

MINUTES
PEMBROKE ZONING BOARD OF ADJUSTMENT
April 29, 2019 Approved May 28, 2019

MEMBERS PRESENT: Bruce Kudrick, Chair; Tom Hebert, Vice Chair; Dana Carlucci, Natalie Glisson

ALTERNATES PRESENT: Robert Bourque, Blakely Minor III

EXCUSED: Paul Paradis

STAFF PRESENT: Dana Pendergast, Code Enforcement Officer; Susan Gifford, Recording Secretary

The clerk took the roll call and six members were present.

Chairman Kudrick called the meeting to order at 7:00 p.m. Chairman Kudrick stated that the meeting was being recorded and is available to watch on the Town website.

Case #19-02-Z

Applicant: Jerred Rounds
 626 Buck Street
 Pembroke, NH 03275

Property Owner(s): Jerred and Jennifer Rounds
 626 Buck Street
 Pembroke NH 03275

Property Address: 626 Buck Street
 Pembroke, NH 03275
 Tax Map 939 Lot 9 in the R3 Zoning District.

Case 19-02-Z A request has been made for a **Variance under Article IV Use Regulations, Section 143-19 Table of Use Regulations Residential #3 Multifamily dwelling**. The applicant, Jerred Rounds, of 626 Buck Street Pembroke NH 03275, is requesting a **Variance** to construct a third separate living unit on Lot 939-9. Multi-family homes are not permitted in the R3 zone. The property is located at 626 Buck Street, in the R3 zoning district and is owned by Jerred and Jennifer Rounds of 626 Buck Street.

Chairman Kudrick opened the public hearing at 7:02 p.m. Robert Bourque was designated as a voting member on Case 19-02-Z. Chairman Kudrick explained the rules of the hearing. Anyone who wishes to speak will give their name, address and interest in the case. All questions are directed to me, the Chair.

The clerk read the case description and the list of abutters. The applicant was not present currently.

MOTION: BOB BOURQUE MOVED TO PUT CASE 19-02-Z TO THE END OF TONIGHT'S AGENDA TO ALLOW THE APPLICANT TIME TO ARRIVE. SECONDED BY DANA CARLUCCI. UNANIMOUSLY APPROVED.

At the end of the April 29, 2017 meeting, the applicant was still not present. The Zoning Board of Adjustment noted that there may be unknown circumstances that prevented attendance,

MOTION: BOB BOURQUE MOVED TO CONTINUE CASE 19-02-Z TO TUESDAY, MAY 28, 2019 AND REQUEST THAT THE CODE ENFORCEMENT OFFICER CONTACT THE APPLICANT. SECONDED BY DANA CARLUCCI. UNANIMOUSLY APPROVED.

Chairman Kudrick stated that the original abutters for this application would not be renoticed. The public hearing on Case #19-02-Z was continued to TUESDAY May 28, 2019. All interested parties are

encouraged to check the Town website or call the Zoning Department to get information pertaining to future meetings and locations.

Case #19-03-Z

Applicant: Jillian Masterson
130 Hooker Farm Road
Salem NH 03079

Property Owner(s): Cole Family Trust
900 Jimeno Road
Santa Barbara, CA 93103

Property Address: 354 Pembroke Street
Pembroke, NH 03275
Tax Map 565 Lot 55 in the R1 Zoning District.

Case 19-03-Z A request has been made for a **Variance under Article IV Use Regulations, Section 143-19 Table of Use Regulations Agricultural #5 Commercial Stable**. The applicant, Jillian Masterson, 130 Hooker Farm Road, Salem, NH 03079 is requesting a **Variance** to construct a Commercial Stable on Lot 565-55. This is not a permitted use in the R1 zone. The property is located at 354 Pembroke Street in the R1 zoning district and is owned by the Cole Family Trust, 900 Jimeno Road, Santa Barbara CA 93103.

Chairman Kudrick opened the public hearing at 7:07 p.m. Robert Bourque was designated as a voting member on Case 19-03-Z. Chairman Kudrick explained the rules of the hearing. Anyone who wishes to speak will give their name, address and interest in the case. All questions are directed to me, the Chair.

The clerk read the case description and the list of abutters. The clerk read an email dated April 24, 2019 from Jillian Masterson to Dana Pendergast, Code Enforcement Officer, which stated they will not move forward with the application and wished to withdraw at this time. Chairman Kudrick closed the public hearing at 7:09 p.m.

MOTION: BOB BOURQUE MOVED TO ACCEPT THE LETTER OF WITHDRAWAL FROM THE APPLICANT REGARDING CASE 19-03-Z. SECONDED BY DANA CARLUCCI. UNANIMOUSLY APPROVED.

Case #19-04-Z

Applicant: Mark Dumas
318 Beacon Hill Road
Pembroke, NH 03275

Property Owner(s): Dumas Family Revocable Trust
318 Beacon Hill Road
Pembroke, NH 03275

Property Address: 318 Beacon Hill Road
Pembroke, NH 03275
Tax Map 563 Lot 115-4 in the R3 Zoning District.

Case 19-04-Z A request has been made for a **Variance under Article IV Use Regulations, Section 143-21 Table of Dimensional and Density Regulations**. The applicant, Mark Dumas of 318 Beacon Hill Road,

Pembroke NH 03275, is requesting a **Variance** to construct a garage and breezeway twenty (23') feet from the side lot line where thirty (30') feet is required. The property is located at 318 Beacon Hill Road, in the R3 zoning district and is owned by Dumas Family Revocable Trust, 318 Beacon Hill Road, Pembroke NH 03275.

Chairman Kudrick opened the public hearing at 7:10 p.m. Chairman Kudrick explained the rules of the hearing. Anyone who wishes to speak will give their name, address and interest in the case. All questions are directed to me, the Chair. The clerk read the case description and the list of abutters.

Assessing card, tax map, color photographs of the property and list of abutters were included in the agenda packet.

Mark Dumas addressed the Variance criteria:

Please give a detailed description of your proposal below:

I am looking to build an attached breezeway/garage on the northeast side of the house (to the right of the house from the road vantage point). The breezeway will be six feet (6'), the garage twenty-four feet (24'), for a total of thirty feet from the house. I am adding an additional three feet (3') of construction buffer to this project for a total of thirty-three feet (33') for the construction zone. The garage will be 30 feet deep. Depth is not an issue with my property.

My neighbor Mr. Rollins is the most directly impacted by the proposed garage. A living fence and landscape makeover will be done, partly because of drainage issues that occurred after work on Beacon Hill Road. The distance from the proposed garage to the nearest residence is well over 100'. Mr. Rollins property is wooded and goes up an incline. The closest structure to the proposed garage is a shed and free-standing screen gazebo.

The property line is approximately fifty-three (53') from the house. There is a thirty-foot (30') buffer requirement for this property (R3 Zoning District), meaning this proposal would put the project ten feet (10') into the buffer zone, leaving a twenty-foot (20') buffer to the property line. I seek a variance for seven feet (7'), thus adjusting my northeast property line buffer to twenty feet (20').

1. **The variance will not be contrary to the public interest.** My intent is to financially invest in my property and enhance the value, use and aesthetic characteristics. The proposed project would put this property more in line with other single-family, two car garage homes in the neighborhood. No part of the project is designed to have a negative impact on the public, my neighbors, or the community. In fact, the project will add non-impacting tax revenue to the community.
2. **The spirit of the ordinance is observed.** The spirit of the ordinance is observed because a minimum twenty-foot (20') buffer still exists. Portions of that buffer combine with a similar elevating wooden buffer of my neighbor to the north east side. In addition, the neighboring property has two large permanent sheds on elevated land that block most of his view to my property. The neighboring house structure is also closer to its northeast property border adding additional space between residences.
3. **Substantial justice is done.** This proposal presents practical difficulties and burdens with zoning that only a dimensional variance can overcome. Allowance of this variance request will provide substantial justice.
4. **The values of surrounding properties are not diminished.** The garage and breezeway will architecturally compliment the pre-existing colonial style house. The final product will be traditional New England style. There are no abnormal or radical designs planned for this project.

The added value and aesthetic to the property will more closely match the numerous single family, two story residential homes in the neighborhood.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

A. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property; and:

ii. The proposed use is a reasonable one.

B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to make a reasonable use of it.

Literal enforcement will prevent the proposed project. For example, scale back of the proposal to only a two car, twenty-four foot (24') garage would still require a variance by one foot. In addition, the side entrance to the house would be lost for visitors. Construction of a smaller garage would not accommodate the pre-existing vehicles and defeat the purpose. A variance is necessary for reasonable use.

The proposed project brings the property value up for the neighborhood and more closely aesthetically aligns the property to those of other single-family two story, two vehicle residential homes in the neighborhood. This proposal is reasonable, customary and consistent with other properties in the community.

Catherine Goff, 654 Thompson Road, spoke in favor of the application.

In response to Board questions, Mr. Dumas stated that he put up the stakes shown in the photographs based on town records showing 53' from his house to the property line.

Dana Carlucci summarized the case. This is **Case 19-04-Z** a request for a **Variance under Article IV Use Regulations, Section 143-21 Table of Dimensional and Density Regulations**. The applicant, Mark Dumas of 318 Beacon Hill Road, Pembroke NH 03275, is requesting a **Variance** to construct a garage and breezeway twenty (23') feet from the side lot line where thirty (30') feet is required. Mark Dumas would like to add a 6' breezeway and a 24' garage. Mr. Dumas read the variance criteria. Visual impact would be minimal. A 20' wooded buffer would still exist. A living fence would be added. Ms. Goff spoke in favor of the application. The distance from the proposed garage to the neighbor's house would be approximately 100'. Town records show 53' from the current house to the property line.

There being no further comment, Chairman Kudrick closed the public hearing at 7:25 p.m.

Deliberations: ZBA members discussed the Variance criteria.

1. The variance will not be contrary to the public interest. Agree, the requested variance would only go 7 feet into the 30-foot setback.
2. The spirit of the ordinance is observed. Agree, there would be no negative impact on the neighborhood.
3. Substantial justice is done. Agree, it would be a burden if the applicant could not put his vehicle under cover.

4. Property values are not diminished. Agreed, no evidence presented that this proposal would diminish property values.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Agree, the proposal is like structures on other properties in the area.

MOTION: Bob Bourque moved to approve **Case 19-04-Z**, a request for a **Variance under Article IV Use Regulations, Section 143-21 Table of Dimensional and Density Regulations**. The applicant, Mark Dumas of 318 Beacon Hill Road, Pembroke NH 03275, is requesting a **Variance** to construct a garage and breezeway twenty (23') feet from the side lot line where thirty (30') feet is required. The property is located at 318 Beacon Hill Road, in the R3 zoning district and is owned by Dumas Family Revocable Trust, 318 Beacon Hill Road, Pembroke NH 03275.

Approval is subject to the following conditions:

1. Applicant will follow all state and local regulations.

Dana Carlucci seconded.

VOTE: BOB - YES TOM - YES BRUCE - YES
DANA- YES NATALIE - YES

MOTION TO APPROVE VARIANCE WITH CONDITIONS PASSED ON A 5-0 VOTE

CORRESPONDENCE – none

MINUTES OF PREVIOUS MEETINGS

MOTION: Bob Bourque moved to approve the minutes of February 25, 2019 as amended. Dana Carlucci seconded.

VOTE: BOB - YES TOM - YES BRUCE - ABSTAIN
DANA- YES NATALIE - YES

MINUTES OF FEBRUARY 25, 2019 APPROVED AS AMENDED ON A 4-1-0 VOTE.

OLD BUSINESS -none

NEW BUSINESS – **Election of Officers** – Election of Officers will be on the May 28, 2019 agenda.

NEXT MEETING

Date of next ZBA meeting – Chairman Kudrick noted the next ZBA meeting would be on **TUESDAY, May 28, 2019 at 7:00 p.m.**

ADJOURN **Motion:** Bob Bourque moved to adjourn. Dana Carlucci seconded. Vote was unanimous in favor of motion. Meeting adjourned at 7:35 p.m.

Respectfully submitted,
Susan P. Gifford
Recording Secretary