

**MINUTES**  
**PEMBROKE ZONING BOARD OF ADJUSTMENT**  
**May 29, 2018**                      **Approved 6-25-2018**

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

**ALTERNATES PRESENT:** Robin Lounsbury, Robert Bourque, Natalie Glisson

**EXCUSED:** Richard Frederickson

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

Chairman Kudrick called the meeting to order at 7:00 p.m.

**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** A request has been made for a **Special Exception** under **Article IV Use Regulations, §143-19 Table of Use Regulations #3**. The applicant, Gallo Realty 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 Wilkens Avenue, Map (266) Lot (117) in the R-1 Medium Density-Residential, B-1 Business / Residential and the AC Aquifer Conversation Zoning Districts.

Present: Matt Peterson of Hillside Design, LLC, Merrimack NH

Chairman Kudrick stated that the Board has four regular members and Alternate Member Bourque will vote on Case 18-04-Z making a five member board. Chairman Kudrick opened the hearing at 7:02 pm. This is a continued hearing from March 26, 2018.

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.

The Secretary read the following letters into the minutes:

1. Memo from Paulette Malo of the Pembroke Sewer Commission, dated May 22, 2018 to Dan Pendergast regarding 109 Wilkens Avenue.

Matthew Peterson met with the Sewer Commission on May 21, 2018. There is a manhole located near the property. At this time the Sewer Commission cannot grant this project any capacity until such time as the Supreme Court makes a decision on the lawsuit between Allenstown and Pembroke.

Chairman Kudrick said that because this project does not currently have sewer capacity, the ZBA would not be able to approve a Special Exception. Because a Supreme Court decision is pending, Mr. Peterson stated he would like to continue the case until such time that the decision may be made. The applicant agreed to continue the case for 30 days and reevaluate an extension of continuance in June 2018.

Dana Carlucci summarized the case. This is **Case 18-04-Z**, a request for a **Special Exception** under **Article IV Use Regulations**, §143-19 **Table of Use Regulations #3**. The applicant, Gallo Realty Group, 34 Rundlett Hill Road Suite 4, Bedford, NH 03110-5824 is requesting a **Special Exception** to construct (2) 6 unit townhouses on Wilkens Avenue. A **Special Exception** is required under §143-19 **Table of Use Regulations #3** in the R-1 and B-1 Zoning Districts. Applicant does not have sewer for this project at this time. Applicant asked if Zoning Board of Adjustment could put conditions on a project. The Chairman explained that we would have to vote on the project as presented. The applicant agreed to continue the case until June 25, 2018.

**MOTION: BOB BOURQUE MOVED TO CONTINUE CASE 18-04-Z TO MONDAY, JUNE 25, 2018 IN ORDER TO ALLOW THE APPLICANT TO WAIT FOR SUPREME COURT DECISION AND ENSURE THAT ADEQUATE SEWER CAPACITY IS AVAILABLE. 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 #18-04-Z was continued to June 25, 2018. 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 #18-07-Z**

Applicant: PACE Career Academy  
65 Pinewood Drive  
Allenstown, NH 03275

Property Owner(s): Riverwood Drive LLC  
28 Plumb Island Drive  
Newbury, MA 01951

Property Address: 716-718 Riverwood Drive  
Pembroke, NH 03275  
Tax Map 632, Lot 18-4 in the C1 (Commercial/Light Industrial) and the AC (Aquifer Conservation) Zoning District.

**Case 18-07-Z**, a request has been made for a **Variance under Article IV Use Regulations section 143-19 Table of Uses Community Facilities #2**. The applicant, Pace Career Academy, 65 Pinewood Road, Allenstown, NH 03275 proposes to move a Charter School into 716-718 Riverwood Drive, Map 632, Lot

18-4 in the C1 (Commercial/Light Industrial) and the AC (Aquifer Conservation ) zoning district. The property is owned by Riverwood Drive LLS, 28 Plumb Island Drive, Newbury, MA 01951

Chairman Kudrick opened the public hearing at 7:06 p.m. There were 4 regular members and 3 alternate members present. Natalie Glisson was designated to vote on Case 18-07-Z, therefore, there was a full five-member board present for this hearing.

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.

A notarized letter dated April 16, 2018, signed by David Cowie, Manager, Riverwood Drive, LLC, was provide to authorize Pace Career Academy to seek a variance or other permits it may need to use a portion of the property as a school. A Site Layout plan prepared by TFM for N.E. Tool & Equipment, Inc., Salem NH dated December 23, 2004; and a Site and Floor Plan for the area to be leased were included in the agenda packet.

Gene Calvano, PACE Board Member, addressed the Variance criteria:

Please give a detailed description of your proposal below:

PACE Career Academy is a school district sponsored Charter High School with a maximum of 50 students, 25 in the morning and 25 in the afternoon. It has been in existence for 7 years and recently had its charter renewed by the NH Department of Education. PACE Career Academy would like to lease 6,000 of 14, 000 total square feet in a building that would be ADA compliant. PACE would have 4 classrooms. Four parking spaces are need for each classroom (16) and eight parking spaces would be needed for the other 8,000 square feet of warehouse which will be rented to another tenant for a total of 24 parking spaces. There are 29 parking spaces on the site. All traffic will be routed one way around the building. There is a charter elementary school across the street and their drop off and pick up schedule is very different from PACE Career Academy. A lease is pending with Riverwood Drive LLC. Financial aid is coming from NH Health Education Facilities.

1. **The variance will not be contrary to the public interest.** The variance would not alter the essential character of the neighborhood. No exterior changes to the building are planned. An existing charter elementary school whose drop off and pick up hours differ from PACE is located across the street. The variance would not threaten the public health, safety or welfare.
2. **The spirit of the ordinance is observed.** See number one above.
3. **Substantial justice is done.** The proposed use is consistent with the present use in the surrounding area and should not have an adverse effect on individual neighbors.
4. **The values of surrounding properties are not diminished.** No changes to the exterior are being made and proposed use should not change the value of the surrounding properties.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

- i. **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 because:**
- ii. **The proposed use is reasonable.**

PACE has search for ADA accessible space of 6,000 square feet or greater and there are none in the area. 716-718 Riverwood Drive is the only property available in the last three years that meets our needs and the Department of Education requirements.

**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.**

The secretary read a letter from Paulette Malo dated May 22, 2018 into the record. The Sewer Commission is unsure of current capacity allocated to the building and doesn't know if it is sufficient. The Sewer Commission needs information on the number of students and staff and projected daily flow. Mr. Peterson stated that the two bathrooms will be expanded to include ADA stalls.

Chairman Kudrick suggested that the applicant go to the Water department and get information on flow used in the past several years, going back to when the building was occupied. Figures for current usage at the PACE Career Academy location must be available as well.

Chairman Kudrick stated that the applicant also need an Aquifer Conservation District special overlay permit, per page 103 of regulations, that requires input from Conservation Commission, Planning Department and Health Officer. Applicant must contact these boards for input. Chairman Kudrick also noted the section 143-68 exempts single family and duplex use from having to apply for a special permit. Bob Bourque noted that at Planning Board, discussion took place and the consensus was that a special permit is needed in the Aquifer Conservation Overlay District even if nothing is being done and there are no outside changes at all.

Chairman Kudrick stated that there is new Planning Department staff and new Code Enforcement Officer. We are all trying to make sure everything needed is done correctly.

Chairman Kudrick detailed what additional information the applicant needs from various town departments. This case will be continued. In summary, the applicant needs to:

- Go to Pembroke Water Works and get total gallonage of water used the last several years at the property when the building was occupied. Provide that information to the Sewer Commission who can use that to determine sewer usage. Hooksett Wastewater has a formula that can be used, but actual numbers would be better.
- Obtain letters from Conservation Commission, Health Officer and Town Planner on the Aquifer Protection special exception for overly district.

Dana Carlucci summarized the case. This is **Case 18-07-Z**, a request for a **Variance under Article IV Use Regulations section 143-19 Table of Uses Community Facilities #2**. The applicant, Pace Career Academy, 65 Pinewood Road, Allentown, NH 03275 proposes to move a Charter School into 716-718 Riverwood Dr, Map 632, Lot 18-4 in the C1 (Commercial/Light Industrial) and the AC (Aquifer Conservation ) zoning district. Pace Career Academy proposes to move a charter school into a C1 area. PACE has a lease pending, Department of Education input; however the Sewer Commission is unsure if it

has capacity for this use. The five criteria for a Variance were addressed. The Chairman brought up a March 28, 2018 zoning change regarding a special exception for use in the Aquifer Conservation District.

**MOTION: TOM HEBERT MOVED TO CONTINUE CASE 18-07-Z TO MONDAY, JUNE 25, 2018 IN ORDER TO ALLOW THE APPLICANT TIME TO GATHER THE NECESSARY DOCUMENTATION AS DETAILED BY THE CHAIRMAN AND TO ENSURE THAT ADEQUATE SEWER CAPACITY IS AVAILABLE. 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 #18-07-Z was continued to June 25, 2018. 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 #18-08-Z**

Applicant: Ayn Whytemare-Donovan  
730 Borough Road  
Pembroke, NH 03275

Property Owner(s): Bert R. Whittemore Trust  
439 Pembroke Street  
Pembroke, NH 03275

Property Address: 439 Pembroke Street  
Pembroke, NH 03275  
Tax Map (565) Lot (100) in the R-1 (Medium Density/Residential) and the AD Architectural Design Zoning District.

**Case 18-08-Z** A request has been made for a **Variance under Article IV Us Regulation s section 143-19 Table of Uses Agricultural Facilities #2.** The applicant Ayn Whytemare-Donovan, 730 Borough Road, Pembroke NH 03275 proposes to open a Commercial Green House at 439 Pembroke Street, Map 565, Lot 100 in the R1 (Medium Density-Residential) and the AD Architectural Design Zoning District. The owner of the property is Bert R. Whittemore Trust, 439 Pembroke Road, Pembroke NH 03275.

Chairman Kudrick opened the public hearing at 7:30 p.m. There were 4 regular members and 3 alternate members present. Robin Lounsbury designated to vote on Case 18-08-Z, therefore, there was a full five-member board present for this hearing.

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.

A notarized letter dated May 3, 2018, signed by Susan Whittemore Chrabolowski, Executor, Bert R. Whittemore Trust, was provided, authorizing Ayn Whytemare-Donovan to represent her in the matter of the house and parcel of land. A Certificate of Appointment for Estate of Bert R. Whittemore and an aerial photo of the property were included in the agenda packet.

Ayn Whytemare-Donovan addressed the Variance criteria:

Please give a detailed description of your proposal below:

Ayn stated that she wished to continue her plant nursery business which she has been running from her home on Borough Road since 2007 to her new residence at 439 Pembroke Street. From my reading of Town Code 143-19 this is a permitted use, however, I wish to make this application to assure all interested parties of my intent. The front part of the yard, which is now a sloping lawn, will be dedicated to the business. The existing stone retaining wall will serve as boundary to our personal property. This is an extremely seasonal business catering to a niche market of native and organic plant enthusiasts. The season runs 8 weeks from end of April to beginning of June. At my current site, the largest number of cars in the driveway has been 4. If my business were to double, I would anticipate fewer than 10 cars and only for 2-3 days on a weekend. We will be adding clean fill to the south side of the driveway to allow for pull in parking. To avoid erosion and runoff I will be seeding this area with grass that can tolerate compaction. This will keep the property the same as it is now in the off season.

In the center of the front lawn, right in front of the stone wall, I intend to build an in ground greenhouse by excavating 2-3 feet into the hill to moderate the temperatures of the building making it easier to hear in late winter. The floor will consist of compacted gravel with drainage pipes to a former sewage holding tank that will be filled with rocks for safety. Support beams will be made of wood and metal to support 8ml double wall polycarbonate panels. End walls will be polycarbonate ad plywood as needed. Rainwater collection from the residence will be the preferred water source, with town water on irrigation as backup. Supplemental heating will be provides by woodstove and propane furnace, as my current greenhouse uses. Electricity will be installed for fans and other necessary functions.

The greenhouse will also serve as point of retail sale for the business I have been running from my home at 730 Borough Road. Using my B.A. in Environmental Science and Biology, as well as my M.S. in Forest Ecology I have become known known within the plant lover community as a reliable source of perennials, trees and shrubs native to NH. As a member of the Conservation Commission and President of the Historical Society I have the knowledge and experience to restore and enhance the beauty of the site.

1. **The variance will not be contrary to the public interest.** Pembroke has a history of both agriculture and small business on Pembroke Street. Within recent memory the greenhouse Pembroke Gardens and French's Farm Stand operated within a quarter mile of this site. These were often visited by local residents and appreciated for their personal touch.
2. **The spirit of the ordinance is observed.** Found Well Farm is solely owned by Ayn Whytemare-Donovan and operated as a family-run enterprise without any employees. As such, it is a home based business in a residential area.
3. **Substantial justice is done.** Bringing my business to this site is what I need to do in order to live in this house, which has been in our family since 1923. Not only does my sister support this activity, but the greater Whittemore family is supportive of this plan. Maintenance of a greenhouse is a work intensive activity. At present, I visit mine 3-5 times a day to maintain temperature and check on the plans. Operating a greenhouse off site as a sole proprietor is not an option.
4. **The values of surrounding properties are not diminished.** A letter from Heather Johnson, Realtor, was read into the record stating value of surrounding properties would not be diminished.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.** I cannot give my plants away for free. I must get money for my efforts to live on this site.
  - ii. **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 because:**
  - ii. **The proposed use is reasonable.**

**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.**

The Board discussed that Special Exception paperwork may have been needed rather than a variance. Ayn Whytemare-Donovan was told by former and new staff to complete a variance application. The Board discussed that a Special Exception is needed if the project is a Commercial Greenhouse. Under Agricultural use, Retail unit or wholesale, Ayn is not a wholesale grower and a greenhouse is a permitted use.

Chairman Kudrick stated that this proposal may be a permitted use through the ordinance. Even so, we need Special Exception paperwork. Ayn Whytemare-Donovan asked if she could continue planning the greenhouse and putting riff raff in the former septic. Typically no excavation or construction could be started until after Planning Board site review. Ayn Whytemare-Donovan asked if she could build a personal greenhouse at 439 Pembroke Street and come back with paperwork for the business use. Chairman Kudrick advised that she should check with the Town Planner and Code Enforcement Officer, and apply for a building permit if she is allowed to build a personal greenhouse.

Tom Hebert noted that this would be a foundationless building constructed as a high tunnel. It would not be a permanent structure made of glass and wood material. Bob Bourque highly recommended that before the applicant starts digging, she talk to the Town Planner and Code Enforcement Officer about the project and what she wants to do for their guidance first. Ayn Whytemare-Donovan stated she has information from the Farm Bureau explaining the difference between a greenhouse and a structure. Ayn should bring that information and contact phone numbers with her when she talks to the Town Planner.

Chairman Kudrick stated that it is not clear if this proposal is a permitted use, which applicant does not need to be here or whether a Special Exception is necessary. Either way, the Zoning Board of Adjustment cannot act on a Variance application in regard to this proposal. Chairman Kudrick stated there are new town staff and new members on the ZBA. We want to make sure we do everything correctly. Dana Pendergast stated that structure is clearly defined in the ordinance as something that casts a shadow. It is not a piece of agricultural equipment.

Ayn Whytemare-Donovan stated that her existing greenhouse is not currently taxed as a building. Dana Pendergast said that all of the information will be considered and town staff will make a decision. The applicant has the right to appeal the decision of the Code Enforcement Officer or any town staff. Ayn summarized that she should:

- Complete Special Exception paperwork if so advised by Town staff
- Speak to Town Planner to see if Planning Board application needed
- Apply for a building permit for a personal greenhouse.

Ayn Whytemare-Donovan offered to withdraw her Variance application 18-08-Z.

Dana Carlucci summarized the case. This is **Case 18-08-Z**, a request for a **Variance under Article IV Use Regulations section 143-19 Table of Uses Agricultural Facilities #2**. The applicant Ayn Whytemare-Donovan, 730 Borough Road, Pembroke NH 03275 proposes to open a Commercial Green House at 439 Pembroke Street, Map 565, Lot 100 in the R1 (Medium Density-Residential) and the AD

Architectural Design Zoning District. Ayn Whytemare-Donovan is applying for a commercial greenhouse under section 143-19. The commercial greenhouse would not be connected to sewer per Sewer Commission. Plants are native and are also sold to the public. It is a seasonal business open just 8 weeks a year, usually from 12-6 pm. The highest count of cars has been 4 and may increase to 8 per day at this location. Ayn will build a 20 feet by 40 feet greenhouse with posts. Fill will be added to the left side of the driveway for parking. It was the consensus of the Board that this could fall under a Special Exception and they advised applicant to talk to town planning department and Code Enforcement Officer. The applicant has withdrawn the Variance application. The Board voted to accept the withdrawal.

There being no further comment, Chairman Kudrick closed the public hearing at 8:10 p.m.

**MOTION:** TOM HEBERT MOVED TO ACCEPT THE APPLICANT'S WITHDRAWAL OF VARIANCE APPLICATION CASE 18-08-Z. SECONDED BY DANA CARLUCCI. UNANIMOUSLY APPROVED.

**Case #18-09-Z**

Applicant:	Ayn Whytemare-Donovan 730 Borough Road Pembroke, NH 03275
Property Owner(s):	Bert R. Whittemore Trust 439 Pembroke Street Pembroke, NH 03275
Property Address:	439 Pembroke Street Pembroke, NH 03275 Tax Map (565) Lot (100) in the R-1 (Medium Density/Residential) and the AD Architectural Design Zoning District.

**Case 18-09-Z** A request has been made for a **Special Exception under Article IV section 143-18.1 Accessory Dwelling Unit**. The applicant Ayn Whytemare-Donovan, 730 Borough Road, Pembroke NH 03275 proposes to add an **Accessory Dwelling Unit** to the residence at 439 Pembroke Street, Map 565, Lot 100 in the R1 (Medium Density-Residential) and the AD Architectural Design Zoning District. The owner of the property is Bert R. Whittemore Trust, 439 Pembroke Road, Pembroke NH 03275. The abutters are the same as read for Case 18-08-Z.

Present: Ayn Whytemare-Donovan

Chairman Kudrick stated that the Board has four regular members and Alternate Member Bourque will vote on Case 18-09-Z making a five member board.

Chairman Kudrick opened the public hearing at 8:11 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 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.

A notarized letter dated May 3, 2018, signed by Susan Whittemore Chrabolowski, Executor, Bert R. Whittemore Trust, was provided, authorizing Ayn Whytemare-Donovan to represent her in the matter of the house and parcel of land. A letter dated May 7, 2018 from Matthew Gagne, Superintendent, Pembroke Water Works; a Certificate of Appointment for Estate of Bert R. Whittemore and In Law Apartment plans dated April 8, 2018 prepared by Claude P. Gentomme Architecture, 82 North State Street, Concord, NH were included in the agenda packet.

Ayn Whytemare-Donovan noted that it costs \$1,000 a month in oil to keep the residence at 439 Pembroke Street at 52 degrees in the winter. Even so, our family concern is that if the property is sold it would be chopped up into house lots. We have four other in laws now in their eighties who could need assistance in the future. We wish to take a section of the house added on in the 1940's and make it an Accessory Dwelling Unit. Ayn showed a 1993 plan that shows an office in the bottom part and 2 bedrooms on top. The downstairs will continue to have a door. The unit will be 728 square feet with one full bath, one full bedroom, living room and a micro kitchen in the proposed ADU. The outside of the house will not change its look. The unit will use the same electric, water and sewer as the house. A five bedroom house will be reduced to 4 bedrooms total to allow for installation of stairs and chimney.

Ayn Whytemare-Donovan read aloud the application criteria along with her answers:

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** This Accessory Dwelling Unit will provide usable housing without incurring additional site disturbance or undue burden on the town's water and sewer system. As the recent death of my father has highlighted, the elders in our family may soon need places to live with occasional help and proximity that an ADU can provide.
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.** It will mean only one additional car in our driveway and will not impact the neighbors in any appreciable way. Since we will be living in the main house, it is in our best interests to keep occupants manageable.
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.** The part of the house designated for the ADU is currently a study and guest room addition that was added in the 1940's. Over the years it has occasionally been occupied for months at a time with no complaint or notice of neighbors. A downstairs adjoining door will remain and a second floor stairway will be converted to a closet. The outside of the building will not change as a result of the ADU in any way.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** No factual evidence found per letter from Heather Johnson, Realtor.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** No, only one additional car will be parked in the driveway.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** The ADU will be on the same electrical and water/sewer system as the main house. Additionally, a propane tank will supply energy for the thermostatically controlled fireplace, stove and on demand water heater. In this way, the occupant will be as efficient as possible with heating issues as they will be responsible for

- filling the propane tank. Electricity for the whole house will be provided by solar panels to be installed in July of 2018.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** I am in the process of talking to all abutters within 300 feet of the property. I have verbal acceptance of my plan from the four closest residents on the same side of the street.
  8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** As we are removing one of the bedrooms to accommodate the new stairway, we will be reducing the number of bedrooms for the entire dwelling.
  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?** Yes, I met with and received approval from the Sewer Commission on 4/16/2018.

The Secretary read the following letters into the minutes:

1. Memo from Matt Gagne of the Pembroke Water Works, dated May 7, 2018, to Zoning Board members confirming adequate water supply to accommodate an additional unit at 439 Pembroke Street, and that it would not require an additional meter. Once approved, additional costs would apply.
2. Memo from Matt Gagne of the Pembroke Water Works, dated May 22, 2018, to Zoning Board members indicating that payment of a \$2,216.53 fee must be paid before issuance of a Certificate of Occupancy would be issued for additional unit at 439 Pembroke Street.

Joyce Armstrong, 438 Pembroke Street, stated we live across the street from 439 Pembroke Street and can trust that Ayn Whytemare-Donovan will do things right on the property.

Dana Carlucci asked about parking capacity on the property. Ayn stated we can park 10 vehicles up the hill.

Dana Carlucci summarized the case. This is **Case #18-09-Z**, a request for a **Special Exception under Article IV section 143-18.1 Accessory Dwelling Unit**. The applicant Ayn Whytemare-Donovan, 730 Borough Road, Pembroke NH 03275 proposes to add an **Accessory Dwelling Unit** to the residence at 439 Pembroke Street, Map 565, Lot 100 in the R1 (Medium Density-Residential) and the AD Architectural Design Zoning District. The owner of the property is Bert R. Whittemore Trust, 439 Pembroke Road, Pembroke NH 03275. Ayn Whytemare-Donovan spoke of the family home and the renovation work that will be done. Proposal is for a 728 square foot Accessory Dwelling Unit with one bath, one bedroom, kitchen and living room. The outside of the house will not change. Applicant addressed Special Exception criteria and read a letter from Heather Johnson, Realtor, into the record.

There being no further comments, Chairman Kudrick closed the public hearing at 8:22 pm.

**Deliberations:** ZBA members discussed the criteria for Special Exception.

1. **Please describe how the requested use is essential or desirable to the public convenience or general welfare.** The proposal follows all the rules of the ADU regulations.
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.** There will be no change to the outside of the house.

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.** A residential use will continue.
4. **Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** No factual evidence of adverse effect on property value per letter from Heather Johnson, Realtor.
5. **Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** One additional vehicle will park in driveway. There is plenty of parking up the hill.
6. **Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** ADU will use same electric solar panel, water and sewer as main house.
7. **Please show that there are no valid objections from abutting property owners based on demonstrable facts.** No valid objections were received from abutters.
8. **Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** Letter from Pembroke Water Works confirm adequate water supply and 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?** ADU will be on town water/sewer.

**MOTION:** Tom Hebert moved to approve the Special Exception for an Accessory Dwelling Unit at 439 Pembroke Street, Case 18-09-Z, subject to the following conditions:

1. Applicant will follow all state and local regulations.
2. The construction must be completed according to the submitted plans.
3. Property owner must reside in one of the units.
4. A minimum of two parking spaces will be made available for the Accessory Dwelling Unit.

Dana Carlucci seconded.

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

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

### **MINUTES OF PREVIOUS MEETINGS**

**MOTION:** Tom Hebert moved to approve the minutes of April 23, 2018 as amended. Dana Carlucci seconded.

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

MINUTES OF APRIL 23, 2018 APPROVED AS AMENDED ON A 5-0 VOTE.

### **OLD BUSINESS**

**Court case sign at Hillside Baptist** – No update.

### **NEW BUSINESS**

#### **Election of Officers-**

**MOTION:** Dana Carlucci moved that Bruce Kudrick continue as Chairman of the Zoning Board of Adjustment for the coming year. Bob Bourque seconded.

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

BRUCE KUDRICK ELECTED CHAIRMAN ON A 5-0 VOTE.

**MOTION:** Dana Carlucci moved that Tom Hebert continue as Vice Chairman of the Zoning Board of Adjustment for the coming year. Bob Bourque seconded.

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

TOM HEBERT ELECTED VICE CHAIRMAN ON A 5-0 VOTE.

**NEXT MEETING**

**Date of next ZBA meeting** – Chairman Kudrick noted the next ZBA meeting would be on **Monday, June 25, 2018 at 7:00 p.m.**

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

Chairman Kudrick thanked the ZBA members and alternate members for their attendance and participation tonight.

Respectfully submitted,  
Susan P. Gifford  
Recording Secretary