

MINUTES
PEMBROKE ZONING BOARD OF ADJUSTMENT
May 28, 2019 Approved June 24, 2019

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

ALTERNATES PRESENT: Robert Bourque

EXCUSED: Blakely Minor III

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. Five regular Zoning Board of Adjustment members and one alternate member are present. Chairman Kudrick reversed the order of the two public hearings scheduled for May 28, 2019.

Case #19-05-Z

Applicant:	Continental Paving, Inc One Continental Drive Londonderry NH 03053
Property Owner(s):	Continental Paving, Inc One Continental Drive Londonderry NH 03053
Property Address:	773-793 North Pembroke Road Pembroke, NH 03275 Tax Map 559 Lot 6 in the C1 Zoning District.

Case 19-05-Z A request has been made for a **Variance under Article IV Use Regulations, Section 143-21 Table of Dimensional and Density I Maximum Height**. The applicant, Continental Paving, Inc. of 1 Continental Drive, Londonderry NH 03053 is requesting a **Variance** to construct 4 holding tanks fifty (50) feet in height and 4 silo tanks at ninety-five (95) feet in height where thirty-five (35) feet is permitted. The property is located at 773-793 North Pembroke Road in the C1 Zoning District and is owned by Continental Paving, Inc. of 1 Continental Drive, Londonderry NH 03053.

Chairman Kudrick opened the public hearing at 7:01 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.

Assessing cards, Site Overview, Conceptual Asphalt Plant Plan, and Typical Storage Silos plans prepared by Nobis Engineering; along with a copy of a Special Exception #09-18-Z approved September 28, 2009 and list of abutters were included in the agenda packet.

The clerk read the case description and the list of abutters. The clerk read an email dated May 24, 2019 from Morgan Hollis, Esq , Gottsman & Hollis PA, 39 Pearl Street, Nashua NH to Dana Pendergast, Code Enforcement Officer, representing the applicant. Continental Paving, Inc. is having conversations with the City of Concord NH on well head concerns and wishes to continue this hearing until next month's ZBA meeting.

MOTION: TOM HEBERT MOVED TO CONTINUE CASE 19-05-Z TO MONDAY, JUNE 24, 2019 AS REQUESTED BY 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 #19-05-Z was continued to Monday, June 24, 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 #19-02-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 7:05 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.

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

The clerk read the case description and the list of abutters. The clerk read a letter dated April 23, 2019 from abutter Catherine Goff, 654 Thompson Street, Pembroke NH indicating that she and her husband Eric Goff are opposed to the proposed Variance because the property already has back lot rentals, and due to safety concerns whether fire rescue equipment can reach all the cottages using the driveway access.

Jerred Rounds addressed the Variance criteria:

Please give a detailed description of your proposal below:

I would like to add a small, single wide manufactured home to my property as a residence for my retired parents. My parents spend the winters in Florida, and we would like them to live on our property the rest of the year.

1. **The variance will not be contrary to the public interest.** I do not believe this would be contrary to the public interest as the driveway access is already in place, the manufactured home would not be within sight of a public road and would not generate a substantial increase of traffic. Also, as I have owned the property for two years, I have made significant upgrades to the buildings and have

obtained building permits for every project. I have a track record of completing projects correctly and by code.

2. **The spirit of the ordinance is observed.** I believe the spirit of the ordinance is being observed as the addition of the manufactured home will not add congestion to traffic, will be located in an area that it won't be overcrowded, it is not a use or structure that is not common to the area and will not be a detriment to the character of the area. In particular, it will not be visible,
3. **Substantial justice is done.** I do not believe this is a request the would benefit the public in any way by being denied and would deeply benefit my family to utilize a property that has the space, access and provisions to allow an additional dwelling that meets the spirit of the Town Ordinance structure.
4. **The values of surrounding properties are not diminished.** The value of the surrounding properties would not be diminished by my requested addition as the home would not be visible from the street and the residents would be of retirement age and would not present or act in any disruptive way. In addition, my property is kept very well and as I continues to improve my property it will only enhance neighboring properties.
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 uses 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.

I do not believe there is any relationship between the general public and my request. I do also believe that my request is a reasonable one.

Chairman Kudrick asked how many buildings are currently on the property. Jerred Rounds stated that the original farmhouse was added onto twice, creating three rental units. There is also a standalone cottage which is a rental. There is a 10' x 12' shed in dilapidated condition, which will be torn down. An 18' x 36' barn is attached to the house. A goat barn is located at the top of the hill.

Dana Carlucci asked how many rental units are on the property. Jerred Rounds stated there are 4 rental units and my wife and I live in one of the units. The property is on town water. Jerrod Rounds stated that he was required to put in a new septic system that is sized for 10-11 bedrooms when he purchased the property. The leach field is large enough to accommodate an additional manufactured home on the site

In response to questions on the driveway, Jerred Rounds stated that the driveway is paved to a certain point approximately 2/3 of the way up and then turns to gravel up to the 2 bedroom cottage. Each tenant has a parking area and a driveway.

Joann Forde, 623 Buck Street, said that Jerred Rounds has done a great job on improvements to the property. However, she is concerned that once his parents pass away, the manufactured home could become a rental unit to others. Joann stated she has lived across the street from sexual offenders who

rented on the property in the past. She suggested that since the Rounds have three rental units, his parents could live in one of the rental units.

Ron Ran, 623 Buck Street, states he feels the same as Joann Forde.

Jerred Rounds stated that he understands the concerns and has no intention of adding another rental unit with the manufactured home. Jerred Rounds stated he would agree to any stipulations that he be required to remove the manufactured home off the pad after the death of his parents. He would likely replace it with a workshop.

Dana Carlucci asked when the property became a multi family unit with 3 and over (up to six) units. Dana Pendergast researched the property folder and found references to two-family home, three units in the house building and a separate standalone cottage. It is difficult to trace the timeline. In 1984 a carport was built. In 1987, a permit was issued for a 20' x 28' addition to the house. A new 20' x 20' utility shed was added in 1987. In 1988, Mr. Gay refers to a five-unit building, a deck on the addition and work on electrical wiring. Maybe the third unit predates changes in the zoning ordinance. Jerred Rounds stated that the third unit was built in 1987.

The tax cards show 3 units in the main house and 626B as a standalone cottage to the right of the house. So, it would be a four-family multi family property. Three or more units, up to six, is multi family. Bob Bourque stated that if a variance for a manufactured home were approved, that structure would be a fifth living unit. The tax cards show unit A, B, C, and D as standalone. The septic is designed for 11 bedrooms. Jerred Rounds stated that Unit A has 3 bedrooms, Unit B has 3 bedrooms, Unit C has 2 bedrooms and Unit D has one bedroom. The manufactured home would have one bedroom. Natalie Glisson pointed out it says a proposed 2-bedroom mobile home on the map.

The Zoning Board of Adjustment discussed that a variance goes with the land. If the Board could make it a condition that the manufactured home be removed from the slab once Mr. Rounds' parents pass, who would enforce the condition. How could the unit be prevented from becoming a rental unit in the future? As Joann Forde suggested, there is an option for Mr. Rounds' parents to live in one of the existing rental units. Mr. Rounds stated that he would happily accept any conditions the ZBA would make regarding the proposed manufactured home. He understands the concerns and perspective of the board and abutters.

Dana Carlucci summarized the case. This is **Case 19-02-Z A** request 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 add a manufactured home as a 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. The applicant read the variance criteria. There are currently four units on this property. A letter from an abutter, Ms. Goff, was read into the record. She and her husband are opposed to this proposal. The property has town water. The septic system would need to be verified by the Code Enforcement Office. A suggestion by an abutter was to have the owner's parents occupy one of the rental units. The septic system will accommodate 11 bedrooms. The manufactured home would have one bedroom. Jerred Rounds stated that the driveway is large enough to accommodate fire safety equipment.

There being no further input, the public hearing was closed at 7:40 p.m.

Deliberations: Chairman Kudrick would like to suggest a continuance of Board deliberations to next month's meeting to obtain additional information including but not limited to:

1. A town legal opinion on whether the Zoning Board of Adjustment can place a condition that a manufactured home be removed once the owner's parents pass.
2. Verification of the date the property changed from two-family to 3+ multi-family.
3. Input on traffic and safety from Public Works and Police, particularly at the crest of the hill.
4. Confirmation from the Fire Department that the driveway is adequate to support fire and life safety equipment, and whether, as required since 1992, structures located more than 200 feet off the road must be sprinklered.
5. Input from water department, if residential sprinkler system is necessary, on adequate water line or does the owner need to upsize the water line.
6. Confirmation that the septic system is correctly sized for number of bedrooms.

MOTION: PAUL PARADIS MOVED TO CONTINUE DELIBERATIONS ON CASE 19-02-Z TO MONDAY, JUNE 24, 2019 TO OBTAIN ADDITIONAL INFORMATION AS OUTLINED ABOVE. SECONDED BY DANA CARLUCCI. UNANIMOUSLY APPROVED.

Chairman Kudrick stated that the original abutters for this application would NOT be renoticed. Board deliberations on Case #19-02-Z have been continued to Monday, June 24, 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.

CORRESPONDENCE – none

MINUTES OF PREVIOUS MEETINGS

MOTION: Dana Carlucci moved to approve the minutes of April 29, 2019 as amended. Paul Paradis seconded.

VOTE: PAUL - YES TOM – YES BRUCE – YES
DANA- YES NATALIE - YES

MINUTES OF APRIL 29, 2019 APPROVED AS AMENDED ON A 5-0 VOTE.

OLD BUSINESS -none

NEW BUSINESS – Election of Officers

MOTION: Dana Carlucci nominated Bruce Kudrick as Chair and Tom Hebert as Vice Chair of the Zoning Board of Adjustment for the coming year.

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

ELECTION OF BRUCE KUDRICK, CHAIR AND TOM HEBERT, VICE CHAIR, WAS APPROVED UNANIMOUSLY.

NEXT MEETING

Date of next ZBA meeting – Chairman Kudrick noted the next ZBA meeting would be on **Monday, June 24, 2019 at 7:00 p.m.**

ADJOURN **Motion:** Natalie Glisson moved to adjourn. Dana Carlucci seconded. Vote was unanimous in favor of motion. Meeting adjourned at 7:51p.m.

Respectfully submitted,
Susan P. Gifford
Recording Secretary