

**ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
January 27, 2020**

**Approved February 24, 2020**

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

**ALTERNATES PRESENT:** Robert Bourque, Blakely Miner III

**EXCUSED:**

**STAFF PRESENT:** Dana Pendergast, Code Enforcement Officer; Susan Gifford, Recording Secretary  
The clerk took the roll call and seven members were present.

Chairman Kudrick called the meeting to order at 7:00 p.m. Chairman Kudrick stated that the meeting is recorded and is available to watch on the Town website. Five regular Zoning Board of Adjustment members and two alternate members are present.

**Case #18-04-Z**

Applicant:	Gallo Realty Group 34 Rundlett Hill Road, Suite 4 Bedford, NH 03110-5824
Property Owner(s):	Potential Properties Corp. 34 Rundlett Hill Road, Suite 4 Bedford, NH 03110-5824.
Property Address:	109 Wilkens Avenue Pembroke, NH 03275 Tax Map 266, Lot 117 in the R-1 Medium Density-Residential, B-1 Business / Residential and the AC Aquifer Conversation Zoning Districts

**Case 18-04-Z Continued from August 27, 2018** A request has been made for a **Special Exception under Article IV Use Regulations, § 143-19 Table of Use Regulations #3**. The applicant, Gallo Reality Group, 34 Rundlett Hill Road Suite 4, Bedford NH 03110-5824 is requesting a **Special Exception** to construct 2,6 unit townhouses. A **Special Exception** is required under **§ 143-19 Table of Use Regulations #3** in the R-1 and B-1 Zoning Districts. The property is owned by Potential Properties Corp. 34 Rundlett Hill Road Suite 4, Bedford NH 03110-5824. The property is located at 109 Wilkins Avenue, Map 266 lot 117 in the R-1 Medium Density-Residential, B-1 Business / Residential and the AC Aquifer conservation zoning Districts.

Agent: Matt Peterson, Development Consultant, Hillside Design Group, LLC; 746 DW Highway, Unit B; Merrimack, NH 03054

**Present:** Matt Peterson, Agent; Mike Gallo, owner

Chairman Kudrick opened the public hearing at 7:01 pm.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments are directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider the approval.

The Secretary read the following letters into the minutes:

1. Memo from Paulette Malo of the Pembroke Sewer Commission dated December 10, 2019 regarding 109 Wilkins Avenue. At a Sewer Commission meeting it was noted that conditional approval for Wilkins Avenue should include:
  - a. Property owners will have an approved sewer main extension from the Sewer Commission, and
  - b. All costs associated with this sewer main extension will be borne by the property owner.
2. Memo from Chris Addington Secretary of the Pembroke Public Works, dated December 10, 2019 regarding Wilkins Avenue subdivision stating that Town Engineer will have to do a storm water plan because this is in an MS4 area.
3. Memo from Matt Gagne of the Pembroke Water Works, dated December 10, 2019, regarding availability of water at Wilkins Avenue. Applicant will need to make some upgrades to connect to water.

Matt Peterson noted that the Pembroke/Allentown sewer allocation issue has not been resolved. The applicant has not done site plan application to Planning Board yet. If the Special Exception is conditionally approved, the applicant would move forward with grading and sewer design. Note #6 states the project will be serviced by town sewer and water. Matt noted that it may be beneficial for the developer to get involved with the Sewer Commission and contact an attorney. Approval was given for two lots in 2014.

Matt Peterson stated that approval of a Special Exception would increase the number of units from 6 to 12 in two buildings. Multi family is allowed in this area with town water and sewer. The applicant is not asking for a variance. Landscaping and lighting will be addressed at site plan review. Traffic study based on ITA trip generation manuals project 5.28 trips between 7 and 9am and 2.4 trips between 4-6 pm peak hours. As long as water and sewer allocation is received, there will be adequate water and sewer. The applicant requests that the Zoning Board of Adjustment condition a Special Exception approval on water and sewer availability, and the applicant may need to hire an attorney to help with sewer allocation.

Mr. Peterson reviewed the application criteria presented on March 26, 2018:

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** The applicant believes that this request to permit 12 townhouses via a special exception which is allowed for this district, would be a desirable use considering that the Town of Pembroke allows this use in the current zone. Also based on current inventory in Town, the applicant believes that this type of use is needed in Town and as such would be essential to the public convenience or general welfare.
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** As stated above, the applicant believes that because this use is allowed via a special exception would suggest that the project will not impair the integrity or character of the district or adjoining zones. The applicant believes that the project will not have any detrimental effect to health, morals or general welfare based on the type of use the applicant is proposing.
3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** As stated above and in future comments the applicant is asking for a special exception to allow a use that is allowed in the district via the special exception which we feel makes this site an appropriate location for the proposed use. Also, the site has access to Town water and Town sewer which the applicant also feels makes this site an appropriate location too.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** In the past construction of a new building in an allowed zoning has not affected the surrounding property values and in fact in most cases has raised the surrounding values due to the new construction and new landscaping around a new development. See existing enclosed pictures.

5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** The applicant believes that this project Will NOT (no) have any undue traffic nuisances or unreasonable hazards due to a proposed 12-unit development. The anticipated morning rush hour and evening rush hour numbers are expected to be around 5.28 trips in the morning between 7 and 9 a.m. and 6.24 trips in the evening peak hours between 4 and 6 p.m., which the applicant does not believe would create a traffic nuisance. As for unreasonable hazard the applicant believes that by having Town Water and Sewer we have eliminated a potential underground hazard as well.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** If the Zoning Board of Adjustment grants this special exception the project will then begin the site permitting process at which time the proposed development will meet the Towns development requirements for construction. This development will have adequate power, water supply, sewer, access to and from the parcel, and all development facilities associated with a 12-unit townhouse development.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** The applicant is not aware of any valid objections to this project at the current time. The project will be accessed via a current Town roadway and it will be serviced by Town water and sewer, so no impact to ground water via a well or septic. The project will comply with required buffer setbacks and will leave the majority of the parcel in open space, see conceptual layout.
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** If the Zoning Board of Adjustment grants this special exception the project will be serviced via Town Water and Town Sewer.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** If the Zoning Board of Adjustment grants this special exception for 12 townhouse units the project will be serviced via Town Water and Sewer.

George Wing, 166 Buck Street, stated he was new to this process and had concerns about an application based on contacting a lawyer. He has traffic and safety concerns because he has a young family. The traffic numbers don't make mathematical sense because most households have two vehicles. Mr. Wing reported that the wooded area behind his lot was taken down with no notice to him. That clearing negatively affects my lot's property value.

Shana Myers, 166 Buck Street shared safety concerns and concern about extra drainage to the bottom of Buck Street due to the trees that were cut.

Leanne Lavoie, 123 Smith Avenue, stated she also had a completely open area cleared behind her house. The clearing went up a ledge and she is concerned about blasting impact on her foundation. Matt Peterson indicated a bump out location on the plan, and stated no blasting will occur. Matt Peterson stated he is an engineer, and he had nothing to do with the tree clearing. If his firm is hired to do a site review, they are required to do a pre and post analysis going back 10 years when the trees were in place. Matt Peterson stated that trees collect 25% of rainwater. The applicant would be willing to put traffic calming measures in the plan for safety concerns. If the ZBA requires more engineering information, the applicant would ask for 30 days continuance. Screening, buffers and drainage are all addressed at Planning Board.

Natalie Glisson summarized Case #18-04-Z, a request for a **Special Exception under Article IV Use Regulations, § 143-19 Table of Use Regulations #3**. Applicant is Gallo Realty Group. The clerk read three letters from sewer, water and public works into the record. Matt Peterson is representing Gallo Realty Group. Matt spoke to designs but stated understanding that a Special Exception would need to be granted. Matt Peterson read the Special Exception criteria. George King, abutter, raised concerns about length of process if lawyers got involved. He also expressed concerns about local traffic increase due to having young children. He

also had concerns about property values being affected due to changes in the neighborhood. George King is not in favor of the project. Shana Myers spoke about extra drainage due to trees being cut down. Leanne Lavoie also experienced drainage issues. Leanne Lavoie is concerned about blasting during construction and how it might affect her foundation. Matt Peterson spoke to not continuing up Smith Avenue with construction. Matt Peterson also spoke to not knowing about the tree cutting, and he would like to address abutter concerns if the Special Exception is approved. Chairman Kudrick added comments about the long-standing disagreement between Allenstown and Pembroke Sewer Commissions. Allenstown owns the treatment plant.

There being no further comments, Chairman Kudrick closed the public hearing at 7:28 p.m.

Chairman Kudrick stated that a Special Exception request must meet all criteria. Bob Bourque stated that according to the table, by granting a Special Exception the applicant would be allowed a single 6-unit dwelling not two buildings. The table specifies a dwelling unit not to exceed six units. Chairman Kudrick noted that the application is for a Special Exception for two dwelling units, each with 6 units. Bob Bourque stated that a variance would be needed for a second dwelling unit. The table specifies a Special Exception is needed for one 6-dwelling townhouse. Chairman Kudrick noted the board needs to work with the information we have. Natalie Glisson asked if the Special Exception could be denied due to it being the wrong application for the request. Tom Hebert recommended that the Zoning Board of Adjustment get legal clarification on whether one dwelling is allowed by Special Exception. Two buildings have more impact.

Dana Carlucci stated that zoning ordinance allows three units maximum per lot in this zoning district, and a Special Exception is needed for more units. The application is still going to need a Special Exception and the ZBA can only allow up to six units per property. Natalie Glisson stated that if a Special Exception is granted, the ZBA needs to be very specific as to what is allowed. Chairman Kudrick stated that water is available, but sewer is not available at this time. Dana Carlucci asked if the Special Exception were for two 6-unit dwellings, could the Planning Board determine what would fit on that particular lot. Natalie Glisson stated so many factors are involved. Dana Carlucci stated that the ZBA could conditionally approve a Special Exception based on the applicant getting sewer allocation. Bob Bourque stated that the Board needs to speak to Legal Counsel on the issue of whether more than one dwelling unit per lot can be granted in a Special Exception.

Chairman Kudrick stated that, in his memory, the Zoning Board of Adjustment has never done conditional approval in the past. Chairman Kudrick agreed that the board should check with Legal Counsel before moving forward.

**MOTION: BOB BOURQUE MOVED TO CONTINUE CASE 18-04-Z TO MONDAY, FEBRUARY 24, 2020 TO OBTAIN LEGAL RESPONSE ON MATTER. SECONDED BY DANA CARLUCCI. UNANIMOUSLY APPROVED.**

Chairman Kudrick stated that abutters will not be renotified. Interested parties are encouraged to check the Town website or call the Zoning Department to get information pertaining to future meetings and locations.

Natalie Glisson recused herself as an abutter to Case #20-01-Z. Chairman Kudrick designated Blakely Miner to vote on Case #20-01-Z.

**Case #20-01-Z**

Applicant: Brian and Kristin Doyle  
213 Center Road  
Pembroke, NH 03275

Property Owner(s): Brian and Kristin Doyle  
213 Center Road

Pembroke, NH 03275

Property Address: 213 Center Road  
Pembroke, NH 03275  
Tax Map 563-90-3 in the R-1 Zoning District.

Present: Brian and Kristin Doyle, and Kristin's parents Scott and Lisa

**Case 20-01-Z** A request has been made for a **Variance under Article IV Section 143-18.1.A**. The applicant, Brian & Kristin Doyle of 213 Center Rd. Pembroke NH 03275 is requesting a **Variance** to construct a 930 sq. ft. Accessory Dwelling Unit (ADU) on lot 563-90-3. 750 sq. ft. ADUs are permitted in the R1 Zone. The property is located at 213 Center Rd. in the R-1 Zoning District and is owned by Brian & Kristin Doyle of 213 Center Rd.

The clerk read the case description and the list of abutters.

Chairman Kudrick opened the public hearing at 7:40 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, sketch of second floor space and list of abutters were included in the agenda packet.

Kristin Doyle stated she and Brian are the new owners of 213 Center Road. They have lived in Pembroke 15 years and have three young children. Kristin is a teacher at Pembroke Academy. Kristin explained that her mother experienced right side paralysis from a stroke and is now in a wheelchair. Kristin and Brian wish to create an accessory dwelling unit for Kristin's parents, Scott and Lisa. Scott is a carpenter extraordinaire. A handicapped accessible bathroom and a wheelchair lift is need in the unit. After a meeting with the plumber, Kristin stated that some of the rooms had to be redesigned due to steel I-beams under the house. The same footprint is used but the rooms were moved around. Licensed plumbers and electricians will be used for the project. An ADU of 930 square feet is requested to accommodate the larger bathroom and wheelchair lift.

Kristin Doyle addressed the Variance criteria:

**Please give a detailed description of your proposal below:**

We have lived in Pembroke since 2005 and thoroughly enjoy living in this community. Our children go to Hill School and Kristin has been a Social Studies teacher at Pembroke Academy since 2013. Kristin's mom suffered a massive hemorrhagic stroke in February of 2019. After eight months she was able to return to the family home in Raymond NH. At that time, we decided it would be best to have Kristin's parents move in with us. The current home we owned on Pembroke Street had a very small lot and was difficult to add on. This past summer we looked at homes for sale and found this Center Road property with its entire second floor unfinished. This would allow us to create a private, yet still connected space for Kristin's parents, while also giving us some room to expand our living space to the second floor as well.

To obtain a variance to create an Accessory Dwelling Unit (ADU) that is 930 square feet where 750 square feet is required by zoning. Kristin's mother is wheelchair-bound, and therefore, we need to install a wheelchair lift in the home so she can access her second floor living space. With the help of Kristin's carpenter father, we have designed a space that we believe will allow the best ease of use with a wheelchair. For a woman with extremely limited mobility, a larger bathroom is required, taking up considerably more space than a traditional in-law apartment bathroom.

1.

2. **The variance will not be contrary to the public interest.** This variance would not threaten the neighborhood's character, general safety or welfare, and will not bring down neighboring property

value. We are not changing the footprint of the home with this Accessory Dwelling Unit (ADU) and this ADU should not affect our neighbors in any negative way.

3. **The spirit of the ordinance is observed.** The spirit of the ordinance is observed because the ADU will not negatively affect the health, safety and general welfare of the community. The ADU would only add one additional vehicle to our home so it should not add congestion to our street.
4. **Substantial justice is done.** This variance will not harm the general public. It will not have any significant adverse impact on any neighbor. This request for a variance is not inconsistent with other ADU's in Pembroke.
5. **The values of surrounding properties are not diminished.** This variance will allow our family to finish additional square footage of living space on our second floor that is currently unfinished. If we do this, our property value will increase which will not result in a reduction in property value to our surrounding neighbors.
6. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**
  1. **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.**

The way the home is constructed, and the way the I-beams run, makes it difficult to properly place the wheelchair lift in an area that will allow safe egress but also remain within 750 square feet per town ADU requirements. Since there will be a resident living in this space that is wheelchair – bound, we need enough space for her to be able to move with ease among the rooms.

2. **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.**

The real estate would be restricted with its use preventing a more positive environment with the neighborhood.

Ayn Whytmare-Donovan, 439 Pembroke Street, stated that Kristin is a great teacher and likes my dogs. Ayn had an ADU in her home as well. It is a great tool to expand the number of people living in an existing house. The town regulations specify accessory dwelling units are not to exceed 750 square feet. State law requires that accessory dwelling units be a minimum of 750 square feet.

Bob Bourque noted that the new State regulations came out just before town meeting. In order to make a change for town meeting that year, the ZBA set the ADU size requirement at 750 square feet. To change that, the Zoning Board of Adjustment would have to ask the Planning Board to review the ordinance and propose an amendment to the zoning ordinance. It is too late for the process to happen this year, with required notice and public hearing. Dana Carlucci noted that a request for an Accessory Dwelling Unit of any square footage comes before ZBA.

Natalie Glisson, 205 Center Road, stated that ADU's keeps young people in Pembroke and allows them to care for older family members. Barbara Nobrega, 208 Center Road, is in favor of the request.

Bob Bourque asked if parking was off street. Kristin Doyle stated that the driveway is 512 feet and provides plenty of off street parking.

Blakely Miner summarized the case. This is **Case 20-01-Z**, a request for a **Variance under Article IV Section 143-18.1.A**. The applicant, Brian & Kristin Doyle of 213 Center Rd. Pembroke NH 03275 is requesting a **Variance** to construct a 930 sq. ft. ADU on lot 563-90-3. 750 sq. ft. ADUs are permitted in the R1 Zone. The property is located at 213 Center Rd. in the R-1 Zoning District. Kristin Doyle addressed the variance criteria. Kristin Doyle is a teacher and her children attend Pembroke schools. Kristin and Brian would like to create an accessory dwelling unit that is 930 square feet. The town regulations specify accessory dwelling units are not to exceed 750 square feet. Their family has medical woes and need a larger handicapped accessible bathroom and wheelchair lift in the ADU. The footprint of the proposed ADU is the same but the rooms are changed around from the original plan submitted. The unit will add one vehicle to the home. There is enthusiastic support from abutters. The difference between town ADU regulation and State law were brought up. Bob Bourque explained why the town regulations were that way. Parking is located off road on a long driveway.

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 8:00 p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

**Deliberations:** ZBA members discussed the Variance criteria.

1. The variance will not be contrary to the public interest. Chairman Kudrick stated it will let family help out with older family member care.
2. The spirit of the ordinance is observed. Tom Hebert stated that ADU's are encouraged and State law supports them.
3. Substantial justice is done. Keeps young families in Pembroke and allows care of family members.
4. Property values are not diminished.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. This is a non-issue.

**MOTION:** Tom Hebert moved to approve is **Case 20-01-Z**, a request having been presented to the Board for a **Variance under Article IV Section 143-18.1.A**. having been presented to the Board. The applicant, Brian & Kristin Doyle of 213 Center Rd. Pembroke NH to construct a 930 sq. ft. ADU on lot 563-90-3. 750 sq. ft. ADUs are permitted in the R1 zone.

Approval is subject to the following conditions:

1. Applicant will follow all state and local regulations.

Dana Carlucci seconded.

**Discussion:** Dana Carlucci noted that in the past, the Zoning Board of Adjustment has set a condition on ADU's that one unit be owner occupied. Motion to add condition #2 regarding owner occupancy. Accepted by Tom Hebert.

**AMENDED MOTION:** Tom Hebert moved to approve is **Case 20-01-Z**, a request having been presented to the Board for a **Variance under Article IV Section 143-18.1.A**. The applicant, Brian & Kristin Doyle of 213 Center Rd. Pembroke NH 03275 is requesting a **Variance** to construct a 930 sq. ft. ADU on lot 563-90-3. ADUs are permitted in the R1 zone by Special Exception.

Approval is subject to the following conditions:

1. Applicant will follow all state and local regulations.
2. One of the two units will be owner occupied.

Dana Carlucci seconded.

**VOTE:**            PAUL - YES            TOM - YES            BRUCE - YES

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

Natalie Glisson recused herself as an abutter to Case #20-02-Z. Chairman Kudrick designated Blakely Miner to vote on Case #20-02-Z.

**Case #20-02-Z**

Applicant:	Brian and Kristin Doyle 213 Center Road Pembroke, NH 03275
Property Owner(s):	Brian and Kristin Doyle 213 Center Road Pembroke, NH 03275
Property Address:	213 Center Road Pembroke, NH 03275 Tax Map 563-90-3 in the R-1 Zoning District.

**Case 20-02-Z** A request has been made for a **Special Exception under Article IV Use Regulations, § 143-18.1**. The applicant, Brian & Kristin Doyle of 213 Center Rd. Pembroke NH 03275 is requesting a **Special Exception** to construct an ADU on Lot 563-90-3. ADUs are permitted in the R1 Zone by Special Exception. The property is located at 213 Center Rd. in the R-1 Zoning District and is owned by Brian & Kristin Doyle of 213 Center Rd.

Assessing cards, sketch of second floor space and list of abutters were included in the agenda packet. The abutters are the same as the previous hearing.

Chairman Kudrick opened the public hearing at 8:10 p.m.

Chairman Kudrick stated the rules of the hearing: (1) Applicant will present its case; (2) Those in favor of the application will speak; (3) Those opposed will speak; (4) Rebuttal by the applicant and those in favor of the application will speak; (5) Rebuttal by those in opposition to the application will speak. All people wishing to speak must give their name, address, and interest in the case. All questions and comments will be directed to the Chairman. The Board will base their decisions on facts presented by the applicant. If any of the presented facts are found to be different than what was presented, the Board reserves the right to reconsider the approval.

Kristin Doyle stated that the property is 7 plus acres and no abutters are in line of sight from the home. They do not intend to rent the unit. The accessory dwelling unit will be served by well water, public sewer and shared utilities. There will be no footprint change or changes to the exterior of the house,

Kristin addressed the Special Exception criteria:

**Please give a detailed description of your proposal below:**

We have lived in Pembroke since 2005 and thoroughly enjoy living in this community. Our children go to Hill School and Kristin has been a Social Studies teacher at Pembroke Academy since 2013. Kristin's mom suffered a massive hemorrhagic stroke in February of 2019. After eight months she was able to return to the family home in Raymond NH. At that time, we decided it would be best to have Kristin's parents move in with us. The current home we owned on Pembroke Street had a very small lot and was difficult to add on. This past summer we looked at homes for sale and found this Center Road property with its entire second floor unfinished. This would allow us to create a private, yet still connected space for Kristin's parents, while also giving us some room to expand our living space to the second floor as well.



Kristin's mother is wheelchair-bound, and therefore, we need to install a wheelchair lift in the home so she can access her second floor living space. With the help of Kristin's carpenter father, we have designed a space that we believe will allow the best ease of use with a wheelchair. For a woman with extremely limited mobility, a larger bathroom is required, taking up considerably more space than a traditional in-law apartment bathroom. In order to be as handicapped –accessible as possible, we are asking for a special exception to create an ADU that is 930 square feet.

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** The special exception is essential and desirable to the general welfare of our family. It will not negatively impact those around us.
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** Our home is up on a hill, on 7+ acres of land, with no neighbors within the limit of sight. We are not altering the footprint of the exterior of the home with our ADU request. Therefore, our ADU special exception should have no negative impact on the integrity of character of this residential zone. We are not looking to rent this ADU out. The unit will be used exclusively by our parents and we will be sharing utilities as required.
3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** This site is appropriate for the reasons listed above. We are not adding square footage to the home that does not already exist. Since we do not have neighbors that are within the line of sight of our home, granting this special exception for the ASU should not affect any members of the public adversely.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** There is no factual evidence that property value will be adversely affected by this use.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** No undue traffic, nuisance or unreasonable hazard will result from our proposed use. There will only be one additional vehicle associated with the ADU. Having this ADU will not be a nuisance to our neighbors and will not wreak hazard to any of our neighbors. The ADU will only affect the interior of our home.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** As required, this ADU will share all of our utilities.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** See abutters list. No valid objections were heard.
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** The application to connect to municipal sewer system was submitted to Pembroke Sewer Commission on January 6, 2020.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** N/A. This is not for multi-family dwelling.

Ayn Whytmare-Donovan, 439 Pembroke Street, stated that Kristin is a great teacher and she likes my dogs. Ayn had an ADU in her home as well. It is a great tool to expand the number of people living in an existing house. The town regulations specify accessory dwelling units are not to exceed 750 square feet. State law requires that accessory dwelling units be a minimum of 750 square feet.

Bob Bourque noted that the new State regulations came out just before town meeting. In order to make an ordinance change for town meeting that year, the ZBA set the ADU size requirement at 750 square feet. To change that, the Zoning Board of Adjustment would have to ask the Planning Board to review the ordinance and

propose an amendment to the zoning ordinance. It is too late for the process to happen this year, with required notice and public hearing. Dana Carlucci noted that a request for an Accessory Dwelling Unit of any square footage comes before ZBA.

Natalie Glisson, 205 Center Road, stated that ADU's keeps young people in Pembroke and allows them to care for older family members. Barbara Nobrega, 208 Center Road, is in favor of the request.

Blakely Miner summarized **Case 20-02-Z**, a request for a **Special Exception under Article IV Use Regulations, § 143-18.1**. The applicant, Brian & Kristin Doyle of 213 Center Rd. Pembroke NH 03275 is requesting a **Special Exception** to construct an ADU on Lot 563-90-3. ADUs are permitted in the R1 Zone by Special Exception. Kristin Doyle addressed the Special Exception criteria. The property is 7 plus acres and no abutters are in line of sight from the home. They do not intend to rent the unit. The accessory dwelling unit will be served by well water, public sewer and shared utilities. There will be no footprint change or changes to the exterior of the house,

Chairman Kudrick announced that the Board will decide all cases within 30 days. Notice of decision will be posted for public inspection within 5 business days of the decision and will be sent to the applicant. This hearing is officially closed at 8:12 p.m. The Board will approve, deny or continue the deliberation. No comments will be taken from the audience.

**Deliberations.** Dana Pendergast noted that the requirements for an Accessory Dwelling Unit 143-48 is on page 34-35 of the zoning book. The Board discussed the nine criteria for a Special Exception:

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** Chairman Kudrick said that an ADU allows family to take care of older family members. Dana Carlucci agrees.
2. **Please state how the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or general welfare.** Dana Carlucci stated that there are no neighbors in line of sight from the home.
3. **Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** Tom Hebert said that it is allowed by the ordinance in all districts. All changes are inside the house.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** Chairman Kudrick said that there is no factual evidence that the property value will be affected by such use. From outside of the building, nothing will change and it will be additional taxable property.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** Chairman Kudrick said that, at the most, there will be one other car.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** Chairman Kudrick said that the unit will have well water, town sewer and shared utilities.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** Chairman Kudrick noted that no one objected to the application.
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** Chairman Kudrick said that well water and town sewer are provided.
9. **If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system.** Chairman Kudrick said that it is not a multi-family unit. It is a single-family house with a use that is approved by the Town.

**MOTION:** Tom Hebert moved to approve **Case 20-02-Z**, a request having been presented to the board for a **Special Exception under Article IV Use Regulations, § 143-18.1**. The applicant, Brian & Kristin Doyle of 213 Center Rd. Pembroke NH 03275 is requesting a **Special Exception** to construct an ADU on Lot 563-90-3. ADUs are permitted in the R1 Zone by Special Exception.

Approval is subject to the following conditions:

1. Applicant will follow all state and local regulations.
2. One of the two units will be owner occupied.

Dana Carlucci seconded.

**VOTE:**            PAUL - YES            TOM - YES            BRUCE - YES  
                     DANA- YES            BLAKELY - YES

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

Natalie Glisson returned to the Zoning Board of Adjustment.

### **MINUTES OF PREVIOUS MEETINGS**

**MOTION:** Tom Hebert moved to approve the minutes of November 25, 2019 as amended. Dana Carlucci seconded.

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

MINUTES OF NOVEMBER 25, 2019 APPROVED AS AMENDED ON A 5-0 VOTE.

### **OTHER BUSINESS /CORRESPONDENCE –**

**Limit on continuances** – At a prior meeting the Board asked Dana Pendergast to check with town legal counsel on how long a case may be continued. Attorney Laura Morgan-Spector responded that there is no statutory limit on how long a case may be continued. However, most towns have a procedure that after three continuances, the town renotifies abutters by regular mail. This keeps abutters in the loop. After the renotification, a board can hear the case and approve with conditions, or deny the case.

**Review of Zoning Board of Adjustment rules dated 8-28-2017** – Dana Pendergast asked all members to review the rules and bring any suggestions to a future work session.

**OLD BUSINESS** – Chairman Kudrick reported there has been no update on the sign case for over two years.

### **NEW BUSINESS –**

**State ADU v Town ADU requirements** – Dana Pendergast reported that State ADU regulations do not allow dimensional limits to ADU and specify ADU cannot be limited to less than 750 square feet. To expedite adoption of the State ADU regulations, Town of Pembroke took the state minimum of 750 square feet. An ADU also cannot exceed 40% of the house area. If the board is considering a proposed amendment change for next year's town meeting, Dana Pendergast cautioned that ADU regulations should not border on Duplex regulations. Duplexes have frontage and lot area requirements. An ADU is secondary to the main structure. Per the Table of Uses, all ADU requests come to town ZBA for a Special Exception. If the applicant meets the criteria they can have an ADU by right. Dana Pendergast noted a Variance is decided on a case by case basis. Dana Carlucci stated that the ZBA has good oversight over ADU's.

**Open space development** - Bob Bourque noted that under the notes for table 143-19, #8 open space development has no lot lines. It would come to Planning Board as a Major Subdivision. Open space development has informal lot lines. Open space proposals have to give up 50% of lot acreage for conservation.

**Primary Use** - Dana Carlucci discussed table 143-19 Detached Dwelling Unit. Only one primary residence is permitted per lot. An applicant is proposing two, 6-unit buildings which would be apartments. In the case of condominiums there is common land belonging to all owners.

**NEXT MEETING**

**Date of next ZBA meeting** – Chairman Kudrick noted the next ZBA meeting would be on **Monday, February 24, 2020 at 7:00 p.m.**

**ADJOURN** **Motion:** Tom Hebert moved to adjourn. Dana Carlucci seconded. Vote was unanimous in favor of motion. Meeting adjourned at 8:37 p.m.

Respectfully submitted,  
Susan P. Gifford  
Recording Secretary