

**Millis Zoning Board of Appeals**  
**August 21, 2018**  
**Veterans Memorial Building**  
**Room 229**  
**Meeting opened at 7:00 pm**

**BOARD MEMBERS PRESENT:**

Members: Peter Koufopoulos, Donald Skenderian, Wayne Carlson, Don Rivers and William Lawson.

**Continuation 3 Tuckerdale Way (0 Walnut Street):**

The Chairman called the continued hearing to order.

A petition was filed by Jane Hardin, for property located at 0 Walnut Street (3 Tuckerdale Way), Map #3, Parcel #14 and R-S & R-T Zone. The applicant seeks a variance from Section VI table 2 to allow a frontage of 100.39 and from Section II definitions “ Lot, Width” to allow a lot width of less than 80% of the required frontage to construct a single-family dwelling.

A petition was filed by Jane Hardin, for property located at 0 Walnut Street Map #3, Parcel #14 and R-S & R-T Zone.

Correspondence received included the following and were read into the record:

- Letter from Cheryl Labonte and Lisa Hardin, 56 Walnut Street
- Mark Robbins, 58 Walnut Street

The petitioner was present and had Dan Merrikin from Merrikin Engineering present the application to the Board. It was indicated that there were changes to the encroachment area which was referenced on the locus.

Speaking in support of the variance were the following:

- Attorney Cory Rhoades, representing the Collins family.
- Jim Mckay, representing the Department of Public Service.

Acting on a motion made by Mr. Skenderian and seconded by Mr. Lawson, the Board voted unanimously to close the public hearing.

Acting on a motion made by Mr. Skenderian and seconded by Mr. Lawson, the Board voted to grant a **VARIANCE** from Section VI, Table 2 of the Bylaw to allow the proposed Lot 1 to have a frontage of 100.39 feet and a lot width of 40.00 feet. The vote was **3 to 0 in favor**.

The Millis Zoning Board of Appeals finds:

**FINDINGS:**

1. The site is comprised of assessor’s parcel 3-14 totaling approximately 3.3 acres of land (the “Site”).
2. A plan of record indicates a prior property owner configured it for a potential subdivision, leaving an access roadway area complete with corner roundings.
3. In 1964, a prior lot owner deeded the adjacent “Lot D” (assessor’s parcel 3-40) to the Town, which was ultimately used for the installation of the existing water storage tank.

Lot D has no frontage on Walnut Street and relies on access over the applicant's land from Walnut Street.

4. The applicant's survey indicates that portions of appurtenances associated with the municipal water storage tank encroach on the Site, including portions of fencing and certain utility system.
5. The applicant indicates that there are title issues with respect to the Town's rights to access across and to install utilities through the Site to the existing water storage tank.
6. In the northerly portion of the site, a municipal storm drain discharges stormwater runoff into and through the Site. The applicant indicates that the Town has no easement for this discharge and that it is an encroachment.
7. James McKay, DPW director, confirmed that there do appear to be title and encroachment issues associated with the various municipal facilities on the Site.
8. The applicant indicates the potential to seek subdivision approval for two lots on the entrance strip, which was obviously left as a potential roadway, given its configuration with corner roundings.
9. The applicant indicates a preference to construct one single-family dwelling on the Site instead of a subdivision roadway with two homes.
10. The applicant has offered to convey the second lot to the Town of Millis, for its use in remedying existing utility encroachments and for its use for future water supply system appurtenances. The applicant has further offered to convey access and utility easements and a stormwater easement to remedy the other potential encroachment issues on the site.
11. As such, the applicant seeks variances to allow the existing access strip to provide frontage and lot width for a single building lot on the Site.
12. The applicant has addressed a further encroachment by the abutter at 54 Walnut Street and has depicted an unbuildable parcel on the Plan, which they intend to use to address encroachment issues with that abutter.
13. The locus is split zoned between the R-S zone along the frontage and R-T zone in the rear. The Zoning Bylaw is silent on split-zone conditions such as this. This variance assumes that because the prospective house will be located partially within the R-T zone, the more restrictive zoning dimensional requirements of the R-T zone are required to be met and the variances granted are therefrom from those requirements.
14. The Board makes the following findings relative to the requirements of a Variance:
  - a. This Property has unique conditions with respect to soils and topographical conditions along with the shape of the property, which derive hardships. The soils and topographical conditions on the property have exacerbated wetlands at the rear of the property. The stormwater discharge from the municipal stormwater drain system has resulted in increased water flow to this area, limiting development options on the Site. Furthermore, a 40-foot access strip of land, complete with corner roundings, was obviously left by the prior property owner for access the Site. These conditions are unique to this Site.
  - b. The applicant suffers from hardships. An alternative development option for the site is to pursue approval for a definitive subdivision roadway to create frontage for two new lots. As the Applicant indicates, this process is costly and time-consuming, yielding a financial hardship to the applicant. In addition, there appear to be several encroachment issues relative to the various municipal infrastructure systems on and around the Site, which have created other hardships for the applicant. The granting of the variance will allow all of these issues to be permanently resolved.

- c. The Board finds that the granting of these variances will not cause a substantial detriment to the public good or impair the purposes and intent of the By-law. The lot will be used for a single-family dwelling, which is consistent with purpose of the By-law and the granting of the variances will obviate the need to construct a new roadway, which would be more of an imposition to adjoining properties than the proposed driveway.

The following conditions apply:

**CONDITIONS:**

The relief granted herein (variances and special permits) is based on and subject to the following conditions:

1. The work shall be substantially as shown on a plan entitled “0 Walnut Street, Sketch Plan of Land in Millis, Massachusetts” prepared by Merrikin Engineering, LLP and dated April 25, 2018 with a final revision date of August 21, 2018 (the “Plan”). It is recognized that the final property plan referenced in condition #2 below may result in minor, insubstantial, changes to lot line bearings, distances and lot areas as a result of the final property survey.
2. The applicant shall prepare and submit an ANR (approval-not-required) subdivision plan to the Planning Board for endorsement to create Lot 1, Parcel A and Parcel G substantially as shown on the Plan.
3. Within 60 days of said ANR plan endorsement, the Applicant shall furnish the Board of Selectmen with a draft deed and easement grant(s) for Parcel A and the easements to be conveyed to the Town. Within 30 days of approval by the Town, through their counsel, the applicant shall provide executed deeds and easement grants to the town. The deed for Parcel A will be restricted for uses associated with the municipal water supply system as indicated on the Plan.
4. The building structure(s) shall meet the minimum dimensional requirements of the R-T zone, including setback from lot lines.
5. When considering street numbering for the Lot, variations of “54 Walnut Street” (such as 54R or 54B) shall not be used.

**Christopher Brynczka, 219 Orchard Street:**

The Chairman called the hearing to order.

The application was filed with the office of the Millis Town Clerk, the petitioner, Christopher & Rachael Brynczka, for property located at 219 Orchard Street, Map #12, Parcel #29, R-S Zone.

The petitioner is seeking a special permit under section XIII O, Accessory Family Unit for his mother.

Notice of the application was published in the Milford Daily News. Notice of the hearing was provided to the petitioners, abutters, and appropriate town boards and officials. Notice of the hearing was posted in the Veterans Memorial Building.

Present were members: Peter Koufopoulos, Donald Skenderian, William Lawson and Don Rivers which constituted a quorum.

Present was the applicant representative, Peter Bemis.

The notice of hearing was read.

There were no abutters present.

Peter Bemis presented the special permit application to the Board and it was reviewed.

On a motion made by Donald Skenderian and seconded by William Lawson, the board voted unanimously to close the public hearing.

On a motion made by Donald Skenderian and seconded by William Lawson, the board voted unanimously to grant a special permit to Christopher and Rachael Brynczka for an accessory family unit for their mother.

**Edward and Marie Pozniak, 23 Bow Street:**

The Chairman called the hearing to order.

Present were: Mr. Koufopoulos, Mr. Carlson, Mr. Skenderian, Mr. Rivers and Mr. Lawson.

The petitioner is seeking a finding under Section IX non-conforming uses, structures and extension and alteration to allow for an addition for their kitchen which will not be substantially more detrimental to the neighborhood.

The Notice of Hearing was read. Mr. Koufopoulos noted that abutters had been notified, the notice of hearing had been advertised and no correspondence had been received.

The applicant explained that they are seeking a finding that the addition of a kitchen replacement will not be substantially more detrimental to the neighborhood.

Acting on a motion made by Mr. Carlson and seconded by Mr. Skenderian, the Board voted unanimously to close the public hearing at 7:40 pm.

Acting on a motion made by Mr. Carlson and seconded by Mr. Skenderian, the Board voted unanimously to make a finding to allow the addition to a kitchen at 23 Bow Street will not be substantially more detrimental to the neighborhood.

**Albert Kavanaugh, 10 J William Heights:**

The Chairman called the hearing to order.

The application was filed with the office of the Millis Town Clerk, the petitioner, for property located at 10 J William Heights, Map#25, Parcel #121 RS Zone. The petitioner is seeking a finding under Section IX non-conforming uses, structures and extension and alteration to allow for farmer's porch. Notice of the application was published in the Milford Daily News. Notice of the hearing was provided to the petitioners, abutters, and appropriate town boards and officials.

Present were: Mr. Koufopoulos, Mr. Carlson, Mr. Skenderian, Mr. Rivers and Mr. Lawson.

The Notice of Hearing was read.

The applicant explained that he is seeking a finding to add a farmer's porch that will not be substantially more detrimental to the neighborhood

Acting on a motion made by Mr. Carlson and seconded by Mr. Skenderian, the Board voted unanimously to close the public hearing at 7:50 pm.

Acting on a motion made by Mr. Carlson and seconded by Mr. Skenderian, the Board voted unanimously to make a finding to allow the addition of a farmer's porch at 10 J William Heights that will not be substantially more detrimental to the neighborhood.

Member Carlson exited the meeting.

**David Acerra, 202 Village Street:**

The Chairman called the hearing to order.

The hearing notice was read into the record. The Chairman noted that abutters had been notified, the notice of hearing had been advertised and no correspondence had been received.

The applicant explained that he is seeking a finding allow for a 26 by 16 foot deck located at 202 Village Street, Map #39, Parcel #16, R-S Zone as noted in plan dated July 14, 2018 signed by Daniel O'Driscoll will not be substantially more detrimental to the neighborhood.

Acting on a motion made by Mr. Skenderian and seconded by Mr. Lawson, the Board voted unanimously to close the public hearing at 8:10 PM.

Acting on a motion made by Mr. Skenderian and seconded by Mr. Lawson, the Board voted unanimously to grant a finding to allow for a 26 by 16 foot deck for property located at 202 Village Street, Map #39, Parcel #16, R-S Zone as generally noted in the submitted plan dated July 14, 2018 signed by Daniel O'Driscoll. The proposed deck will not be substantially more detrimental to the neighborhood than the pre-existing non-conformity.

**Brian Polimeno, 262 Union Street:**

The Chairman called the hearing to order at 8:15 pm.

The application was filed with the office of the Millis Town Clerk, the petitioner Brian Polimeno, for property located at 262 Union Street, Map#19, Parcel #124 RV Zone. The petitioner is seeking a finding under Section IX non-conforming uses, structures and extension and alteration to allow for a 18 by 36 foot in-ground pool. Notice of the application was published in the Milford Daily News. A public hearing in accordance with said notice was held on August 22, 2018 at 8:15pm in the Veterans Memorial Building, Room 229. Notice of the hearing was provided to the petitioners, abutters, and appropriate town boards and officials.

No correspondence had been received.

The applicant explained that he is seeking a finding for the installation of an 18 x 36 ft. in-ground pool that will not be substantially more detrimental to the neighborhood

Acting on a motion made by Mr. Rivers and seconded by Mr. Skenderian, the Board voted unanimously to close the public hearing at 8:30 pm.

Acting on a motion made by Mr. Rivers and seconded by Mr. Skenderian, the Board voted unanimously to make a finding to allow for the installation of an 18 by 36 foot in-ground pool at 262 Union Street that will not be substantially more detrimental to the neighborhood.

**Minutes:**

**July 17, 2018:**

**Acting on a motion made by Peter Koufopoulos and seconded by Don Skenderian, the Board voted unanimously to approve the minutes for July 17, 2018.**

**Bills:**

The Chairman signed the bills as presented.

**Adjourn:**

**On a motion made by Peter Koufopoulos and seconded by Donald Skenderian, the Board voted to adjourn the meeting at 8:45 pm.**

Respectfully Submitted,

Amy Sutherland

Secretary

Approved September 20, 2018

