

1 **APPROVED**

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3 **TOWN OF PELHAM**
4 **ZONING BOARD OF ADJUSTMENT MEETING**
5 **February 8, 2021**

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

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9 **PLEDGE OF ALLEGIANCE**

10 Secretary Matthew Hopkinson called roll:

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13 PRESENT ROLL CALL: Bill Kearney – Present
14 Dave Hennessey – Present
15 Matthew Hopkinson – Present
16 Peter McNamara – Present
17 Alternate David Wing – Present
18 Alternate Jeff Caira – Present
19 Planning/Zoning Administrator Jennifer Beauregard – Present
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21 ABSENT/NOT PARTICIPATING: Jim Bergeron
22 Alternate John Westwood
23 Alternate Karen Plumley
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25 The following notice was read aloud "A Checklist To Ensure Meetings Are Compliant With The Right-
26 to-Know Law During The State Of Emergency" (*regarding access to the meeting*)
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28 Mr. Kearney explained the Board's role and hearing procedure.
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31 **MEETING MINUTES**

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33 **January 11, 2021**

34 **MOTION:** (McNamara/Hennessey) To approve the January 11, 2021 meeting minutes as
35 amended.
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37 **VOTE:** (5-0-0) The motion carried.
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39 **Site Walk Minutes**

40 **January 23, 2021**

41 **MOTION:** (McNamara/Hennessey) To approve the January 23, 2021 site walk minutes as
42 amended.
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44 **VOTE:** (5-0-0) The motion carried.
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47 **CASE #ZO2021-00005**

48 **STACY, Kathleen – 192 Westfall Road – Map 33 Lot 1-160-8 – Seeking a Special Exception to**
49 **Article XII, Section 307-74 of the Zoning Ordinance to permit an existing Accessory Dwelling Unit**
50 **located within the basement to remain in order to come into compliance with the Town of Pelham**
51 **Zoning Regulations.**

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Mr. Kearney appointed Mr. Wing to vote in the absence of Mr. Bergeron.

Mr. Hopkinson 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.

Ms. Kathleen Stacy of 192 Westfall Road came forward to discuss the case. She informed that she currently has an in-law apartment attached to her home that her mother lives in. She stated that she is seeking an exception to permit the dwelling legally.

Mr. Kearney asked Ms. Beauregard if the applicant was in compliance with the criteria. Ms. Beauregard replied that they were. She stated that they had already installed a six-bedroom septic system and were in compliance with all other criteria.

Mr. Kearney opened the discussion up to the Public. No one from the Public came forward.

Case #ZO2021-00005

ROLL CALL VOTE: Bill Kearney – Yes
Dave Hennessey – Yes
Matthew Hopkinson – Yes
Peter McNamara – Yes
Alternate David Wing – Yes

SPECIAL EXCEPTION GRANTED

CASE#ZO2020-00006

HANNON, Charles & Debra – 46 Dutton Road – Map 35 Lot 10-357 – Seeking a Special Exception to Article XII, Section 307-74 of the Zoning Ordinance to permit the construction of a 1-bedroom Accessory Dwelling Unit attached to the existing home.

Mr. Hopkinson 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. Charles Hannon of 46 Dutton Road came forward to discuss the case. He stated that he and his wife wanted to construct a 1-bedroom Accessory Dwelling off their current home for his mother-in-law to reside in. He informed that she is 74 years of age and currently lives alone.

Mr. Kearney asked if the applicants were in compliance with the conditions to meet the Special Exception. Ms. Beauregard replied that they were in compliance. She stated that the applicant had a State-approved septic design and had already received approval from both the Fire Inspector and Building Inspector on the floor plan.

Mr. Kearney opened the discussion to the Public. No one from the Public came forward.

Mr. Kearney asked Mr. Caira to vote on this case.

Case #ZO2021-00006

ROLL CALL VOTE: Bill Kearney – Yes
Dave Hennessey – Yes

103 Matthew Hopkinson – Yes
104 Peter McNamara – Yes
105 Alternate Jeff Caira – Yes
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107 **SPECIAL EXCEPTION GRANTED**
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110 **CASE #ZO2021-00004**

111 **KOSIK, Thomas & KOSIK, Walter – 16 Webster Avenue – Map 23 Lots 8-15 – Seeking a Variance**
112 **to Article II, Section 307-6-10 & Article III, Section 307-7, 307-12, Table 1, 307-13,B,1 & 307-14 of**
113 **Zoning Ordinance to permit a 3-Lot Subdivision of an existing 18.7-acre lot resulting in 15.0',**
114 **15.42', & 24.3' of frontage for the new lots which would front on Webster Avenue. An 18' wide**
115 **private driveway is being proposed to provide access to the lots from Webster Avenue.**
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117 Mr. Hopkinson read the list of abutters aloud. There were no persons present who asserted standing in the
118 case, who did not have their name read, or who had difficulty with notification.
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120 Mr. Kearney appointed Mr. Wing to vote on this case.
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122 Mr. Shane Gendron of Edward N. Herbert Associates, Inc. came forward to represent the applicants. He
123 explained that 16 Webster Ave. had been in the Kosik family for more than 40 years. He informed that
124 the parcel was 18.7 acres in size with only 54.7 feet of frontage. He stated that the property originally
125 belonged to Mr. Walter Kosik, the Town's previous Plumbing Inspector. He informed that the applicants
126 wanted to subdivide the property into three lots to go to Walter and Thomas's kids. The three-building lots
127 would be 11.4 acres in size with 15.42 feet of frontage, 1 acre in size with 15 feet of frontage, and 6.2
128 acres in size with 24.3 feet of frontage. Mr. Gendron explained that the applicants were trying to split the
129 frontage up relatively equally. The plan would be to have a private driveway shared between the three lots
130 to give access to the properties. He stated that the only setback on the property that required a variance
131 was the frontage. All other parts of the lot conformed to current Zoning Regulations. He did not believe
132 that three houses warranted building a Town road, which is why he was coming to the Zoning Board. Mr.
133 Gendron then read aloud the responses to the five criteria as submitted with the application.
134

135 Mr. Kearney asked if Mr. Gendron could explain the configuration of the proposed driveway. Mr.
136 Gendron explained that the driveway doesn't necessarily sit in the frontages. He stated that they
137 subdivided the lot so that they would all have some frontage for each lot. The driveway is going to be a
138 shared driveway laid out over those three lots. It would be set up so that each lot would have deeded right
139 and shared costs of maintaining the driveway. Mr. Gendron knew that there would be specific requests
140 from the Fire Department and Planning Department with the driveway, but that would come later in the
141 planning process.
142

143 Mr. Hennessey pointed out that Mr. Walter Kosik has also been the Chair of the Zoning Board for many
144 years, in addition to being the Town's Plumbing Inspector. He stated that he had many fond memories of
145 Walter from over the years. Mr. Hennessey informed that he was concerned about multi-family homes
146 being built on these lots. He asked if they could make a stipulation that only single-family homes be built.
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148 **MOTION:** (Hennessey/McNamara) To only allow single-family lots to be built on the
149 subdivided lots.
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151 **VOTE:** (5-0-0) The motion carried.
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153 Mr. McNamara asked how long the driveway would be. Mr. Gendron replied that the driveway would be
154 about 855 feet to the farthest house. He stated that he was aware that there would be some issues from the
155 Fire Department wanting a turnaround for any trucks that would need to go there. He informed that the
156 property was not steep and had a gradual slope from Webster Ave.

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158 Mr. McNamara wanted to echo what Mr. Hennessey said about Mr. Walter Kosik. Walter was the
159 Chairman when Mr. McNamara joined the Board. He informed that he had many fond memories of
160 Walter. He stated that some of his concerns with the plan were alleviated by the stipulation put forth by
161 Mr. Hennessey. He stated that he had some problems with the driveway's length; as it is a very long
162 driveway, there is the possibility of blocked access. Mr. McNamara stated that they could build a road to
163 the back lot and recognized the added cost.

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165 Mr. Gendron stated he was unsure of the rest of the 11.4-acre lot's building potential, as the back of the lot
166 was impacted by wetlands. Mr. McNamara asked how much wetland was on the parcel. Mr. Gendron
167 replied that he was unsure of how much there was but knew that over 6.5 acres of upland were usable.
168 They did not go behind the flagging that was done as those 6.5 acres satisfied what the owners wanted to
169 do with the lot. He felt that a road would be challenging to complete.

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171 Mr. Kearney asked if the driveway went over any of the wetlands. Mr. Gendron responded that there was
172 no wetland impact in the proposal. However, there was some WWPD impact that they would need to
173 work with Planning and Conservation on.

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175 Mr. Wing asked if wetlands entirely surrounded the house on the 6-acre property. Mr. Gendron replied
176 that the line he was most likely looking at was the WCD line that is a 50-foot buffer from the wetlands.
177 He stated that there is dryness all the way from Webster Ave. to the properties. The wetlands are to the
178 north and northwest of the lot, not near the proposed houses.

179

180 Mr. Kearney stated that as there is a fair amount of wetland on the property, he expects them to keep the
181 WCD very well marked during development. Mr. Gendron responded that they would and that the
182 Planning Board usually requires them to show the markers on the plan before development starts.

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184 Mr. Wing asked if there was a rock wall in the southern area of the plan. Mr. Gendron replied that there
185 was an interior stone rock wall shown on the plan.

186

187 Mr. Kearney opened the discussion to the Public.

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189 Ms. Linda Rouleau of 10 and 12 Webster Ave. came forward to speak in favor of the plan. She stated that
190 she was very curious about what would be taking place in her backyard. She informed that she is a very
191 outdoorsy person and spends much time in her backyard, and very much enjoys the privacy she has there.
192 She stated she was also worried about preserving the rock wall that is on the lot. Ms. Rouleau noted that
193 after looking at the plan, she was not concerned about being affected by the building at all. She believed
194 that she would still be able to enjoy the privacy that she has.

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196 Mr. Kearney closed the discussion to the Public, as no one else came forward.

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198 Mr. Hopkinson stated that he had many concerns with this plan, including concerns of emergency vehicle
199 access to the properties. He stated that they were not dealing with a variance that was short 10 feet on
200 road frontage, but a variance that was short 550 feet. He believed it would break up the homogeneity of the
201 community and set a bad precedent moving forward. He stated that when looking at the hardship, they
202 need to consider if the hardship is on the land itself or on someone's wallet. Mr. Hopkinson noted that
203 they need to keep the spirit of the ordinance in mind when they go to vote. His opinion was that the spirit

204 of the ordinance would dictate a road be put in, not an 855-foot driveway on the 17-foot worth of frontage
205 for each house.

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207 Mr. Hennessey stated that he agreed with Mr. Hopkinson's concerns. He noted that there is no guarantee
208 that these lots will stay within the same family. He informed that the cost of putting a road in at this time
209 is at a historic high. He believed that if a road were to be put in, it would open the door to building many
210 more houses. Mr. Hennessey stated that they have the opportunity to keep the neighborhood relatively
211 similar to as it is now, sparsely populated, with lots of space in the back. He would prefer to keep the area
212 to a lower density and let Planning work out the engineering with the applicants for that driveway. He
213 stated that it is a balancing act and was not disputing Mr. Hopkinson's reservations.

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215 Mr. Hopkinson understood that the cost of building a road was high but did not believe it should be of
216 concern to the Zoning Board. He stated that he also did not think it would be a bad idea to develop the
217 area eventually if they put a road in. He knows that many people in Pelham want to keep the Town rural.
218 However, as the Town borders Massachusetts, it will continue to grow in time regardless.

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220 Mr. Wing stated that this was his second or third time seeing a property come before the Board asking for
221 a variance on frontage. He informed that in his brief history with the Board, they have been approved as
222 opposed to seeking the addition of a road. He stated that he agreed with Mr. Hennessey that putting a road
223 in could increase the area's density by five or six houses.

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225 Mr. McNamara asked Mr. Hennessey if he was suggesting that the hardship was the cost of the road. Mr.
226 Hennessey replied that he had not thought of it but could see the cost being associated with the hardship.
227 He believed that it was a balancing act for any applicant as they considered the highest and best use of the
228 property. He stated that they now had testimony from Mr. Gendron that this is the highest and best use of
229 this property. Mr. Hennessey noted that this would also be better for the Town, as opposed to putting a
230 road in for an additional five or six houses. Mr. McNamara stated that he asked the question because he
231 agreed with a lot of what Mr. Hopkinson stated. He noted that he was having trouble seeing the cost of
232 putting a road in satisfying the hardship. Mr. Kearney stated that the hardship needed to be on the
233 physical property. He stated that the cost of putting a road in had very little relevance to what they were
234 going to decide on. He saw the hardship as the lot already being nonconforming, which would meet the
235 hardship criteria.

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237 Mr. Hopkinson stated that if someone wanted to build one house on the lot with only 54.7 feet of
238 frontage, that would be one thing. He thought that putting multiple dwellings on the lot raises issues and
239 sets a bad precedent in general. He stated that if they are already increasing the area's density, then a road
240 should go in instead of a driveway.

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242 Mr. Wing stated that he favored the stipulation that Mr. Hennessey made on the lots.

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245 **Case #ZO2021-00004**
246 **ROLL CALL VOTE:** Bill Kearney – Yes to all criteria; with motion as stipulated; final vote YES
247 Dave Hennessey – Yes to all criteria; with motion as stipulated; final vote
248 YES
249 Matthew Hopkinson – Four Yes's, one No; final vote NO
250 Peter McNamara – Four No's, one Yes; final vote NO
251 Alternate David Wing – Yes to all criteria; with motion as stipulated; final
252 vote YES

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254 (3-0-2) The motion carried.

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VARIANCE GRANTED.

Mr. Kearney explained that there was a 30 day right to appeal.

ADJOURNMENT

MOTION: (Hopkinson/Hennessey) to adjourn the meeting.

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

The meeting was adjourned at approximately 7:51 pm.

Respectfully submitted,
Jordyn M. Isabelle
Recording Secretary