

# Town of Millbury Board of Appeals

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



MUNICIPAL OFFICE BUILDING  
127 ELM STREET  
MILLBURY, MA 01527

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17 DEC 29 AM 11:58  
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## Meeting Minutes

Wednesday, November 29, 2017

7:00 pm

### Meeting Schedule:

07:00 pm: Official Call to Order  
07:05 pm: Carl Erickson for 2 Bayberry Lane seeking a Variance for lot area  
07:30 pm: Brennan J. Salo for 313 W. Main St. seeking (2) Variances for frontage and land area  
08:00 pm: Executive Session (Closed to Public)  
09:00 pm: Back in Session  
09:05 pm: Meeting Minutes from Wednesday, August 30, 2017  
09:15 pm: Adjournment

### Board of Appeals Board Members Present:

Paul Nigosian (Chairman), Ken Perro (Vice Chairman), Robert Simmarano (Clerk), Harold Proodian and Anna Lewandowski (Alternate)

**Not in Attendance:** Daniel Mezynski

**(See attached sign in sheet for abutters)**

### 7:00 PM: Official Call to Order:

**Paul Nigosian** Millbury Board of Appeals, November 29<sup>th</sup>, 2017 for Carl Erickson for 2 Bayberry Lane, Millbury, Massachusetts application for a variance, **Robert Simmarano**; 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:** Carl Erickson for 2 Bayberry Lane, Map# 89, Lot# 40, Book# 45341, Page# 230, S - 1 Aquifer B District.

**Atty. Heather Trudell from Keenan & Trudell** was there to represent Carl Erickson; she explained to the board that they are there to request a petition for two separate variances for the property at 2 Bayberry Lane, the first variance is for lot area that requires 80,000 square feet in an Aquifer B Overlay District this lot has 66,163 square feet a relief of 13,837 square feet is needed. The second variance is from the uplands requirement which is 90% the lot in question is about 80 to 85% dry uplands. The petitioner seeks to build a four bedroom single family home of 2,400 square feet, the lot itself is an unusual shape and that there is a lot of clay in the soil. In 2006 the Board of Appeals did grant a variance for the same particular purpose, the variance was granted to build a three bedroom home of 2,400 square feet. This particular strip of road has a lot of unique shaped parcels and that the board has issued six separate variances on this lane. The hardship is the shape and size of the lot it was a buildable lot and was owned in common ownership however when the zoning laws changed it became an unbuildable lot. Carl Erickson has owned this property since 2012, he purchased the property not aware that the previous variance was no longer

valid the original variance was granted back on June 20<sup>th</sup>, 2006 however a variance is only good for two (2) years. The original variance was given to Steve Wilbur whom requested the same variance eleven years ago. The proposed house is going in the same location as the previous plan back in 2006. Mr. Erickson is looking to build a single family ranch style house to live in however Paul Nigosian pointed out that the house plans that are presented is not a ranch it's a two story with three bedrooms and a bonus room upstairs and a master bedroom located on the first floor, clearly it is not a ranch. Paul Nigosian pointed out that there is no hardship the current owner purchased the property back in 2012 assuming the variance was still valid, due to the owners lack of research on the property and the variance that was granted back in 2006 he has created his own self inflicted hardship that is not recognized by the board. Paul Stringham, the towns building inspector, pointed out that the application came before he was on board but questioned if a septic system has been designed and if so can it support a four bedroom home because clay soil can be kind of wacky? Mr. Erickson explained that the engineer is Jim Alley of Alpha Omega and has said the lot can support up to a six bedroom house, the engineer has done his research in regards to the Title V in regards to the Aquifer Overlay and has had a perk test done that has been cleared. Ken Perro pointed out that a septic design has to pass Title V and that the system has to be so many feet away from the water and you can get relief from that but it depends on the design and the engineer, soils matter but systems have been put in with clay it just costs more money, they would have to discard it and replace with new soil, it would have to go through its proper approvals. Heather Trudell asked the board that if they would request a continuance so as they could provide further information in regards to the septic system they would be willing to entertain that if the board is willing to do so if that would help with the decision making.

Paul Nigosian entertained a motion to continue a public hearing regarding further information for the septic system for Wednesday, January 31<sup>st</sup>, 2018; Harold Proodian made a motion, Ken Perro second the motion all members were in favor 5 – 0 to continue the hearing for January 31<sup>st</sup>, 2018.

**7:30 PM:** Brennan J. Salo / J&B Custom Homes LLC) for 313 West Main Street, Map# 76, Lot# 2, Book# 57805, Page# 317, S – 1 District "B" (AWPOD).

Before Paul Nigosian opened the hearing he informed the applicant, Brennan J. Salo, that the board is one member short and another member, Ken Perro, has a conflict of interest and had to step down so he won't be able to vote therefore with only four members present Mr. Salo will need all four members to vote yes and one no vote will defeat the applications appeal, Mr. Salo was asked he can move forward or postpone to a later date; the applicants agreed to move forward, Paul Nigosian announced to let the record show.

Robert Murphy with Murphy Associates Environmental Consultants represented Brennan Salo of J&B Custom Homes LLC; what they are requesting is a variance to develop a single family house on an existing non conforming lot, the property is located on the intersection of West Main Street and Fjellman Road. Currently there is an existing house on the property that suffered damages due to a fire and the eternal structure is burnt out but the foundation and outer walls are still there. They have designed a new single family house that will meet the set back requirements, (front, side and rear), of the current zoning for this area. Looking at the plan, (please see attached), there is an outline where the old structure exists and what they want to do is build the new structure set back further from the road and more in line with the existing houses that are there. The frontage requirement is 200 feet this lot is a non-conforming lot on the corner of Fjellman Road and West Main Street the frontage on West Main Street is 71.61 feet and the frontage on Fjellman Road is 184.16 feet totaling 255.77 therefore meeting the frontage requirements but the lot falls short of the required 80,000 square feet, this lot currently has 14,332 square feet (65,668 relief is needed).

The lot is going to require a septic system but it does have an existing well but they are going to replace the well not due to the water quality but do to the depth of the current well. With the size of the lot they are able to meet the Title V requirements. The hardship to the lot is that there is no option to increase the size of the lot, the land to the rear is a cemetery and the lot next door is also a non-conforming lot as well. They are going to go with the same lay out, the property slopes to the rear the septic system will be a gravity system, the perk tests with the board of health and the lot has passed all the Title V requirements of the soil absorption for a septic system. The previous owner was Weldon Glover he purchased the property from the estate of Arthur Morris in 1963 the property that Morris sold was subdivided prior to 1950 so this lot doesn't have a hardship as a result of any subdividing after zoning the property has been as it is shown on the map for well over 50 years. The existing home had a 1,000 square foot foundation it was a two story with somewhere of 1,800 square feet of living space the proposed new home will be a ranch style build with just under 1,900 square feet with an attached two car garage.

Paul Nigosian entertained to close the public hearing, Harold Proodian made the motion, Daniel Mezynski second the motion all members were in favor 4 – 0.

Paul Nigosian entertained a motion to approve to approve the variance; Anna Lewandowski made the motion to Brennan J. Salo / J&B Custom Homes LLC of 21 Elizabeth Drive, Millbury, Ma for the property located at 313 West Main Street, Millbury, Ma, as shown on Map# 76, Lot# 2, as recorded in Book# 57805, Page# 317 with the Worcester District Registry of Deeds within the Zoning District S – 1 Aquifer Watershed Protection Overlay District “B” (AWPOD) of the Millbury Zoning Bylaws to allow the demolition of an existing burnt and damaged house and build a new single family house with an attached two car garage and to grant a variance for Land Area; a minimum of 80,000 square feet is required said property has 14,332 square feet a relief of 65,668 square feet has been granted Harold Proodian second the motion all members were in favor 4 - 0. Anna Lewandowski made a motion for a second Variance for Frontage, a minimum of 150 feet is required said property has 71.61 feet a relief of 78.39 feet has been granted Harold Proodian second the motion all members were in favor 4 – 0.

#### **8:00 PM: Executive Session**

Paul Nigosian made a request to make a motion to move the meeting to Executive Session to discuss a previous decision by the board that is presently being appealed after which time the board will go back to a public hearing to adjourn the meeting; Anna Lewandowski made the motion, Harold Proodian second the motion all members were in favor 5 – 0.

#### **9:00 PM: Reconvened**

Paul Nigosian made a motion to be released from the Executive Session, Anna Lewandowski made the motion, Harold Proodian second the motion all members were in favor 5 – 0.

#### **9:05 PM: Meeting Minutes**

Meeting Minutes from Wednesday August 30<sup>th</sup>, 2017; Paul Nigosian made a motion to approve the minutes, Harold Proodian made the motion to approve the minutes, Ken Perro second the motion, members were in favor 4 – 1 Anna Lewandowski opposed.

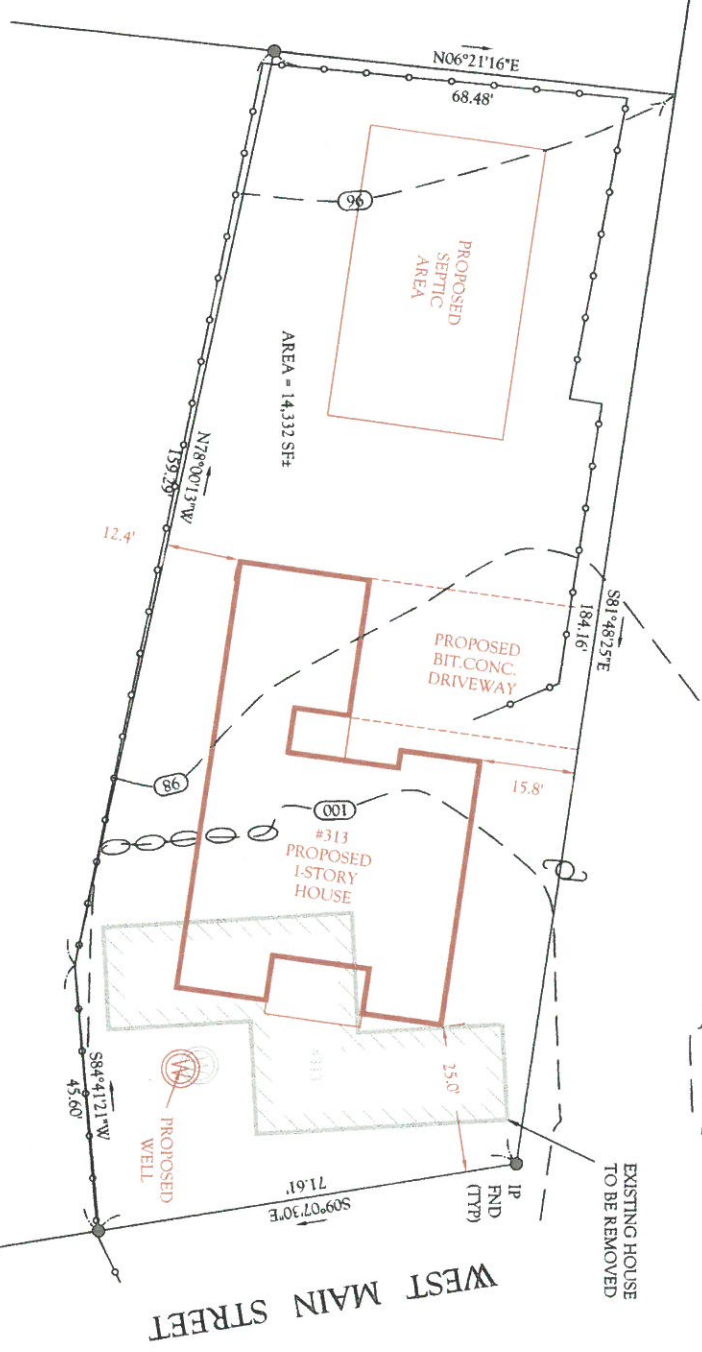
#### **9:15 PM: Adjournment**

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

Respectfully submitted by Nancy Young and submitted to Town Clerk.

District S-1 - (AWPAD - "B")  
 Map # 96 - Lot # 2

FJELLMAN ROAD



ZONING: S1, AQUIFER PROTECTION OVERLAY B  
 AREA: 80,000 SF  
 FRONTAGE: 200'  
 SETBACKS: FRONT - 25'  
 SIDE - 10' REAR - 10'

BLACKSTONE VALLEY  
 MAPPING & CONSULTING  
 www.blackstonevalleymapping.com  
 blackstone\_valley\_mapping@gmail.com  
 508-839-5837

PREPARED FOR:  
 J&B CUSTOM HOMES LLC REALTY TRUST-2012  
 21 ELIZABETH DRIVE  
 MILLBURY, MA  
 REFERENCES:  
 DEED: BOOK 57805, PAGE 317

I CERTIFY THAT THIS PLAN WAS  
 CREATED BY AN INSTRUMENT  
 SURVEY ON THE GROUND AND  
 THAT ALL STRUCTURES ARE  
 LOCATED AS SHOWN HEREON.

CHRISTOPHER C. CHARLTON, PLS



CERTIFIED PLOTTING  
 LOCATED AT  
 313 WEST MAIN STREET  
 ASSESSOR'S PARCEL # 762  
 MILLBURY, MA  
 WORCESTER COUNTY  
 CONTINENTAL LAND SURVEY, LLC  
 105 BEAVER STREET, FRANKLIN, MA  
 (508) 528-2528  
 SCALE: 1"=20' OCTOBER 12, 2017



# TOWN OF MILLBURY

## ATTENDEE SIGN-IN SHEET

BOA HEARINGS WEDNESDAY, November 29<sup>th</sup>, 2017

7:05 Carl Erickson, 2 Bayberry Lane., Millbury, Ma

7:30 Brennan J. Salo, 313 West Main St., Millbury

PLEASE PRINT NAME

YOUR ADDRESS & HEARING ATTENDING

(example) John Doe

(example) 123 Main St. Millbury, Jane Doe

Carl Erickson

2 Bayberry Ln, Millbury, MA

Heather Truell

" "

CARL ERICKSON

" " " "

Paul Stringham

Building Inspector

Robert Ciaramore

23 DOLAN Rd -

Bob Murphy

317 N W Main

Brennan J Salo

313 W. Main St. Millbury

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## Board of Appeals Approval Signatures for Meeting Minutes, Wednesday, November 29<sup>th</sup>, 2017

Paul Nigosian, Chairman

Kenneth Perro, Vice Chairman

Harold Proodian

Daniel Mezynski

Robert Simmarano, Clerk

Anna Lewandowski, Alternate