

**MINUTES**  
**PEMBROKE ZONING BOARD OF ADJUSTMENT**  
**January 28, 2019      Approved 2-25-2019**

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

**ALTERNATES PRESENT:** Robert Bourque

**EXCUSED:**

**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 live streamed on the Town website.

**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 Conservation 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

Chairman Kudrick stated that the Board has 5 regular members present. Chairman Kudrick opened the hearing at 7:01 pm. This is a continued hearing from November 26, 2018.

The secretary read a letter dated December 14, 2018 from Matthew Peterson, Hillside Design Group, Merrimack NH requesting that application #18-04-Z be continued to the next month's Zoning Board of Adjustment meeting. Mr. Peterson stated in his letter that the Town of Pembroke and Town of Allenstown have not finalized the court case regarding the availability of town sewer for the project.

**MOTION: TOM HEBERT MOVED TO CONTINUE CASE 18-04-Z TO MONDAY, FEBRUARY 25, 2019 AT THE REQUEST OF 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 #18-04-Z was continued to February 25, 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 #18-24-Z**

Applicant: Matthew Roan  
MJR Realty Holdings  
167 Main Street  
Pembroke NH 03275

Property Owner(s): MJR Realty Holdings  
167 Main Street  
Pembroke NH 03275

Property Address: 167 Main Street  
Pembroke, NH 03275  
Tax Map VE Lot 150 in the B2 Zoning District.

**Case 18-24-Z** A request has been made for a **Variance under Article V use regulations section § 143-21 Table of Dimensional and Density Regulations G, Side set back and H, rear setback.** The applicant Matthew Roan of 167 Main St. MJR Realty Holdings LLC proposes to move the current shed to the left rear of the lot within 5 Feet of the side and rear lot line when 10 feet and 30 feet is required lot **VE-150 in the B2 zone.** The owner of the property is. MJR Realty Holdings LLC 167 Main St. Pembroke NH.

Chairman Kudrick opened the public hearing at 7:02 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 plan with proposed relocation, and list of abutters were included in the agenda packet.

Matthew Roan addressed the Variance criteria:

Please give a detailed description of your proposal below:

We are proposing to move an existing shed from its current location to a back corner of the lot. We are proposing relief on side and rear setbacks. We propose 5 feet setbacks where 10 feet and 30 feet are required.

1. **The variance will not be contrary to the public interest.** No new structure is being built, nor are we changing the use – simply its location.
2. **The spirit of the ordinance is observed.** We intend to abide by Note #5 listed in Section 143-21. Due to the unique layout of the lot, this is the only feasible location for the shed.
3. **Substantial justice is done.** We do not intend to encroach on abutting property, nor are we changing any use. Usage will remain as it is presently.

4. **The values of surrounding properties are not diminished.** We foresee no detriment to property values as no new structures are proposed. This is simply a relocation of an existing shed.
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. Literal enforcement would lead us to eliminating the shed as there is no other space feasible for its relocation.

**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.**

Strict conformance means that we lose our storage shed. We are then left with no appropriate place to store seasonal equipment.

Mr. Roan stated that the reason he wants to move the shed is so that when the renovation is done, the shed will not encroach on the addition. In the corner of the lot, the shed encroaches on Mr. Roan's parking area. Due to unique layout of the lot, there is no other feasible location for the shed.

Dana Carlucci summarized the case. This is **Case 18-24-Z**, a request for a **Variance under Article V use regulations, section § 143-21 Table of Dimensional and Density Regulations G, Side set back and H, rear setback**. The applicant Matthew Roan of 167 Main St. MJR Realty Holdings LLC Proposes to move the current shed to the left rear of the lot within 5 feet of the side and rear lot line when 10 feet and 30 feet is required lot **VE-150 in the B2 zone**. Abutters were notified. Matt Roan presented his case. He would like to move the shed to the back corner of the lot. Mr. Roan read the variance criteria.

There being no further comment, Chairman Kudrick closed the public hearing at 7:10 p.m.

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

1. The variance will not be contrary to the public interest. Agree, all the lots downtown are small.
2. The spirit of the ordinance is observed. Agree.
3. Substantial justice is done. Agree, Note #5 allows no greater setback than those on adjacent lots to make the neighborhood uniform.
4. Property values are not diminished. Agreed, will not diminish property values.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Agree.

**MOTION:** Tom Hebert moved to approve **Case 18-24-Z**, a request for a **Variance under Article V use regulations, Section § 143-21 Table of Dimensional and Density Regulations G, Side set back and H, rear setback** having been presented to the Board for consideration. The applicant Matthew Roan of 167 Main St. MJR Realty Holdings LLC Proposes to move the current shed to the left rear of the lot within 5 feet of the side and rear lot line when 10 feet and 15 feet is required on lot **VE-150 in the B2 zone**.

Approval is subject to the following conditions:

1. Applicant will follow all state and local regulations.
2. Applicant will adhere to plan submitted.
3. The shed will be located no closer than 5 feet from side and rear setbacks.

DANA CARLUCCI seconded.

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

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

**Case #18-25-Z**

Applicant: Wilfrid Poirier  
4100 North Ocean Dr #2501  
Singer Island FL 33404

Property Owner(s): MJR Realty Holdings  
167 Main Street  
Pembroke NH 03275

Property Address: Center and Third Range Road  
Pembroke, NH 03275  
Tax Map 563 Lot 90 in the R1 Zoning District.

Agent: James Coughlin

**Case 18-25-Z** A request has been made for a **Variance under Article V use regulations section § 143-21 Table of Dimensional and Density Regulations B minimum contiguous lot frontage (feet)**. The applicant Wilfrid Poirier 4100 North Ocean Dr. #2501 Singer Island Florida proposes to subdivide lot **563-90 Center Rd in the R1 zone** into three lots with less than the required amount of frontage on a class V road. Lots 90-2 and 90-3 require 120'. The owner of the property is Wilfrid Poirier 4100 North Ocean Dr #2501 Singer Island Florida

Chairman Kudrick opened the public hearing at 7:15 p.m.

Natalie Glisson recused herself for this case. Robert Bourque was designated to vote for Natalie Glisson on Case 18-25-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.

Assessing card, Assessor List by Street Pembroke NH, copy of Limited Power of Attorney to James Coughlin dated April 4, 2018 and list of abutters were included in the agenda packet.

James Coughlin, Center Harbor NH, partner of Wilfrid Poirier, addressed the variance criteria: Please give a detailed description of your proposal below:

The property, Tax Map 563 Lot 90, is 100 acres on Center Road and Third Range Road on a site that was originally a hospital built in the 1950's prior to adoption of Pembroke zoning ordinances in 1974. The purpose of the owner's request is to subdivide the property into three lots. Mr. Poirier has owned the property since 1980 and it has been assessed under the same Map and Lot number with two existing homes.

The Town of Pembroke has assigned "Lot 90-1" to the cell tower for tax purposes. Two of the lots, Lot 90-2 and 90-3 have existing houses on them and are occupied. The remainder of Lot 90 containing 87 acres will be sold to the Pembroke Conservation Commission. This request is not enlarging or increasing the use the presently exists and it is a long standing preexisting condition. The driveway will be maintained and repaired by the owners of Lots 90-2 and 90-3 by a recordable common driveway agreement at the Registry

of Deeds. The Town will have no responsibility for repairs or maintenance for the driveway but will continue to plow and pick up trash at the top of the hill as it has done for many years. The plans have been approved by the Selectmen, Conservation Commission and Roads Committee. None of the 87 acres going to the Conservation Commission abuts the driveway as requested by the Selectmen. Lot 90-1 is already used for a tower.

1. **The variance will not be contrary to the public interest.** This is a preexisting condition since the 1950's. Mr. Poirier has owned the property since 1980. The properties on Lot 563-90 were always assessed separately but under the same tax map and number. The use of the existing houses on the property are residential which is permitted by zoning ordinance under the R1 zone. The variance request is for relief of the frontage area requirement of Article 143 Section 21-B on a Class V road. In the Supreme Court Case *Malachi Glen Assoc v Town of Chichester*, 155 NH 102, 105 (2007) states that the variance "should not alter the essential character of the locality" nor "threaten the public health, safety or welfare" of the town. The two existing occupied homes on the property do not alter the essential character of the residential area of the neighborhood and are not contrary to public interest. The houses are "not unduly or in a marked degree conflict with the ordinance." The houses were built in the 1950's, prior to the zoning ordinance.
2. **The spirit of the ordinance is observed.** The Supreme Court states that the same criteria used to determine whether a variance will be contrary to the public interest may also be applied to determine whether the variance will violate the spirit of the ordinance. In Supreme Court case of *Chester Rod & Gun Club v Town of Chichester*, 152 NH 577, 581 (2005) states that "a variance should not violate the basic zoning objective nor be inconsistent with the purpose and intent of the ordinance." The two occupied houses on the property are existing and the owner is not creating a new use that would be contrary to the spirit of the ordinance.
3. **Substantial justice is done.** The guiding rule is that substantial justice is any loss to the individual owner of the property that is not outweighed by a gain to the general public. If there is not an outweighed gain to the public, then this becomes injustice to the owner. The houses on the property are preexisting and nothing new is being created by the owner. In Supreme Court case of *Nine v Chesterfield*, 157 NH 361, 368 (2008) the court states that the proposed use must be consistent with present uses in the neighborhood. In this case the entire area is residential. Also, the zoning ordinance was not adopted by the town to specifically alter the types of uses in the neighborhood. The purpose of the ordinance and zoning classification was for residential homes.
4. **The values of surrounding properties are not diminished.** The values of the surrounding properties are not diminished since the properties in the area are residential homes of similar type, usage and value. See attached Assessor value of homes in the neighborhood showing similar types and values.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**  
As previously stated, the purpose of the owner's request is to subdivide the land into two separate lots with existing homes on them and an 87-acre parcel of vacant land to be sold to the Pembroke Conservation Commission. The unnecessary hardship is that the peculiar characteristics inherent in the property with exiting steepness and grades of 13 to 15 percent make the access roadway impossible to comply with town required Class V road grade of 6 to 8 percent. Due to steepness and severe grades of the land, the access roadway would have to have cuts ranging from 20 to 35 feet into the ground lowering the Class V section at the entrance of Center Road more than 20 to 30 feet. This would make these owners' driveway access impossible. (See attached Road Profile Plan).

Further, the manner in which this property was developed is an unnecessary hardship since it was built prior to implementation of zoning ordinances in 1974 and had very little supervision and requirements by the Town. Today's ordinances would not allow two separate single family homes on the same R1 lot. This characteristic inherent in the property makes it different than other properties in the area.

**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.** There is no fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property. The two occupied homes have existed for many years. Nothing is being changed, built or created on the property. Further, there is no increase in traffic, no cutting of trees and no new construction on site. It would be in the public interest to grant the variance so that the existing homes and access roadway can be individually cared for and maintained by the home owners. The Town will have no responsibility for maintenance or repairs. The Selectmen have even requested that the proposed separate Conservation land not abut or touch the access roadway (see attached plan). The town will continue to pick up trash and snow plow to the top of the hill as they have done for many years. The use of the property is the same as the surrounding areas and does not violate or alter the character of the district or the purpose of the ordinance. The use is a reasonable one and complies with the type of homes in the neighborhood. The existing homes on site are a permitted use by the zoning ordinance and the relaxation of the physical requirement of the frontage area limitation to a permitted use does not alter the character of the area. The zoning restriction burdens the property in a manner that is distinct from other properties in that there are rarely two separate single family homes on one lot. There is also another public interest served by correcting a non-conforming use in providing 6,291 square feet of frontage along the Town's right of Way on the north side of Center Road, thereby providing frontage for those existing homeowners.

**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.**

At this time, the Board must ask themselves: Is the zoning restriction on the property necessary in order to give full effect to the purpose of the ordinance, or can relief be granted to this property without frustrating the purpose of the ordinance? The answer is yes. The two occupied house are existing, taxed separately, and have good driveway access that will be repaired and maintained in common by the separate owners. Nothing has changed the physical aspect of the property. Ask yourselves: Is the full application of the ordinance to this particular property necessary to promote a valid public purpose? The answer is no. In fact, granting the variance will serve many public interests as previously mentioned. It is well known that separate individual ownership of a property results in better maintenance that increases their value.

A letter dated January 11, 2019 from Paulette Malo, Operations Manager, Pembroke Sewer Commission to the Zoning Board of Adjustment. Paulette asked what is going to happen with the sewer connection for the house that was demolished and is not going to be a house lot in the future. Mr. Coughlin stated that the sewer connection from the demolished house will not be uses and will be reallocated by the Sewer Commission. Also, Ms. Malo noted that the house at the top of the south side of the driveway could have the potential of becoming a two-family home. Is there a plan to correct the interior of the building to prevent that from happening? Mr. Coughlin responded that Mr. Poirier has no intent of making the

existing house on Lot 90-2 into a two family home. One floor is finished, and the upper floor is not finished.

In response to Board questions, Mr. Coughlin stated that the intent is to sell the two existing house lots with proper frontage after the subdivision is complete. The two houses are owned by Mr. Poirier. There will be driveway maintenance agreements in a recordable deed for both Lots 90-2 and 90-3.

Dana Carlucci summarized **Case 18-25-Z**, a request for a **Variance under Article V use regulations section § 143-21 Table of Dimensional and Density Regulations B minimum contiguous lot frontage (feet)**. The applicant Wilfrid Poirier 4100 North Ocean Dr. #2501 Singer Island Florida proposes to subdivide lot **563-90 Center Rd in the R1 zone** into three lots with less than the required amount of frontage on a class V road. Lots 90-2 and 90-3 require 120'. The clerk read a letter from Paulette Malo, Operations Manager, Pembroke Sewer Commission. Mr. Coughlin presented the case. The plan has been approved by the Board of Selectmen, Conservation Commission and Roads Committee. 87 acres of land would be purchased by Conservation Commission. Mr. Coughlin read the variance criteria. This property was built prior to zoning. The town will continue to plow and pick up trash. The character of the area will not be affected. Frontage will be provided along the Town's right-of-way on the north side of Center Road. Lot 90-3 will remain a single family home unless the owner came to the town for a change of use. A common driveway agreement will be recorded at Registry of Deeds.

There being no further comment, Chairman Kudrick closed the public hearing at 8:46 p.m.

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

1. The variance will not be contrary to the public interest. Agree, There will be recorded agreements for maintenance of the shared driveway.
  2. The spirit of the ordinance is observed. The use remains residential for two existing homes.
  3. Substantial justice is done. The general public will benefit from gaining proper frontage along a Class V road for Lots 87 and 89
  4. Property values are not diminished. Agreed, variance will not diminish property values.
  5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
- ZBA members agree this is a unique parcel with deficiencies that are not the fault of the owner.

Discussion occurred on the maintenance agreement for the common driveway, and the Public Works input that it would be safer for them to plow up the hill and turn their truck around at the top. Bruce Kudrick would like to see front boundary posts set after the town right-of-way is obtained. The Planning Board will address this. Tom Hebert suggested that the Board consider requesting an existing conditions report from the applicant for the private section of Center Road. A description, as well as visual pictures, would document baseline conditions and point out sections likely to degrade over time. ZBA members discussed whether a letter to the Town Planner, or a condition on the variance if approved would best make the ZBA concerns known to the Planning Board. An inspection by the Town Engineer would result in the most valuable documentation of existing conditions. Dana Carlucci stated that the Planning Board routinely deals with engineers. Chairman Kudrick stated that the applicant could provide a visual and written report of existing road conditions that the Planning Board could review prior to their public hearing. Tom Hebert would like to state in the letter that a licensed engineer should make the inspection and report since they would know what to look for. The Building Inspector will draft a letter to the Town Planner requesting documentation by pictures and a written report of current conditions on the private section of Center Road. It was discussed that the private section is a driveway and would be follow driveway regulations. The ZBA decided against a letter to the Planner, and will include a condition of approval for the variance.

**MOTION:** Tom Hebert moved to approve **Case 18-25-Z**, a request for a **Variance under Article V use regulations section § 143-21 Table of Dimensional and Density Regulations B minimum contiguous lot frontage (feet)** having been presented to the Board for consideration. The applicant Wilfrid Poirier 4100 North Ocean Dr. #2501 Singer Island Florida proposes to subdivide lot **563-90 Center Rd in the R1 zone** into three lots with less than the required amount of frontage on a class V road. Lots 90-2 and 90-3 require 120' with the following conditions:

1. Applicant will follow all state and local regulations.
2. The applicant will adhere to the submitted plans, except as modified and approved by the Pembroke Planning Board as the final plans to be recorded.
3. The applicant will submit a written report to the Town with pictures based on an inspection by a licensed engineer of existing conditions on the private section of Center Road. This report will be kept with the tax records for this property

Dana Carlucci seconded.

**VOTE:** PAUL - YES TOM - YES BRUCE - NO  
DANA- YES BOB - YES

**MOTION TO APPROVE VARIANCE WITH CONDITIONS PASSED ON A 4-1 VOTE**

#### **Case #19-1-Z**

Natalie Glisson returned to the Zoning Board of Adjustment.

Applicant: Michelle Pritchard  
29 Townhouse Road  
Allentown NH 03275

Property Owner(s): Michelle Pritchard  
29 Townhouse Road  
Allentown NH 03275

Property Address: 457 Pembroke Street  
Pembroke, NH 03275  
Tax Map 563 Lot 82 in the R1 Zoning District.

**Case 19-01-Z** A request has been made for a **Variance under Article V use regulations section § 143-21 Table of Dimensional and Density Regulations F minimum front setback requirements (feet) and note 4**. The applicant Michelle Pritchard of 27 Townhouse Rd. Allentown NH proposes to build an addition with a deck lot **563-82 457 Pembroke St. in the R1 zone. The proposed addition will be 9' from the property line where 30' is required.** The owner of the property is Michelle Pritchard of 27 Townhouse Rd. Allentown NH.

Chairman Kudrick opened the public hearing at 8:10 p.m. Dana Carlucci recused himself. Robert Bourque was designated to vote for Dana Carlucci on Case 19-1-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.

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



Michelle Pritchard stated that the house was built prior to zoning and it is the home that Michelle grew up in. Many family gatherings and holiday celebrations were held here, and it is very important to Michelle to keep the home in the family.

Charles Demers, who drew the renovation plans, addressed the Variance criteria:

Please give a detailed description of your proposal below:

An extensive renovation is planned for a home that is very much in need of one. A poorly built addition will be removed and then rebuilt properly, as well as adding a full bath. I will upgrade every surface, inside and out, put on new roofing, new insulation, electrical, plumbing, HVAC, add two porches and three bump outs. The two-foot bump out will accommodate a full bath and closet in the master bedroom. The existing rear setback is nonconforming at 11 feet. Modifications would bring that to 9 feet.

Ms. Pritchard owns three lots and intends to merge the abutting lot with the pool with the lot the home is on.

1. **The variance will not be contrary to the public interest.** The home is currently in poor condition. Once it is renovated, it will be more appealing and livable.
2. **The spirit of the ordinance is observed.** The renovated home will still be a residence, but will be energy efficient and safe to live in.
3. **Substantial justice is done.** The renovated home will have an appealing style that will fit into the neighborhood nicely and will not encroach anyone's actual property.
4. **The values of surrounding properties are not diminished.** In my opinion the renovation will increase surrounding property values. For many years the home has been in a deteriorating state and past work was done poorly. When the renovation project is complete, the home will look new.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**
  - iii. **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 existing home does not meet setback requirements as it stands today. There are other homes in the neighborhood that do not meet setbacks as well. The increased size of the renovated home will be minimal. I make reference to Note #5. Some house in the neighborhood are right against the lot line.

**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.**

Chris Drouin and Esther Drouin, 455/457 Carrie Avenue, are in favor of granting the variance. Michelle is Chris's sister. Michelle Pritchard owns all three lots located on the dead end street. Their parents owned the house for 60 years. Their parents would be very proud of Michelle's efforts to renovate the home. Chris and Esther are in full support. Some work has already been done. A report indicated the presence of asbestos. It was removed properly. Michelle is trying to do all the right things and Chris said he would help with the project in any way.

Robert Bourque asked if Michelle had tested the property for lead paint. She had not but will look into it. All surfaces are being replaced. Testing for lead paint will be done and if there is any, it will be removed properly as it is dangerous when airborne.

Tom Hebert noted the pavement area that is shown on the east side. Charles Demers stated that the impervious patio will be removed and replaced with brick pavers. The stairs are being moved over, with one less stair needed.

Natalie Glisson summarized the case. This is **Case 19-01-Z**, a request for a **Variance under Article V use regulations section § 143-21 Table of Dimensional and Density Regulations F minimum front setback requirements (feet) and note 4**. The applicant Michelle Pritchard of 27 Townhouse Rd. Allenstown NH proposes to build an addition with a deck lot **563-82 457 Pembroke St. in the R1 zone. The proposed addition will be 9' from the property line where 30' is required**. Charles Demers, who drew the plans, presented the case. Note #5 was reference, as many of the homes in the neighborhood were built prior to zoning ordinance and setback requirements are not met. Chairman Kudrick asked about the pool location. Michelle Pritchard clarified that the pool is on another lot that she owns and plans to merge into her house lot. Michelle grew up in this house. An extensive renovation is planned for a home that is very much in need of one. A poorly built addition will be removed and then rebuilt properly, as well as adding a full bath, new roofing, new insulation, electrical, plumbing, HVAC, add two porches and three bump outs. Many family gatherings and holiday celebrations were held here, and it is very important to Michelle to keep the home in the family.

There being no further comment, Chairman Kudrick closed the public hearing at 8:29 p.m.

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

1. The variance will not be contrary to the public interest. The house was built in the 1950's and needs updating.
2. The spirit of the ordinance is observed. The back of the house is already in the setback. The modification will move it from 11 feet to 9 feet from the property line.
3. Substantial justice is done. Agree, home will be safe and energy efficient.
4. Property values are not diminished. Agreed, will not diminish property values.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Compared to other houses in the area, the lot is tight.

**MOTION:** Tom Hebert moved to approve **Case 19-01-Z**, a request for a **Variance under Article V use regulations section § 143-21 Table of Dimensional and Density Regulations F minimum front setback requirements (feet) and note 4**. The applicant Michelle Pritchard of 27 Townhouse Rd. Allenstown NH proposes to build an addition with a deck lot **563-82 457 Pembroke St. in the R1 zone. The proposed addition will be 9' from** a request for a **Variance under Article V use regulations, section § 143-21 Table of Dimensional and Density Regulations G, Side set back and H, rear setback** having been presented to the Board for consideration. The applicant Matthew Roan of 167 Main St. MJR Realty Holdings LLC Proposes to move the current shed to the left rear of the lot within 5 feet of the side and rear lot line when 10 feet and 30 feet is required lot **VE-150 in the B2 zone**.

Approval is subject to the following conditions:

1. Applicant will follow all state and local regulations.
2. The applicant will adhere to the plot plan dated October 5, 2018 as submitted with the application.

Robert Bourque seconded.

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

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

Dana Carlucci returned to the Zoning Board of Adjustment.

**CORRESPONDENCE** – none

**MINUTES OF PREVIOUS MEETINGS**

**MOTION:** Tom Hebert moved to approve the minutes of November 26, 2018 as amended. Natalie Glisson seconded.

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

MINUTES OF NOVEMBER 26, 2018 APPROVED AS AMENDED ON A 5-0 VOTE.

**OLD BUSINESS** -none

**NEW BUSINESS** –

**Copy of Decision** – Dana Pendergast provided ZBA members with a summary of a trucking decision relative to abandonment of a non-conforming use.

**ZBA Public Hearing documents-** Dana Pendergast clarified that any new documents that an applicant/agent presents during public hearing that were not already provided in the application packet and copied to case files must be kept for the case files. Usually plan changes are indicated by the preparer with a new date and copies are provided to the Town. If any minor adjustments are made to plan already submitted, the Board needs the most recent copy in the file and to reference if application is approved.

**Note #5** – Dana Pendergast clarified that when Note #5 is referenced, he considers whether the criteria of nonconformance to zoning ordinance requirements is equal to surrounding abutters, and if the structure is on the same plane when determining if a potential applicant needs to come before the ZBA with a variance application.

**NEXT MEETING**

**Date of next ZBA meeting** – Chairman Kudrick noted the next ZBA meeting would be on **Monday, February 25, 2019 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 8:48 p.m.

Respectfully submitted,  
Susan P. Gifford  
Recording Secretary