00 pm.

The Acting Secretary Peter McNamara called roll:

PRESENT: Bill Kearney, Peter McNamara, David Hennessey, Alternate Darlene Culbert, Planner/Zoning Administrator Jennifer Beauregard

ABSENT: Svetlana Paliy, Diane Chubb, Alternate Deb Ryan, Alternate Heather Patterson, Alternate Thomas Kenney, Alternate Lance Ouellette

PLEDGE OF ALLEGIANCE

Mr. Kearney announced there were four seated Board members present; traditionally there are five. He left the decision to the applicants whether they wanted to proceed. An approval requires a majority vote in the affirmative; a split (2-2) vote will result in a denial.

Ms. Culbert was appointed to vote.

CONTINUED HEARING(S)

Case #ZO2018-00023

Map 27 Lot 2-52

BOISSONNEAULT, Rene & Abigail - 339 Mammoth Road – Seeking a Variance concerning Articles III & VII, Sections 307-7, 307-8, 307-13 (A), 307-14, 307-13, 307-12, Table 1 & 307-39 to permit the subdivision of a 5 acre-parcel that currently has a pre-existing nonconforming business with 4 detached residential single-family buildings into 4 residential building lots with one of the lots retaining the business. Also, to permit numerous out buildings to remain with some requiring relief to lot line setbacks and wetland conservation district setbacks.

Mr. Kearney asked that the site walk minutes (of November 4, 2018) be read aloud. Mr. McNamara read the minutes aloud. Mr. Hennessey apologized for not attending the site walk.

Representing the applicant was Joseph Maynard of Benchmark Engineering. He felt the site walk was beneficial to give everyone an idea of what they were proposing to solve the non-conforming situation that had existed for a long time. As previously discussed, there are nineteen variance items requested in order to create the four lots; many are minor requests. The applicant agreed during the site walk to pull the vehicles currently within the Wetland Conservation District ('WCD'). Also, the applicant has indicated that any 'out structures' within the WCD will not be reconstructed if they fall down.

Mr. McNamara stated there were concerns voiced during their previous meeting; many of which were resolved during the site walk. He commented that most of the variances were minor in detail. He believed the plan would work with the conditions stated by Karen MacKay of the Conservation Commission. He reiterated that the site walk was beneficial because it resolved a lot of the issues he saw.

Mr. Hennessey stated he went past the property to better understand the variance request.

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

In reviewing the submission, Mr. Kearney commented that Lot A made sense; however, he had issue with the easement from Mammoth Road that went through Lot D to access Lot C. He said when it is a family situation it's easier to make a decision but looking to the future, he was concerned about the easement cutting through the middle of the property. Mr. Maynard explained that the Department of Transportation ('DOT') District 5 is the governing authority for the area; the property is only allowed three curb cuts. He said Lot C and D need some form of a shared agreement for a driveway. In order to finalize the plan with the Planning Board an easement would need to be crafted by an attorney. He said they could possibly include language that if the property was sold to a third party (not in the Boissonneault family) the driveway will be relocated to the property line. Therefore, it would allow the driveway to remain for the time being. Mr. Kearney said that would be palatable. Mr. Maynard stated they could include language in the deed and provide a 'future' driveway location on the plan that goes to the Registry.

Mr. Hennessey presumed that the Planning Board would want to review the sight lines of any proposed driveway location. It was Mr. Maynard's understanding that the existing curb cuts were approved by the DOT. He said the road was straight in that location and the sight line was good. Mr. Hennessey shared Mr. Kearney's concern about having the easement going through the center of the lot.

MOTION: (McNamara/Culbert) To take Ms. MacKay's suggestion during the site walk:
 1) any vehicles whether operational or not to be removed from the WCD, and
 2) as buildings and structures in the WCD deteriorate and/or are taken down, any replacement is to be built outside of WCD, if needed.

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

Mr. McNamara confirmed that the Board would use one voting slip for all Variance requests submitted. Mr. Kearney stated that was correct. The Board would use one voting slip for all variance requests.

BALLOT VOTE

#ZO2018-00023: Mr. Kearney – Yes to all criteria – with conditions
 Mr. McNamara – Yes to all criteria – with two conditions contained in motion.
 Mr. Hennessey – Yes to all criteria – subject to conditions.
 Ms. Culbert – Yes to all criteria – with conditions

(4-0-0) All Variances were Granted

VARIANCES GRANTED

(There is a 30-day right of appeal)

Case #ZO2018-00030

Map 14 Lot 4-135

BILLINGS, Donovan - 92 Nashua Road - Map 14 Lot 135 - Seeking a Variance concerning Article IV, Section 307-16A to permit the conversion of the existing building from residential use to be used as professional office space.

Mr. McNamara 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 Donovan Billings came forward. Mr. Kearney asked if he would like to proceed with the hearing with four seated Board members. Mr. Billings answered yes. He told the Board the Town had been wonderful to his family and he has been able to start a business in his house. He explained that he had looked within the Town for a location to grow his business but found all locations (that made sense) had been taken. He was in front of the Board to request the ability to grow his business at its present location within his home. Mr. Billings read aloud the responses to the variance criteria as submitted with his application. He noted at the time he wrote his application the land across from him was undeveloped; however, it was now in development. He told the Board his business specialized in tax consultation and compliance for small to mid-size businesses and high tech and bio-tech companies.

Mr. Kearney asked how many associates were employed with Mr. Billing's business. Mr. Billings replied there's a total of six both internal and external; they work from their homes and from the office. Mr. Kearney questioned if the business was done by telephone or face-to-face. Mr. Billings replied there were two components to the business; 1) tech/bio-tech is mostly by telephone, and 2) small/mid-size business come to the office or Mr. Billings goes to their locations.

Mr. McNamara read aloud a submitted letter (dated November 9, 2018) from Jody and Peggy Pedro (2 Holstein Drive) that questioned: 1) will zoning change for the property change the zoning for neighboring properties (specifically the newly cleared lot across the street from the applicant), 2) has a traffic impact study been done for the intersection of Nashua Road/Mammoth Road, 3) with the applicant purchasing the property with knowledge of it being residential, why change the property and impact others, 4) can the zoning change occur without allowing multiple businesses to use the facility. The abutter (Mr. & Mrs. Pedro) had no objection to the applicant operating their business without being the resident, yet they felt strongly that only one business should reside at the residential address.

Based on testimony, Mr. Hennessey understood there would be other businesses joining the applicant in the structure. Ideally, Mr. Billings stated they would offer a few attorneys the ability to operate out of the location and perhaps an insurance company. He added that it wasn't required for them to do so. He pointed out there were currently two small businesses operating from the location (DTB Tax and Donovan Thomas Billings, CPA). He asked that they allow the operation of any businesses owned by him. He explained there was an entity out of Miami (Thrive Financial) that wanted him to start offering financial services; he would be the person offering them services and wanted to add it to the request if possible. Mr. Hennessey wasn't sure how the Board would consider it; however, he felt it was important for the applicant to state his intentions. He noted that a variance ran with the land and didn't know how the Board could restrict it.

Mr. McNamara wanted to know if the application would go to the Planning Board if the Zoning Board approved the variance. Ms. Beauregard answered yes; for a minor site plan review. Mr. McNamara understood the Planning Board would have jurisdiction if different entities were to come in and request a change of the configuration for the site. Ms. Beauregard confirmed any changes of that type would need to go in front of the Planning Board.

Mr. Hennessey noted that the proposed change wouldn't affect the new lot across the street or change the nature of the neighborhood. Mr. McNamara addressed the abutter's question about having a traffic study. He said based on the applicant's testimony, a study would possibly show a negligible addition.

Mr. McNamara commented that he struggled with the hardship criteria relating to the property/land. He wanted to know why the applicant needed to go from the current situation to a full business use of the property. Mr. Billings replied without being able to have a full-business use of the property they would be forced to leave. He stated they purchased the property because it had always been in a working form. Mr. Hennessey felt the applicant cited in their responses to the variance criteria the reasons why the location was so unique/different from others in the immediate vicinity, being there was only a limited amount of use

that the corner lot could be put to. He felt it would be problematic to try to have the location be strictly residential with the proximity of the Mammoth Road intersection and Muldoon Park behind it. He felt the request met the variance criteria of being an unusual site with limited prospects.

PUBLIC INPUT

Mr. Jim Peterson of James W. Peterson Built Homes told the Board he was the builder who purchased the property across the street. He asked the Board if his property was also unique. He said he was building residential homes, but if the applicant's property was going to be allowed to be commercial, he would like the same opportunity to build a nice farmhouse that could be converted into attorney/tax offices. He stated his lot was also unique and located across the street on the same corner of Nashua Road/Mammoth Road. He currently had two single-family residential homes that could be changed over to commercial. He wanted to know why he couldn't change his property if the applicant was allowed to do so. Mr. Peterson was bothered by the applicant's property being converted to commercial and questioned if there was a guarantee that the current owner wouldn't sell the property. He felt the applicant should be happy that half the building was commercial. He had no objection to that; he purchased across the street knowing the current usage was a tax office. However, if the whole building was commercial there would be six cars parked across the street every day. He reiterated that the applicant already had a commercial property and shouldn't be rewarded with another one. Mr. Peterson reiterated his feeling the request was wrong. He currently was under contract for one of his lots across the street and was concerned with the buyer backing out if the variance was granted. He suggested if the buyer backed out, he might come in front of the Board with a request to construct a commercial building.

Mr. McNamara wanted to know the square footage currently being used for business and for residential. Mr. Billings could only approximate and believed the overall square footage was just under 3,000SF; the portion for business was roughly 1,000SF.

Mr. Kearney was concerned with changing the parcel from residential to business because as it grew it may add vehicles to the already busy area. Mr. Billings replied most meetings were directly with him; most other employees were support staff. He said there were some meetings with the head of accounting. He said at some point (possibly 4-5 years from now) there may be a need for another person like him. He discussed the nature of his business and how the employees interacted with such.

Mr. McNamara inquired what kind of uses would potentially be involved at the property were it to be approved for a variance (business use). Ms. Beauregard was unsure if the Zoning Board could specify uses; however, the Planning Board could determine uses. Therefore, if they changed the owner would have to go back to the Planning Board.

Mr. Kearney closed the public input and brought discussion back to the Board.

Mr. Hennessey felt Mr. Peterson had some points; unfortunately, he saw no way the Zoning Board could limit the commercial use of the property to what the applicant was doing. He noted that a variance ran with the land and the owner could sell it at any time. He said he 'felt' for Mr. Peterson who had invested to build two houses across the street and didn't want to see him harmed. He suggested the Board could make a recommendation to the Planning Board to add restrictions during the site plan review. Mr. Hennessey felt Mr. Billings had been a tremendous asset to Pelham.

Ms. Culbert wanted to know the size of the lot. Mr. Billings replied there was roughly 1.6 acres; half of which were wetlands. Ms. Culbert commented that the area was 'self-limiting' with how large it could grow.

Mr. McNamara stated he was conflicted with the request. Mr. Hennessey said if they were the Planning Board, they could discuss limiting the impervious surface area especially with the abutting wetlands to protect the park behind the parcel. He suggested Mr. Peterson attend the Planning Board meeting to discuss his concerns about limiting the future development of the site. He noted the property could be restricted to maintain what there currently was for signage. He believed they could restrict the size of the septic system to what it currently was.

MOTION: (Hennessey/McNamara) Approval stipulation that future signage consists of no more than what is currently on site. Also, stipulation that there be no additional non-permeable surface, in terms of parking or if a building replaces the current structure.

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

Ms. Culbert questioned if the Board should discuss lighting. Mr. McNamara replied the Planning Board would discuss lighting.

The Board reviewed the criteria.

- 1) **Public Interest:** Mr. Hennessey stated Mr. Peterson's testimony was eloquent; he had buyers across the street. He said the applicant's lot was unique with the Town's play area located behind it and contained extensive wetlands.
- 2) **Spirit of the Ordinance:** Mr. Kearney commented that the 'spirit' went hand-in-hand with the first criteria. He struggled with the fact that the Planning Board couldn't constrict the parcel to keep it in the character of residential. He felt if the building changed in any way it would take away from the character of the neighborhood. Mr. Hennessey said he wasn't forgetting the Pedro's letter and noted that their neighborhood was beautiful even though it was on a busy road.
- 3) **Substantial Justice:** Mr. McNamara believed there was evidence on both sides of this.
- 4) **Value of Surrounding Property:** Mr. Kearney didn't feel there would be any diminution of value unless the property turned into something grossly commercial. Mr. Hennessey said this point went back to the appealed case to Superior Court on Dutton Road when the Board's decision was overturned by the court. In that case he felt the traffic constrained the value much more than the driveway. He would argue the same on this case that the traffic on the Mammoth Road corner had established the value more than changing the building to commercial. Also, he felt the use and area were germane in this case; people who purchase across the street see a house and not the business. He was not sure that there wouldn't be a change in value despite the traffic.
- 5) **Hardship:** It seemed to Mr. McNamara if the current use was reasonable, more business would also be reasonable. Given the abutter's letter and Mr. Peterson's comments, Mr. Hennessey said there was a reason for the property staying residential despite the traffic.

Mr. McNamara advised the applicant they could request to postpone the case until there was a full Board to vote, or they could have the Board go forward with a vote. Mr. Billings feared if the variance was turned down it would force his business out of Town. Mr. Kearney explained for a variance to be approved the applicant would need a majority vote of three members; a vote of (2-2-0) would deny the variance. Mr. Billings stated he was okay with four members voting.

There were no additional comments.

BALLOT VOTE

#ZO2018-00030: Mr. Kearney – 1) No, 2) No, 3) Yes, 4) Yes, 5) Yes
 Mr. McNamara – 1) Yes, 2) No, 3) No, 4) No, 5) No
 Mr. Hennessey – Yes to all criteria – subject to the conditions contained in motion.
 Ms. Culbert– 1) No, 2) Yes, 3) No, 4) No, 5) No

(1-3-0) The Variance denied.

VARIANCE DENIED

(There is a 30-day right of appeal)

Case #ZO2018-00031

Map 34 Lot 1-3-1

GULBICKI, John & Lesa Breault - 17 Greeley Road - Seeking a Variance concerning Article III, Sections 307-7, 307-12 (Table I), 307-13(B) & 307-14 to permit a 2-Lot subdivision of an existing approximately 2.5 acre lot improved existing single-family home and garage. The proposal includes providing 200.4ft. of frontage for the existing home on Lot 1-3-1 and creating a new lot 1-3-2 with 56.21ft. of frontage on Greeley Road.

Mr. McNamara 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. Shayne Gendron of Herbert Associates. He described the property as being an existing 2.5 acre parcel containing an existing home that was built in the late 1980s with a detached garage and inground swimming pool. He pointed out that the house sits approximately 250ft. back (from the road) and to the right side of the lot. The applicant would like to subdivide their property and understands it is short on frontage but has the necessary acreage and area to locate a home while maintaining the required setbacks. Mr. Gendron informed the Board that the owner would like to provide an opportunity for their son to build a home on the property. The current proposal shows a common driveway; however, given that there are no sight distance issues on Greeley Road, two separate driveways could be located if the Planning Board advises such. They proposed the common drive so there would be less impact.

Mr. Gendron read aloud the responses to the variance criteria as submitted with the application.

Mr. McNamara saw that the proposed house appeared to be substantially smaller than the existing house and asked Mr. Gendron to quantify that information for the Board. Mr. Gendron replied the owner was looking to provide a living situation for their son; possibly a 3-bedroom, one-story ranch-style home. Mr. McNamara asked for the length of the proposed common driveway. Mr. Gendron replied the common portion would be approximately 60ft. He reiterated if the Board didn't like the common driveway, they could add an additional driveway without any issue of sight distance.

PUBLIC INPUT

Ms. Nancy (Cruz) Ramos came forward to speak for herself and Francisco Ramos; owners of 158 Marsh Road which they purchased in 1998. She wanted to understand the subdivision proposal to maintain her property value. She stated as the years had gone by, they noticed a lot of water coming onto their property on the driveway and into their garage. She said especially during rainy days their sump pump is coming on more often than usual causing an increased electric bill and noise. Ms. Ramos noted there was a water drainage pipe diverted into her lot that smelled like swamp water and they had noticed a lot of trees were falling. She said they thought it was natural water; however, in the past three years, and during the recent rainy months, they checked the flow and saw it appeared to be from drainage pipes directed toward their

property. When looking at pictures from 2007 she said their yard had a little bit of water, but not as much as she saw in pictures from 2018. Ms. Ramos commented they needed to prevent further pollution of the lakes, water shed and water supply. She also noted that the mosquito population had increased, which caused them to stay inside during the summer months. Two years ago, she had someone from the NH State Department spray and was informed how to monitor and reduce mosquito population. Ms. Ramos stated water needed to be able to flow away from her neighbor's property and their property to avoid them from being affected any further. During past construction water flow from a higher elevation flowed through her yard down to her neighbor's yard, which she felt was causing a decline in value even though they continued to pay high taxes. She discussed the problems that had occurred from the water currently on her lot. Ms. Ramos reiterated that the rainfall from recent months had caused the ground to be saturated and flooding to occur.

At this time, Ms. Ramos stated she and her husband understood that the proposed subdivision didn't affect her address at 158 Marsh Road; however, they were concerned with the potential of additional water flow not being managed properly. They asked that the proposal be reviewed and further investigated to understand how water flow will be handled. She also asked that the Planning Board review the matter in detail before making or approving any future proposals for additional changes to the area and lots behind Marsh Road and further, to provide a resolution to the current situation.

Mr. Kearney asked if there were any wetlands on the applicant's property. Mr. Gendron answered no; they didn't pick up any wetlands on the property. He previously asked the owner if they had any issues with water and was told they don't. He shared a photograph of the property and commented the lot was relatively flat and sloped slightly in the back. Regarding runoff, Mr. Gendron stated it was typically dealt with at the Planning Board; however, based on the current configuration of the lot he guaranteed as they went forward, they could reduce the amount of impervious surface. He added they weren't opposed to including gutters and down spouts on the proposed single-family home to put water back into the ground to re-charge. He said they often did that type of thing and had no issue doing the same in this case.

Mr. McNamara heard mention from the abutter of a drainage pipe and asked Mr. Gendron if he was aware of it. Mr. Gendron wasn't aware of a drainage pipe on the applicant's property, or anything on the property that would contribute to the description given by Ms. Ramos. He pointed out that Ms. Ramos was an abutter because of the 200ft. notification requirement; she was not a direct abutter. Mr. McNamara understood the description given by Ms. Ramos were existing conditions. Ms. Ramos stated that was correct. Mr. McNamara appreciated her issues and explained if the variance was approved the matter would then go to the Planning Board who would probably have their own engineer review the plan. He said the applicant didn't have a responsibility to correct existing conditions; however, they couldn't make it any worse. Ms. Ramos understood. She was concerned because she already had water from one side of her lot from a neighbor and didn't want to have additional water from the applicant's lot (on the other side of her parcel). Mr. McNamara reiterated if the variance was approved the Planning Board would want to ensure that the applicant's proposal wouldn't 'worsen' the (existing) problem. He urged her to attend any future meetings.

Mr. Richard Stevens, 160 Marsh Road (next to Ms. Ramos) told the Board he had the same issues brought up by Ms. Ramos. He said they had pictures from the last two years of the property getting worse and spoke about the existing conditions of his lot, driveway and house. He said the conditions were occurring from someone else clearing a large lot of land (Map 34 Lot 1-3 of 13 Greeley) and was concerned if another house was built, it would allow additional water to flow into his yard since 13 Greeley had been cleared and a 60ft.x48ft. building constructed his back yard was no good. He said the existing problem couldn't be fixed and discussed the problems from rain and snow melting. Mr. Stevens reiterated his concern about another house/driveway affecting his lot and realized the plan would go in front of the Planning Board. He ended by saying more cleared land would speed up the inevitable.

Mr. Jason Gagnon of 4 Foreman Lane came forward to speak on behalf of his father (Alfred Gagnon) of 13 Greeley Road. He told the Board when his father originally sold the land, the bank's attorney noted that the Town owned the land between Greeley Road and the stone wall in front of the applicant's property because Greeley Road had been moved when development occurred. He noted that the land had been sold by his father as a single-lot due to the frontage issue. He said if it could have been subdivided, his father would have created two lots. Mr. Gagnon spoke about the curvature of the proposed common driveway and was concerned about vehicle headlights shining into his parent's bedroom. He believed an easement would be needed for the new parcel to cross the existing parcel for an access to the common drive. He had concerns about the proposed well encroaching onto other lots. He said if the applicant was to move forward the Board should be aware that his father was granted a variance in the late 1970s for a farm museum and operation with farm animals and farm equipment. He also asked that the house size and placement be specified.

Mr. Hennessey asked for the frontage measurement of the existing lot. Mr. Gendron replied 256.61ft. Mr. Hennessey understood from the abutter (Mr. Gagnon) that the frontage measurement was taken from along the stone wall and there was no frontage along the road. Mr. Gendron replied there was no parcel between the applicant's property and the road. He said the road was in a right-of-way owned by the Town. He said if the applicant's property were to need an easement to access Greeley Road, every property along the road would need the same easement to cross the land. He told the Board that Greeley Road's right-of-way in the area of the applicant's lot was wider than it was in other places. Being an old road, Mr. Gendron said Greeley Road was probably defined by bars and stone walls on either side of it. He didn't believe there was a separate parcel of land between the applicant's parcel and Greeley Road's right-of-way. Mr. Gagnon stated in the past Greeley Road had run along the stone wall and was later moved over. Mr. Gendron noted the road was moved because of the AASHTO standards for road curvature. Mr. Hennessey confirmed that the right-of-way still consisted of the land up to the stone wall. Mr. Gendron stated that was correct; it was part of the Town's right-of-way.

Mr. McNamara addressed Mr. Gagnon's concerns and commented that a lot of what was brought up would be reviewed by the Planning Board. He noted that the Planning Board could request that the proposed house be site specific and stated they could also enact some type of requirement for 'buffering' between the proposed property and abutting neighbors. Mr. Gagnon told the Board his main concern was opening other house lots with 50ft. frontage, if the proposed lot was allowed.

Mr. Gendron responded to abutter comments. He stated the applicant wasn't looking to do anything that would impede on abutters. They had no objection to adding buffering. He had a photograph of the applicant's parcel and showed that the lot was cleared and mostly lawn. He noted that they would be reducing impervious surfaces by eliminating a driveway, an existing barn and shed. He believed they could provide the Planning Board with numbers of what they could achieve by putting in a new home and addressing runoff. He stated there wouldn't be land clearing to put in the proposed home based on the current condition of the parcel. Mr. Gendron stated the applicant wanted to continue to be a good neighbor and had no objection to shifting the placement of the proposed house and driveway.

Mr. Hennessey didn't see a hardship given the nature of Greeley Road or what made the lot unique. Mr. McNamara pointed out that the parcel contained over 2.5 acres and the proposed location of the house was back far enough to allow buffering. Mr. Hennessey noted if the Board turned the variance down there would be nothing preventing the owner from creating a duplex because they had sufficient land. Doing so may create more clearing and other alterations.

Mr. McNamara spoke about the request. He felt there was sufficient land and the proposed house location was far enough into the parcel. He didn't feel having a common driveway would be 'crippling' to a proposal. He believed the land was sufficient to support another home.

Ms. Culbert agreed that the parcel had the acreage to support a second home per Zoning.

Mr. Kearney didn't struggle with the hardship and felt there was a positive benefit (to the neighbors) regarding water runoff by having the removal of the barn and other impervious surfaces. He agreed with other members that the size of the property would support two houses.

Mr. Hennessey agreed with the proposal of a common driveway from the opening of the stone wall to Greeley Road. He said he would vote in favor of the variance because of the following:

- 1) the proposal was for a relatively small house;
- 2) each of the two lots would contain 1+ acres (1.22acres and 1.31 acres respectively);
- 3) the area was relatively dry;
- 4) surrounding neighbors (on Marsh Road) may be helped (with water flow by reducing impervious surface).

BALLOT VOTE

#ZO2018-00031: Mr. Kearney – Yes to all criteria
 Mr. McNamara – Yes to all criteria
 Mr. Hennessey – Yes to all criteria
 Ms. Culbert– Yes to all criteria

(4-0-0) The Variance was Granted

VARIANCE GRANTED

(There is a 30-day right of appeal)

Case #ZO2018-00032

Map 34 Lot 1-3-1

GULBICKI, John & Lesa Breault - 17 Greeley Road - Seeking an Equitable Waiver of Dimensional Requirements from Article III Sections 307-7 & 307-12 to permit an existing garage to remain where it is located, and to allow the continued use of the garage that does not meet the required building setback of 15ft. to the side lot line; the garage maintains 12.6ft. to the side lot line.

Given that this case was the same applicant and abutter notification as the previous case, the abutters list was not read a second time. The abutter list read aloud for Case #ZO2018-00031 was applicable. 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. Shayne Gendron of Herbert Associates represented the applicant and explained when the parcel was surveyed, they realized the existing three-car garage (located in front of the home – constructed in 2004) didn't meet the building setbacks. The homeowners had hired an engineer and had a plot plan showing the garage as being 18ft. from the property line and were surprised when Herbert Associates certified that the garage was not 18ft, but in fact 12.6ft to the property line (at its closest point). Mr. Gendron believed it was an honest mistake and pointed out it probably qualified for an equitable waiver given it had existed for more than ten years.

Mr. McNamara read aloud the criteria that must be established for an Equitable Waiver. Mr. Hennessey asked that Ms. Beauregard state if there had been any complaints regarding the property in the Town's record. Ms. Beauregard stated she hadn't seen anything in the Town's record for any violation.

Mr. McNamara asked how long the garage had been in existence. Mr. Gendron replied the garage was built in 2004. Mr. McNamara believed all the criteria had been met.

BALLOT VOTE

#ZO2018-00032:

Mr. Kearney – Yes to all criteria
Mr. McNamara – Yes to all criteria
Mr. Hennessey – Yes to all criteria
Ms. Culbert– Yes to all criteria

(4-0-0) The Equitable Waiver was Granted

EQUITABLE WAIVER GRANTED

MINUTES REVIEW

October 11, 2018

MOTION: (Hennessey/McNamara) To approve the October 11, 2018 meeting minutes as amended.

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

(Ms. Chubb submitted amendments to the Planning Department)

ADJOURNMENT

MOTION: (Hennessey/Culbert) To adjourn the meeting.

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

The meeting was adjourned at approximately 8:52pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary