

Town of Millbury Board of Appeals

Paul Nigosian, Chairman
Robert Simmarano, Vice Chairman
Ken Perro, Clerk
Harold Proodian
Daniel Mezynski
Anna Lewandowski, Alternate member



MUNICIPAL OFFICE BUILDING
127 ELM STREET
MILLBURY, MA 01527

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TOWN CLERK
MILLBURY, MASS.

Meeting Minutes

Wednesday, July 26, 2017

7:00 pm

Meeting Schedule:

07:00 pm: Official Call to Order
07:05 pm: Seeking a Variance; Jacques Leblanc for 7 Leblanc Drive.
07:30 pm: Hearing cont. from May 31st; 366R Greenwood St.
08:00 pm: Minutes from Wed., April 26th 2017, Wed., May 3rd 2017 and Wed., May 31st 2017.
08:10 pm: 5 Forrest Drive Set back; Amend Correction.
08:15 pm: Board Reorganization.
08:30 pm: Adjournment

Board of Appeals Board Members Present:

Paul Nigosian (Chairman), Ken Perro (Clerk), Daniel Mezynski, Robert Simmarano (Vice Chairman),
Harold Proodian

Not in Attendance: Anna Lewandowski (Alternate)

(See attached sign in sheet for abutters)

7:00 PM: Official Call to Order:

Paul Nigosian Millbury Board of Appeals, July 26th, 2017 for Jacques Leblanc at 7 Leblanc Drive, Millbury, Massachusetts application for appeal, Ken Perro; having complied with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, relative to advertising and notifying abutters, all decisions of this board are final except as provided in Chapter 40A of the Massachusetts General Laws.

7:05 PM:

Jacques Leblanc, 7 Leblanc Drive, Map# 94, Lot# 29, Book# 56969, Page# 157, Suburban 1 District.

Steve O'Connell of John Andrews Survey was there to represent Jacques Leblanc he explained to the board they were there seeking a variance for minimum frontage and area for a non-conforming lot; the applicant is seeking to acquire parcel A, (Mr. O'Connell had a map set up for the board to view with each lot outlined in a separate color; Lot 31 in blue, Parcel A in purple and Lot 29 in orange, please see attached), and merge it with the applicants current parcel Lot 29, they need this variance from the board in order for the Planning Board to indorse the plan. By merging parcel A with the landowners current Lot 29 it will give him more land and give him frontage on the end of Leblanc Drive where he currently has no legal frontage also his current driveway will fall on parcel A and become part of his land. In order for the planning board to endorse an A&R Plan they seek this variance for an existing non-conforming lot that has insufficient area and insufficient frontage. The adjoining parcel A is owned by family so this acquisition should be a straight forward process. There is currently no dwelling, structures or use for parcel A. There is an existing dwelling on the applicant's property, Lot 29, and they will do work on the property once this

process has been approved. Mr. O'Connell provided to the board a letter that he had received that day, (Wednesday, July 26th), from the towns building inspector Robert Frederico (please see attached). In part the letter read; release of land from an established lot would require that the remaining 'new' lot meet all new lot size requirements, Millbury Zoning By-Laws require 80,000 square feet of area, while a new proposed lot area of 13,272 square feet, a variance granting relief of 66728 square feet would be required in order to make the transfer of ownership allowable.

Paul Nigosian then asked the audience if there was anyone that would like to speak on behalf of the proposal.

Bruce Gustofson of 5 Leblanc Drive: Inquired about the blue lot, Lot 31, if it was a conforming lot and if they had planned on putting a house there. Paul explained that it was an existing non-conforming lot and that if they were to build on it they would have to apply for a variance for square footage / frontage.

Daniel Mezvynski asked Mr. O'Connell what was the purpose of doing this? Mr. O'Connell explained that the applicant's property Lot 29 is going to acquire Parcel A and by doing so they are going to put their existing driveway completely on land that they intend to own, the next step in the process would be to take an A&R Plan to the planning board where they will indorse the plan which is required for property line alteration the planning board will not endorse that plan unless the DBA had granted the variance; this is step one, step two will be the planning board and step three will be the actual transfer of Parcel A with the applicants property Lot 29.

Paul Nigosian entertained a motion to close the public hearing; **Harold Proodian** made a motion second by **Ken Perro** all were in favor 5 – 0.

After a short discussion between the board members;

Paul Nigosian asked the board if anyone would like to make a motion; **Harold Proodian** made a motion to grant a variance at 7 Leblanc Drive, Millbury, Map#94, Lot# 29, Zoning District S – 1, Book# 56969, Page# 157 according to the Millbury Zoning By-Law (section 22.3 lot size and frontage), frontage 200 feet is required said property has 73.65 feet with a deficit of 126.35 more or less is required; Lot size an 80,000 square foot lot is required said property has only 18,018 square feet a deficit of 61,982 more or less is required; **Daniel Mezvynski** second the motion all members were in favor 5 – 0.

7:30 PM:

Linda Konisky for 366R Greenwood Street, Millbury, Ma; Map# 27, Lot# 7, Recorded with the Registry of Deeds Book# 55145, Page# 357, Suburban IV District and Aquifer and Watershed Protection Overlay District. Seeking Multiple Variances for; 1) General business and office, 2) Construction and business storage, 3) Warehousing. This is a continuation of a hearing from Wednesday May 31st the public hearing was closed at that previous meeting, the board is now moving forward with a motion to Grant or Deny the applicants request for appeal. Ken Perro spoke on behalf of the board in regards to requesting advice from the town council and they have information in regards to making motions to approve with conditions that are optional for the board to review or the other option is to deny.

Paul Nigosian asked Ken Perro if he wanted to make a motion thinking it might be the best way to start off the discussion; **Ken Perro** made a motion to Grant a use variance from section 23.1 and 47.6 of the Millbury Zoning By-Law (Please see attached as Article 1 "GRANT OF USE VARIANCE WITH CONDITIONS").

Paul Nigosian informs the board that they have a motion and if they want to discuss the motion that he would need a second; **Harold Proodian** second for discussion only. Harold Proodian is against multiple businesses on the one lot; a multiplex of different businesses and grant a blanket variance that covers everyone is over doing it and in his opinion it derogates the neighborhood.

As far as line number 7 on the “GRANT OF USE VARIANCE WITH CONDITIONS” (refer to Article 1) the board agreed to limit 25 registered vehicles that would be allowed on the property. Hour of operation; No operation of business between the hours of 7:00PM and 6:00AM Monday thru Friday, Saturday hours 7:00AM to 5:00PM and no business of operation on Sundays.

Daniel Mezynski stated that it is a very complex situation even after consulting and still having a lot of conditions that are still not specified he was inclined to approach this with a wait and see attitude. He didn't think there was anything that the board could pass or come to a decision that's in the best interest of the town so he was inclined to abstain from the vote.

The board continued discussion on abstaining particularly since the hearing had been continued several times, asking and receiving advice from the Town Counsel. Also the board discussed again the business hours, the number of registered business vehicles allowed on the property, number of businesses, if it was decided on one business vs. multiple businesses then that one business would have to come in front of the board every time a new tenant would acquire to rent and apply for whatever variance that business would need, the board also discussed “Spot Zoning”, changing the zoning district, etc... Robert Simmarano is also leaning towards abstaining; Daniel Mezynski also commented that in the consideration of abstaining that maybe 12 or 18 months from now or at some point in the future they can either leave it as it is or take action depending on the events that may have transpired. Paul Nigosian reminded the board that they can also make a motion to deny, at this point they had a motion on the floor whether they want to vote on it or not and move it forward to a vote with a motion that was made and second for discussion only; for the public to approve it is going to require four yes votes or it's also going to take four yes votes to deny. Paul Nigosian reminded Daniel and Robert that if there isn't a four yes vote then by their abstaining then they are basically denying the application.

After further discussion **Paul Nigosian** then read the motion to approve; We have a motion to “GRANT” a Variance with conditions for a “Use Variance” from Section 23.1 and Section 47.6 of the Millbury Zoning By-Law to allow construction equipment storage and accessory office space at the property, subject to the following conditions; (Please see attached as Article II). After reading Paul then continued, that's the motion do I have a second? Harold Proodian asked; for a vote? Paul responded; for a vote, Harold Proodian then second for a vote, Paul then asked the board; “All those in favor”? (No response from the board), Paul then asked the board; “Opposed”? Harold Proodian Opposed, Daniel Mezynski Abstained, Paul Nigosian Opposed, Ken Perro Opposed and Robert Simmarano Abstained. The board voted; 0 – Favor, 3 – Opposed, 2 – Abstained. Paul Nigosian continued; the motion has been denied you have twenty days to appeal the denial will be filed within a week after that point there will be a twenty day waiting period and the applicant can repeal.

8:00 PM:

Meeting Minutes from Wednesday April 26th 2017, Wednesday May 3rd 2017 and Wednesday May 31st 2017.

Wednesday April 26th 2017; Harold Proodian made a motion to accept the minutes, Daniel Mezynski second the motion all were in favor 5 – 0.

Wednesday May 3rd 2017; Daniel Mezynski made a motion to accept the minutes, Kenneth Perro second the motion all were in favor 5 – 0.

Wednesday May 31st 2017; Harold Proodian made a motion to accept the minutes, Kenneth Perro second the motion all were in favor 5 – 0.

8:10 PM:

5 Forrest Drive, Millbury for Set Back; Amend Correction; On May 31st the board granted a side yard setback at 5 Forrest Drive in Millbury the Variance was granted but there was a couple of typo's in the Variance that was to be filed they had to be correct and the board needed to resign, the Variance was passed 5 – 0 the board members who needed to resign were; Paul Nigosian, Kenneth Perro, Daniel Mezynski, Robert Simmarano and Anna Lewandowski.

8:15 PM:

Reorganization for Chairman, Vice Chairman and Clerk; all board members were present besides Anna Lewandowski but as her being an alternate her presence for the vote wasn't needed. Paul Nigosian entertained a nomination for Chairman, Vice Chairman and Clerk.

(Chairman) Daniel Mezynski made a motion for Paul Nigosian as Chairman, (Harold Proodian asked Paul if he would accept and Paul said he would do another year if the board will have him), Paul Nigosian accepted the nomination, Harold Proodian second the nomination for Paul Nigosian to continue as Chairman all members were in favor 5 – 0.

(Vice Chairman) Harold Proodian made a nomination for Kenneth Perro as Vice Chairman, (because Ken did such a great job gathering all the information from the Town Council for the Konisky hearing), Daniel Mezynski made a nomination for Robert Simmarano as Vice Chairman, Kenneth Perro and Robert Simmarano accepted the nominations, Paul Nigosian asked the board who voted for Ken; Harold Proodian nominated and voted for Ken, Ken Perro voted for himself and Paul Nigosian also voted for Ken; Board members in favor 3 – 2.

(Clerk) Harold Proodian nominated Robert Simmarano as Clerk, Robert Simmarano accepted the nomination as Clerk, all members were in favor 5 – 0.

Paul Nigosian announced the members in their positions; Paul Nigosian as Chairman, Kenneth Perro as new Vice Chairman and Robert Simmarano as Clerk.

8:30 PM: Adjournment

Paul Nigosian entertained a motion to adjourn the meeting; **Daniel Mezynski** made the motion, **Harold Proodian** second the motion; carried unanimously 5 - 0.

Respectfully submitted by Nancy Young and submitted to Town Clerk.

Article 1

(GRANT OF USE VARIANCE WITH CONDITIONS:)

The Board of Appeals hereby grants a Use Variance from Section 23.1 and Section 47.6 of the Millbury Zoning By-Law to allow construction equipment storage and accessory office space at the property, subject to the following conditions:

1. There shall be no ~~commercial activity on~~ movement of commercial or construction vehicles of any kind on ~~the property~~ the property between the hours of 7 p.m. and 6 a.m. seven (7) days a week. [YOU MIGHT CONSIDER A NARROWER WINDOW, AND/OR A PROHIBITION ON VEHICLE MOVEMENT ON WEEKENDS.]
Mon - Fri 7A - 5PM Saturday SAT 7A - 5PM
2. The ~~owner~~ owner of the property shall monitor the property on a regular basis to ensure compliance in all material respects with this Variance.
3. Except for long term seasonal storage, there shall be no other commercial activity in that portion of the property shown on the plan and labeled as "Long Term Storage Area." The plan is attached hereto as Exhibit A and incorporated herein.
4. ~~The owner may maintain the three commercial buildings located on the property and identified as #366 R-A, #366 R-B, and #366 R-C along with existing impervious areas, but may not expand said buildings or impervious areas or construct any new commercial structures on the property.~~
5. There shall be no construction, assembly, or manufacturing work performed on the property, other than work required for the maintenance of the property and its existing improvements and work required for uses allowed by the Millbury Zoning By-Law exclusive of this Variance.
6. There shall be no storage of hazardous materials on the property. The storage of fuel on the property shall be limited to the fuel tanks of registered vehicles located on the property.
7. At no time shall there be more than 25 registered vehicles on the property. There shall be no storage of unregistered vehicles on the property.

~~Areas used for the outside storage of construction equipment shall be screened from public ways and residential properties with fencing and evergreen trees and shrubs.~~

(ARTICLE: II)

Statement of reasons for action of Board of Appeals:

A Use Variance from Section 23.1 and Section 47.6 of the Millbury Zoning By-Law to allow construction equipment storage and accessory office space at the property, subject to the following conditions:

1. There shall be no movement of commercial or construction vehicles of any kind on the property between the hours of 7:00PM to 6:00AM Mon. thru Fri., Sat. 7:00AM to 5:00PM and no business on Sundays.
 2. The owner of the property shall monitor the property on a regular basis to ensure compliance in all material respects with this Variance.
 3. Except for long term seasonal storage, there shall be no other commercial activity in the back lot area; labeled as "Long Term Storage Area".
 4. The owner may maintain the three commercial buildings located on the property identified as #366 R-A, #366 R-B and #366 R-C along with existing impervious areas, but may not expand said buildings or impervious areas or construct any new commercial structures on the property.
 5. There shall be no construction, assembly or manufacturing work performed on the property, other than work required for the
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maintenance of the property and its existing improvements and work required for uses allowed by the Millbury Zoning By-Law exclusive of this Variance.

6. There shall be no storage of hazardous materials on the property. The storage of fuel on the property shall be limited to the fuel tanks of the registered vehicles located on the property.
7. At no time shall there be more than (25) registered vehicles on the property. There shall be no storage of unregistered vehicles on the property.
8. Areas used for the outside storage of construction equipment shall be screened from public ways and residential properties with fencing and evergreen trees and shrubs.



TOWN OF MILLBURY

ATTENDEE SIGN-IN SHEET

BOA HEARINGS WEDNESDAY, July 26, 2017

7:05 Jacques Leblanc for 7 Leblanc Dr., Millbury, Ma

7:30 Linda Konisky for 366R Greenwood St., Millbury

PLEASE PRINT NAME

ADDRESS & HEARING ATTENDING

(example) John Doe

123 Main St. Millbury, Linda Konisky

Jacques LeBlanc	7 LeBlanc Drive, MA, BOA
RICHARD LOWHEAD	364 GREENWOOD ST.
Mark Mahler + Holly Mahler	370 B Greenwood St
CLAIRE FORGUES & MARK	3 LeBLANC DR.
Brian Johnson	5 Leblanc
Linda Konisky	32 Buckley Circle
Carol Hollan	52 Buckley Circle
MIKE GOODMAN	6 PAUL ST Avenue
Amanta Risch	386 Greenwood St
Stephen O'Connell (ASE)	7 Leblanc Drive
Tom BAILEY	137 Greenwood Ave
Jim Hill	15 Churnis Ave
Wendy Hill	15 Churnis Ave
Yvonne Fedler	12 Churnis Ave
Sunny Carducci	Richmond Ave
Martina y. Dece	366 Greenwood St.
Muskel & W	366 Greenwood St.

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PLEASE PRINT NAME

ADDRESS & HEARING ATTENDING

(example) John Doe

123 Main St. Millbury, Linda Konisky

Elaine Marcoux

19 Chunis Ave, Millbury

DAVID R. MARCOUX

19 chunis AVE. MILLBURY

Town of Millbury Board of Appeals

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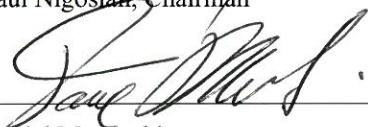
Board of Appeals Approval Signatures for Meeting Minutes, Wednesday, August 30th, 2017



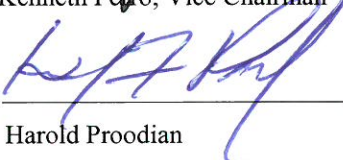
Paul Nigosian, Chairman



Kenneth Perro, Vice Chairman



Daniel Mezynski



Harold Proodian

Robert Simmarano, Clerk

Anna Lewandowski, Alternate



TOWN OF MILLBURY

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-2632 • TEL: 508/865-0438 • FAX: 508/865-0857

Department of
Building & Inspections
Robert Frederico
Inspector of Buildings

July 26, 2017

John Andrews

104 Mendon Street, Uxbridge, MA

RE: Proposed land sale, Leblanc Drive

Location: map 94, parcel 31, District S-I, Aquifer protection overlay district 'B'

You have indicated that there is a proposed sale of land from Lot 94, Parcel 31 to the adjoining property at Map 94, Parcel 29. The release of land from an established lot would require that the remaining 'new' lot meet all new lot size requirements (IE: 80,000sq ft of area). Millbury Zoning By-Laws require 80,000 square feet of area, while you propose a new lot area of 13,272 square feet. A variance granting relief of 66728 square feet would be required in order to make the transfer of ownership allowable.

*Apply to the Millbury Board of Appeals for a variance (section 47 lot area).

Contact the Millbury Town Clerk for variance applications.

You have thirty (30) days from the date of this refusal to appeal this decision.

Very truly yours,

Robert J. Frederico, CBO
Inspector of Buildings/Zoning Enforcement Officer