

MINUTES
PEMBROKE ZONING BOARD OF ADJUSTMENT
June 26, 2017

DRAFT pending 6-28-17

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

ALTERNATES PRESENT: Paul Paradis, Ann Bond

EXCUSED: William Faith, Mark Simard

STAFF PRESENT: Everett Hodge, Code Enforcement Officer; Susan Gifford, Recording Secretary

Chairman Kudrick called the meeting to order at 7:00 p.m. Paul Paradis was designated to vote for Mark Simard. Ann Bond was designated to vote for William Faith.

Case #17-07-Z

Applicant: Scott Christie dba SJS Truck & Equipment
520 Pembroke Street
Pembroke, NH 03275

Property Owner(s): Scott and Tina Christie
520 Pembroke Street
Pembroke, NH 03275

Property Address: 520 Pembroke Street
Pembroke, NH 03275
Tax Map (634) Lot (37) in the LO Limited Office, the AD Architectural Design District, and the AC Aquifer Conversation Zoning Districts.

Case 17-07-Z A request has been made for a **Variance** under **Article IV Use Regulations**, §143-19 **Table of Use Regulations Residential #11**. The applicant, Scott Christie dba SJS Truck & Equipment 520 Pembroke Street, Pembroke, NH 03275 is requesting a **Variance** to operate a general service repair business servicing motor vehicles, light trucks and small engines. A Variance is required as this use is not allowed in the LO zoning district. The property is owned by Scott and Tina Christie, 520 Pembroke Street, Pembroke, NH. The property is located at 520 Pembroke Street, Map (634) Lot (37) in the LO Limited Office, the AD Architectural Design District, and the AC Aquifer Conversation Zoning Districts.

The clerk took the roll call and all members were present. Chairman Kudrick opened the public hearing at 7:02 p.m. There were 3 regular members and 2 alternate members present. 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.

Plot Plan for Tax Map (634) Lot (37) tax map, a letter to the Pembroke Zoning Board of Adjustment dated May 22, 2017 from Scott Christie and assessing card were included in the agenda packet.

Scott Christie read his May 22, 2017 letter into the record. This letter clarified the intent of the request. As sole proprietor of "SJS Truck and Equipment Repair" Scott Christie has been operating with the guidelines of a "Minor Home Business" (143-28) since 2006. My business is a state licensed fully insured, veteran owned part-time small business that provides ON-SITE service and repair to the automotive and commercial truck and equipment industry. I am requesting a zoning adjustment to allow me to perform some automotive and equipment service and repair work within my shop, located on my

property, behind my residence at 520 Pembroke. The shop is standalone 34' by 36' fully equipped two bay garage which meets all standards and criteria of NH Department of Motor Vehicles (for the purpose of conducting Motor Vehicle Safety Inspections) as well as my insurance company (inspected annually). Both the structure and the business are fully insured. All work at this location will be done by APPOINTMENT only on a ONE JOB AT A TIME basis. There will be no disruption to the surrounding abutters or interference with local traffic. All work will take place within the shop area and during normal business hours so as not to disturb neighbors and abutters during holidays, weekends and evening hours.

The type of work performed at my shop would be limited to light duty cars and trucks, small engine/outdoor power equipment, as well as motorcycle and motorsport. NO HEAVY DUTY or COMMERCIAL TRUCKS OR EQUIPMENT will be serviced or repaired at this location. All work is done in compliance with all state, local and federal regulations. Scott Christie stated that he primarily works on site repairing large and fleet trucks. The proposed small engine repair would be part time.

A previous approval to erect a garage on premises for storage of petitioner's antique cars, modern cars, or pickup trucks, but not for the storage of commercial vehicles was granted to William and Loretta Stanley on May 23, 1979 from the Pembroke Street Village District Board of Adjustment.

Scott Christie addressed the Variance criteria:

Please give a detailed description of your proposal below:

I am seeking a zoning variance for Automotive Repair and Service Section 143-35. I would like to perform general service, maintenance, and light repair of automobiles, light trucks and trailers, motor cycles and motorsports, as well as small engines and outdoor power equipment. Work will be done BY APPOINTMENT ONLY and on a ONE JOB AT A TIME basis. I am also certified to perform NH Motor Vehicle Safety Inspections of automobiles/light trucks and motor cycles.

1. **The variance will not be contrary to the public interest.** All work will be done within the confines of the shop area, a standalone garage behind the residence, during normal business hours. All work will be scheduled by appointment only and will not disrupt the normal traffic patterns of the area.
2. **The spirit of the ordinance is observed.** All business operations shall be conducted in accordance with Section 143-28 Minor Home Business rules and regulations as governed by the Town of Pembroke NH.
3. **Substantial justice is done.** By complying with EPA-HAZMAT, OSHA and industry standards, as well as all other state, local and federal regulations and practices, substantial justice will be done.
4. **The values of surrounding properties are not diminished.** All work will be done in the shop area located behind the residence out of view of the road and most abutters. No loud noises or distracting work will be performed during non-business hours. No evidence presented that property values would be affected.
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. All facilities and resources already exist and are in place to support the variance request. No new construction to the building exterior or grounds is necessary. Proper signage is to be installed upon approval.

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.

As a service connected disabled veteran, approval of this request would allow me to capitalize on my skills and supplement my retirement income at my own pace and on my own schedule.

Matt Gagne, Superintendent, Pembroke Water Works stated that inside the wellhead Pembroke Water Works does regular business inspections. This site is 500 feet south of the wellhead in the Aquifer District. Pembroke Water Works does not do inspections of the Aquifer District businesses. The wellhead area could expand in the future. Pembroke Water Works prefers not to have small engine repair occur in the Aquifer District, which is a source for future water needs.

Bob Bourque, Pheasant Run, Pembroke NH stated that this location is in the LO District and the LO District does not allow small engine repair. Mr. Bourque asked the board to deny the variance application.

Robert Barrows, 208 Brickett Hill Road, asked why the applicant could not locate his use in the commercial area of Route 106. The Town of Pembroke encourages commercial growth a half mile up the road.

The applicant stated that he is not operating a full time business and is not looking to start a trend. The cost to locate on another property is too great. He already has a garage keeper insurance policy and was trying to use space that he already has.

Bob Bourque, Pheasant Land, Pembroke NH, stated that once the Zoning Board of Adjustment allows one small engine repair use, more requests will follow. It will set a precedent like allowing churches to locate in the commercial district. Engine repair is not allowed in the LO District. Approval of a variance would put the town in a very bad position.

Scott Christie stated that is Mr. Bourque's opinion, and Mr. Christie is exercising his right to request a variance.

Dana Carlucci asked if there were any visual barriers planned for abutters. Scott Christie stated that when the leaves are out on the trees, I cannot see my neighbor's properties. My shop is located 1200 feet behind the house and it is not visible from the road. Dana Carlucci asked about use of antifreeze and any other hazardous materials in the garage. Scott Christie stated that he currently does not have an EPA number as a small quantity generator of hazardous material (less than 220 pounds of material). By performing jobs on site, he falls under NH DOT and the hazardous material generated belongs to the owner of the vehicle or equipment. If he were approved to repair small engines in his garage, he would be required to obtain an EPA number. He recycles batteries, takes used motor oil back to the place

purchased and pays the recycle fee, oil filters are drained and disposed of, no off spec fuel is generated and absorbent pads are used at all jobs. Mr. Christie stated that he is in compliance with NH DES regulations.

Ann Bond asked why his garage building was preapproved as a State of NH inspection location. Mr. Christie stated that the State of NH advised him to seek a variance. Mr. Christie stated his jobs and inspections would be performed from 9 am to 5 pm weekdays and by appointment only.

Chairman Kudrick added additional information about the Stanley's referred to in the March 29, 1979 letter. The Stanley's ran a paving company until the early 1980's. The variance granted was only for the storage of antique and modern cars. The variance prohibited storage and repair of commercial equipment used in the paving business.

Scott Christie, son of Mr. Christie senior, stated that he works with his father on the large on site jobs. Abutters support this request and have forested land and bamboo that blocks their view of the garage. Scott Christie stated that the elder Mr. Christie has had no problem with the state on disposal and no service complaints or issues on any job completed.

Scott Christie stated has lived at 520 Pembroke Street for ten years. His immediate neighbors on both sides and across the street, as well as most direct abutters, support his request.

Everett Hodge noted that a large dumpster was currently in the yard. Scott Christie stated that he rented a 20 yard dumpster for spring cleaning. The Stanley's left behind many items.

Sandy Barrows, 208 Brickett Hill Road, asked if Mr. Christie worked on weekends. He said, no, not much. I generally try to keep my weekends for time with family. There are two paved driveways on the property. One leads to the garage out back. There would be no disruption of traffic.

Chairman Kudrick summarized the case. This is **Case 17-07-Z**, a request for a **Variance** under **Article IV Use Regulations**, §143-19 **Table of Use Regulations Residential #11**. The applicant, Scott Christie dba SJS Truck & Equipment 520 Pembroke Street, Pembroke, NH 03275 is requesting a **Variance** to operate a general service repair business servicing motor vehicles, light trucks and small engines. A Variance is required as this use is not allowed in the LO zoning district. The property is owned by Scott and Tina Christie, 520 Pembroke Street, Pembroke, NH. The property is located at 520 Pembroke Street, Map (634) Lot (37) in the LO Limited Office, the AD Architectural Design District, and the AC Aquifer Conversation Zoning Districts. A member of the Pembroke Water Works spoke and indicated that the property is 500 feet south of the wellhead in the aquifer protection district and may be a future water source. Water Works would not provide regular inspections. Business hours would be from 9 am to 5 pm weekdays by appointment only. The largest vehicle serviced would be a pickup truck. The repair business would be part time as Mr. Christie is semi-retired. Thank you for your service to our country.

There being no further comment, Chairman Kudrick closed the public hearing at 7:29 p.m.

Chairman Kudrick stated, to put things in perspective, other uses not allowed in the LO District include automobile service stations and junkyards. In 1979 Mr. Stanley was denied the ability to repair his business vehicles at 520 Pembroke Street. He had a small paving business with rollers, tractors, several dump trucks and ten or less employees. The office was in the house. He stopped the paving business in the early 1980's.

Dana Carlucci asked if Everett Hodge did any scheduled inspections on repair businesses. Everett does not do any scheduled inspections of repair businesses. Three grandfathered repair garages remain on Pembroke Street. Chairman Kudrick stated that he understands what this man is trying to do but the use is not permitted. A variance goes with the land. If Mr. Christie sold the property, the new owner could potentially make it a bigger business. The garage building is tucked a good distance behind the house. However residences are abutters.

Deliberations: ZBA members discussed the Variance criteria.

- 1) The variance will not be contrary to the public interest. Pembroke Water Works stated that the site is not in the wellhead area but is in the aquifer protection district. No one has their eyes on this proposed business operation. Tom Hebert noted the area could be used as a future source of town water. Water Works has done a great job. Dana Carlucci agreed that we need to put trust in the Pembroke Water Works. Chairman Kudrick noted that an approved variance would run with the land forever.
- 2) The spirit of the ordinance is observed. Tom Hebert noted that the LO District is a transitional zone. It does not allow commercial use and it is a gray area that is not clearly defined. Other uses not allowed in LO district include camp grounds, dry cleaners and construction industry. The LO area is more residential and low business use. Dana Carlucci noted that no retail use is allowed in the LO District.
- 3) Substantial justice is done. Chairman Kudrick noted that there are other areas in town that would support this use in a rented facility.
- 4) Property values are not diminished. No testimony provided that property values would be diminished was provided. Ann Bond noted that the noise ordinance goes into effect at 10 pm.
- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. As stated above, the use can be carried on in other places in town.

MOTION: Tom Hebert moved to DENY **Case 17-07-Z**, a request for a **Variance** under **Article IV Use Regulations**, §143-19 **Table of Use Regulations Residential #11**. The applicant, Scott Christie dba SJS Truck & Equipment 520 Pembroke Street, Pembroke, NH 03275 is requesting a **Variance** to operate a general motor vehicle service and repair business, including light trucks and small engines. A Variance is required as this use is not allowed in the LO zoning district. The property is owned by Scott and Tina Christie, 520 Pembroke Street, Pembroke, NH. The property is located at 520 Pembroke Street, Map (634) Lot (37) in the LO Limited Office, the AD Architectural Design District, and the AC Aquifer Conservation Zoning Districts for the following reasons:

The variance application is denied for the following reasons:

1. Locating the business in a predominantly residential neighborhood would be contrary to the public interest.
2. Because the automotive repair use is not an allowed use in the LO Zoning District it would not be within the spirit of the ordinance.

Dana Carlucci seconded.

VOTE: PAUL - YES TOM - YES BRUCE - YES
DANA- YES ANN - YES

MOTION TO DENY VARIANCE PASSED ON A 5-0 VOTE.

Chairman Kudrick suggested that the applicant meet with the Building Inspector to find an alternate space to perform these services. Tom Hebert noted that the Zoning Board of Adjustment could condition a “minor home business” such that when the current owner stops the business, the minor home business approval goes away. This statement is not in the current regulations. Tom Hebert noted that the applicant was above board with all the plans and details of his proposed use. Scott Christie will think about an alternative location.

Case #17-08-Z

Applicant: Richard D. Bartlett & Associates, LLC
214 North State Street
Concord, NH 03301

Property Owner(s): Bruce Archambault Jr. et al
Archambault Family Trust, c/o Mark Archambault
13204 E. Louisiana Avenue
Aurora, CO 80012

Agent(s): Richard Bartlett, LLS
Richard D. Bartlett & Associates, LLC
214 North State Street
Concord, NH 03301

Property Address: 511 Pembroke Street
Pembroke, NH 03275
Tax Map (563) Lot (30) in the LO Limited Office, the R-1 Medium
Density-Residential and the AD Architectural Zoning Districts.

Case 17-08-Z A request has been made for a **Variance** under **Article V Dimensional and Density Regulations**, §143-21 **Table of Dimensional and Density Regulations**. The applicant, Richard D. Bartlett & Associates, LLC, 214 North State Street, Concord, NH 03301 is requesting a **Variance** to reduce the required frontage on lot 563-30 from the required 200 feet to 67.88 feet for a proposed 2 lot subdivision off Ashley Drive. The property is owned by Bruce Archambault Jr. et al Archambault Family Trust, c/o Mark Archambault, 13204 E. Louisiana Avenue, Aurora, CO 80012. The property is located at 511 Pembroke Street, Map (563) Lot (30) in the LO Limited Office, the R-1 Medium Density-Residential and the AD Architectural Zoning Districts.

The clerk took the roll call and all members were present. Chairman Kudrick opened the public hearing at 7:40 p.m. There were 3 regular members and 2 alternate members present. Paul Paradis was designated to vote for Mark Simard. Ann Bond was designated to vote for William Faith. 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.

The applicant provided a certified letter dated June 2, 2017 from the property owner authorizing Richard D. Bartlett & Associates to apply for a Variance at 511 Pembroke Street, Map (563) Lot (30).

Sketch Plat for Tax Map (563) Lot (30), dated May 2017 prepared by Richard D. Bartlett & Associates, LLC, 214 North State Street, Concord, NH 03301, tax map and assessing card were included in the agenda packet.

Mark Sargent addressed the Variance criteria:

Please give a detailed description of your proposal below:

Applicant is proposing to reduce the required frontage on lot 563-30 from the required 200 feet to 67.88 feet for a proposed 2 lot subdivision off Ashley Drive. The total area of the parcel is 13.6 acres. There is

197 feet of frontage on Pembroke Street. The applicant is proposing to subdivide a 5 acre lot with 67.88 feet of frontage on Ashley Drive and create a remaining lot of 8.66 acres. Research shows that the proposed road was going to be a temporary turnaround, and then later became a cul de sac.

Applicant is proposing to subdivide a parcel having 67.88 feet of frontage where 200 feet is required.

1. **The variance will not be contrary to the public interest.** Although the proposed lot will have sub-standard frontage, the parcel will exceed the minimum requirements of width and depth and will have direct access to Ashley Drive.
2. **The spirit of the ordinance is observed.** The intent of the ordinance is to provide ample lot area to accommodate a home, well, septic system and safe access to a town maintained road. The lot as proposed provides for these items.
3. **Substantial justice is done.** Granting the variance will permit the family to sell this property in a more marketable configuration.
4. **The values of surrounding properties are not diminished.** The proposed use of the parcel, a single family lot, will be the same of abutting uses and therefore, should not have an impact on surrounding property values. No evidence presented that property values would be affected.
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:**

iv. **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.

This property is unique to other properties in the area in that it is considerably larger in area, and extends from Pembroke Street to Ashley Drive. The size and configuration reduces the marketability. The variance would permit a reasonable use, similar to other uses in the area.

John Prescott, 519 Ashley Drive stated that he and his wife moved into their house in March 2017 and selected the lot because it abutted conservation land and an unbuildable lot with 67.88 feet of frontage. Mr. Prescott stated that the variance request is not due to hardship. It is merely for financial reasons for the owners.

Barbara Avery, 212 Brickett Hill Road, asked how close to Brickett Hill Road would this lot be. She stated the town needs more control on Brickett Hill Road before we locate more people up there.

Brad Chartier, 510 Ashley Drive, stated he chose his lot because it had both neighbors and woods. The reality is that the proposed lot is a corner. I was told it was a right of way for a road five years ago. I had no lot next to me. When we bought, every lot had to abide by the 200 feet of frontage requirement.

Robert Lambert, 517 Ashley Drive, stated that he built last year. Putting utilities in now will damage the paved road. There is not adequate frontage for a lot.

Robert Barrows, 208 Brickett Hill Road, stated that the applicant wants to locate two houses on 5 acres. They have the ability to reconfigure the lots to accommodate both houses and meet requirements.

Dana Carlucci asked on the extended map where would the road go? It would not be a parallel road to Pembroke Street. At one time it was imagined that the road would circle through the larger lot back to Pembroke Street. The paper road had nothing to do with Third Range or Beacon Hill Road.

Tom Hebert asked Mr. Prescott to locate his lot on the applicant's drawing. It is to the left of the property under discussion. Mr. Prescott stated that we bought a 12-acre lot. There was supposed to be another separate development. Rumor was that the town capped the development at 9 lots.

Bob Bourque, Pheasant Lane, stated that he recalls the Thompson's completed the first half of the development and abandoned the plans for another over an issue with abutters. Chairman Kudrick thanked Mr. Bourque for the information.

Chuck Thompson, representing his wife Jacqueline Thompson, stated that he lived in Pembroke for 35 years. He was very active on town boards. They bought their property in the 1970's from Concord Lumber Company. Ry Wiesiger wanted to build a house on the parcel so they hired Tim Bernier to lay out the subdivision plan. The approval contained a lot of conditions, including a requirement for planting 2 trees per lot. The length of cul de sac was an issue. The turnaround plan was a temporary solution.

Chuck Thompson stated that they gave the Town several easements for proposed drainage easements that go across the land under discussion and total 3,033 square feet. Mr. Thompson showed his original plans to the members of the Zoning Board of Adjustment. One sheet was a topo map for the subdivision. Mr. Thompson stated we never considered lots with less than 200 feet frontage. We wanted a development the town could be proud of. There was no interest in developing lots with 100 or 75 feet of frontage. This variance request by the applicant for 67.88 feet frontage is a dramatic difference from our original plans. Chairman Kudrick thanked Chuck Thompson for the history and additional information about the subdivision. The Board appreciates your information.

Brad Chartier, 510 Ashley Drive, stated that Mr. Thompson's testimony confirms that the original intent was not to develop lots with under 200 feet of frontage.

Robert Lambert, 517 Ashley Drive, stated that most of the deeds for the houses on Ashley Drive have restrictive covenants on them. Many covenants on the subdivision include size of house, etc. and these would NOT apply to the proposed lots.

Mark Sargent, agent for applicant, addressed the comments against the proposal. Traffic would be minimally affected by adding on single family home. The entire tract is for sale and that is why there is a For Sale sign on the property. Regarding utilities, there is underground electricity and because this parcel sits lower than Ashley Drive, and we are proposing on-site septic system rather than town sewer. It would be very disruptive to tear up the street for septic. The applicant asked the Charter's if they could purchase some of their frontage. The lot has ample width and depth for a single family home.

Megan Chartier, 510 Ashley Drive, stated that all of the homes on Ashley Drive are subject to fairly extensive covenants including a limit of one outbuilding. I am concerned about our property value if the house on the proposed lot is not subject to the same covenants.

Ann Bond asked if there were possibly adequate frontage on Pembroke Street. Mark Sargent stated there is 197 feet of frontage on Pembroke Street and 120 plus 120 feet of frontage would be needed for two houses. Frontage on Pembroke Street is short of the 240 feet needed.

Dana Carlucci asked if a developer were willing to put a road in, what frontage is needed. Fifty feet frontage is needed for a road. Tom Hebert asked if the cul de sac touches the Archambault property. There may be town owned piece. This would be addressed at Planning Board level.

Chairman Kudrick clarified all the ZBA is looking at tonight is the request for reduction of frontage to 67.88 feet where 200 feet is required.

Linda Lambert, 517 Ashley Drive, stated that 67 feet is not enough frontage for a lot.

Robert Barrows, 218 Brickett Hill Road, agreed that 67 feet frontage is not adequate.

Mark Sargent stated that a typical driveway is 12 feet wide. The property is involved in a family situation with 7-8 siblings and one existing house. We can set a house 200 feet from the road. The issue is frontage.

Ally Kudo, 503 Ashley Drive, stated it speaks volumes that half of the Ashley Drive property owners are here tonight at the public hearing. None of us want to see a lot created there. We don't see a need for an extra lot.

Dana Carlucci summarized the case. This is **Case 17-08-Z**, a request for a **Variance** under **Article V Dimensional and Density Regulations**, §143-21 **Table of Dimensional and Density Regulations**. The applicant, Richard D. Bartlett & Associates, LLC, 214 North State Street, Concord, NH 03301 is requesting a **Variance** to reduce the required frontage on lot 563-30 from the required 200 feet to 67.88 feet for a proposed 2 lot subdivision off Ashley Drive. The property is owned by Bruce Archambault Jr. et al Archambault Family Trust, c/o Mark Archambault, 13204 E. Louisiana Avenue, Aurora, CO 80012. The property is located at 511 Pembroke Street, Map (563) Lot (30) in the LO Limited Office, the R-1 Medium Density-Residential and the AD Architectural Zoning Districts. Mark Sargent from Richard D. Bartlett Associates, LLC presented the case. Total lot is 13.6 acres. There is ample lot area for a two lot subdivision. It is a larger lot than others in the area. Mr. Thompson provided information on his subdivision and the drainage easements provided to the town. Mr. Prescott and Mr. Chartier voiced concerns about privacy. Mr. Lambert questioned utility disruption. Mr. Hodge suggested covenants may have an impact on this variance request. Brickett Hill Road is challenging regarding traffic. The entire piece of property is for sale. The proposed lot would have a septic system. Mr. Sargent insinuated that Mr. Chartier was sent a letter requesting that Mr. Chartier sell some frontage to the applicant. Mr. Prescott and Mr. Thompson stated it was never expected to have house lots with less than 200 feet of frontage. It is possible to build a road from Ashley Drive and Pembroke Street. New structures outside of the covenants of Ashley Drive could affect property values. The Pembroke Street entrance to the lot could support a street. Mr. Sargent stated that the Pembroke Planning Board could place covenants on the subdivision to protect Ashley Drive.

There being no further comment, Chairman Kudrick closed the public hearing at 8:20 p.m.

Ann Bond stated that the applicant is requesting 132 feet less frontage than required. Most applicants ask for 2 or 3 feet and have to show hardship. Chairman Kudrick stated that the Zoning Board of Adjustment is here to assist residents but this would be a very large exception. A new resident could have conditions placed that the new house on the proposed lot had to follow the same covenants as other properties on Ashley Drive. Tom Hebert noted that all homes on Ashley Drive are large 2 story homes. A manufactured home could be placed on the proposed lot without a condition of covenants. Dana Carlucci asked if the Planning Board has authority to place covenants on the proposed new lot to ensure property values stay the same.

Deliberations: ZBA members discussed the Variance criteria.

- 1) The variance will not be contrary to the public interest. This is a very large request for reduction of frontage from 200 feet to 67.88 feet. Applicant is not asking for a 10 feet reduction.
- 2) The spirit of the ordinance is observed. Every existing house on Ashley Drive meets the 200 feet frontage requirement.
- 3) Substantial justice is done. Justice is only done for the applicant. It was discussed that a developer could take the existing home down, build a road and connect Ashley Drive to Pembroke Street.
- 4) Property values are not diminished. No testimony that property values would be diminished was provided. Tom Hebert noted that Mr. Thompson stated that the build out of that development was approved by the Planning Board and is complete.
- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The hardship is that the lot is unique in size and accessibility. The lot has frontage on Pembroke Street.

MOTION: Tom Hebert moved to DENY Case #17-08-Z, a request for a **Variance** under **Article V Dimensional and Density Regulations**, §143-21 **Table of Dimensional and Density Regulations**. The applicant, Richard D. Bartlett & Associates, LLC, 214 North State Street, Concord, NH 03301 is requesting a **Variance** to reduce the required frontage on lot 563-30 from the required 200 feet to 67.88 feet for a proposed 2 lot subdivision off Ashley Drive. The property is owned by Bruce Archambault Jr. et al Archambault Family Trust, c/o Mark Archambault, 13204 E. Louisiana Avenue, Aurora, CO 80012. The property is located at 511 Pembroke Street, Map (563) Lot (30) in the LO Limited Office, the R-1 Medium Density-Residential and the AD Architectural Zoning Districts.

The variance application is denied for the following reasons:

1. Allowing the reduced frontage and access from Ashley Drive would be contrary to the public interest as there would be increased traffic in the neighborhood and all existing lots meet the current Zoning Regulations.
2. The reduction of the frontage from the required 200 feet to the requested 67.88 feet would not be within the spirit of the ordinance.
3. Allowing access from Ashley Drive would not be substantial justice as there is frontage on Pembroke Street and the lot could be accessed from Pembroke Street.

Dana Carlucci seconded.

VOTE: PAUL - YES TOM - YES BRUCE - YES
DANA- YES ANN - YES

MOTION TO DENY VARIANCE PASSED ON A 5-0 VOTE.

MINUTES OF PREVIOUS MEETINGS

MOTION: Dana Carlucci moved to approve the minutes of June 12, 2017 as amended. Ann Bond seconded.

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

MINUTES OF JUNE 12, 2017 APPROVED AS AMENDED ON A 5-0 VOTE.

NEXT MEETING

Date of next ZBA meeting – Chairman Kudrick noted the next ZBA meeting would be on **Monday, July 31, 2017 at 7:00 p.m.**

ADJOURN **Motion:** Paul Paradis moved to adjourn. Ann Bond seconded. Vote was unanimous in favor of motion. Meeting adjourned at 8:52 p.m.

Respectfully submitted,
Susan P. Gifford
Recording Secretary