

**Town of Sandown
Zoning Board of Adjustment
Minutes 5/29/14**

Meeting Date: May 29, 2014
Type of Meeting: Public Hearing
Method of Notification: Public Posting - Sandown Town Hall, Sandown Post Office,
Sandown Website, Eagle Tribune
Meeting Location: Sandown Town Hall
Members present: Chairman - Steve Meisner, Christopher True – Vice Chairman,
Brian St. Amand
Absent: Dave Ardolino, Donna Green, Curt Sweet,
Hans Nicolaisen – Selectmen’s Liaison

Opening: Mr. Meisner opened the meeting at 7:11 p.m.

Public Hearing for Case # 01 – M6 L11. The property is located at 66 Phillips Pond Road and identified on Map 6 Lot 11. An application submitted by Peter Holmes requesting a variance from Article II, Part B, Section 3B to permit the subdivision of Map 6 Lot 11 into two single family dwelling lots resulting in one with insufficient frontage.

Tim Peloquin from Promised Land Survey was presenting the case.

Mr. Meisner noted for the applicant that the board only had three members present which meant he needed a unanimous vote to pass the variance. They had the right to postpone the hearing to another time when there could be more members.

Mr. Peloquin recommended to Mr. Holmes that he hold off until he had more board members.

Mr. Meisner noted that they could continue with the hearing and present their case and for any reason during the hearing decide to postpone it without prejudice. Mr. Holmes asked if it would be proper to poll the board and see how they were feeling. Mr. Meisner noted they had not heard the case yet and was not comfortable doing that.

Mr. Holmes noted, as much as he dislikes waiting because the process has been fairly long, he would prefer to postpone the hearing.

Mr. Meisner noted they were trying to schedule another hearing date for a failed septic system and would see if they could add that to the next agenda. Mr. Peloquin noted they would prefer to have as many members in attendance as possible and would be willing to wait until June 26th if necessary.

Mr. Meisner noted that case Case # 01 – M6 L11 for Peter Holmes has been postponed to the next available meeting.

47 **Public Hearing for Case # 02 – M22 L55.** The property is located at 56 North Road and
48 is identified on Map 22 as Lot 55. An application submitted by Nordic Lincoln Realty
49 Trust requesting a variance from Article IIB, Section 3B of the zoning ordinance to
50 permit a new lot to be created with 50' of frontage.

51

52 *Kevin Hatch, Cornerstone Survey Associates presented the application.*

53

54 The applicants Ed Mencis, Mitchell Mencis and Linda Meehan were also present.

55

56 Mr. Hatch noted the variance was granted in 2007 and it had since expired. They took the
57 exact plan to the planning board and received conditional subdivision approval. They
58 didn't record the plan so their conditional approval had expired.

59

60 Mr. Meisner made the applicant aware that they only had three board members. Mr.
61 Hatch noted they would like to move forward knowing there are only three members
62 present.

63

64 Mr. Hatch showed the location of the proposed lot and noted the lot is tucked into the
65 woods. The existing road frontage is 394' for the parent lot, just short of the 400' that is
66 required for the two lots. For the new lot, they would access the property through the
67 graveled access road that already exists. The property would have an access easement on
68 that road. Even though they will access the property through the graveled access road,
69 they still want some frontage for the lot. The home will be tucked back so far, it will be
70 out of site from the road. The lot size exceeds the town requirements, the location keeps
71 the rural character. The previous board granted the variance. They will need to go back to
72 planning board and get those approvals again.

73

74 Mr. Meisner asked the board if they had any questions. Mr. Meisner asked Mr. Hatch to
75 point out the existing lot. Mr. Hatch highlighted the two properties and explained that
76 there are actually three lots. The third lot received planning board approval in 2006
77 before the 2007 lot was created. That third lot could be created without a variance.

78

79 Mr. St. Amand clarified how they would get from North Road to their property. Mr.
80 Hatch explained they will have a deeded access easement on the third lot. No matter
81 what, he will be able to get to his property. He noted they did that so they wouldn't have
82 to create an additional dredge and fill by adding in a driveway.

83

84 Mr. Meisner clarified where the building envelopes were on the lots. Mr. Hatch showed
85 him the plans for the planning board which indicated test pits, proposed well, and
86 building boxes. The plans have been reviewed and approved by the town engineer.

87

88 Mr. Meisner noted that because they are dealing with a frontage issue, they could put in
89 stipulations to help meet the spirit of the ordinance, to reduce overcrowding. For
90 example, on Mr. Lake's property, they granted the variance but they included a condition
91 to have an additional side setback. (Increased to 75' no cut setback). Meisner verified the
92 building envelopes to make sure the homes wouldn't be on top of each other. Even

93 though family is going to live there, they still want to keep the spirit of the ordinance and
94 keep it rural since it may not always be family living there.

95

96 Mr. Meisner questioned how close the home was for the abutter. Mr. Hatch noted it was
97 over 100' away and they wouldn't see the home.

98

99 Mr. Meisner opened the hearing up to the public at 7:45. There was no public in
100 attendance. Mr. Meisner closed the hearing to the public.

101

102 Mr. Hatch read his application and the answers to the variance questions:

103

104 1. ***The variance will not be contrary to the public interest because:*** It would allow a
105 residential home to be built in a residential neighborhood secluded from view.

106

107 2. ***The spirit of the ordinance is observed because:*** It will allow the landowner a
108 reasonable use of his land while maintaining the rural character of Sandown.

109

110 3. ***Substantial justice is done because:*** The existing 26.8 acre lot has just under 400-
111 feet of frontage and this variance will allow a low impact use without a new town
112 road.

113

114 4. ***The values of surrounding properties will not be diminished because:*** This
115 residential home will have no effect on the surrounding residential property values.

116

117 **5. Unnecessary Hardship**

118

119 **(A) Owing to special conditions of the property that distinguish it from other**
120 **properties in the area, denial of the variance would result in unnecessary**
121 **hardship because:**

122

123 (i) **No fair and substantial relationship exists between the general**
124 **public purposes of the ordinance and the specific application of**
125 **that provision to the property because:** The intent of this ordinance
126 is to retain the rural character by separating houses with 200-feet of
127 frontage. This new house will be secluded from view, and
128 significantly separated from others.

129

130 (ii) **The proposed use is a reasonable one because:** It allows a
131 residential use in a residential zone without the need for a new town
132 road to be built and maintained.

132

133 **If the criteria in subparagraph (A) are NOT established, an unnecessary**
134 **hardship will be deemed to exist, if and only if:**

135

136 **(B) Owing to the special conditions, set forth above, the property cannot be**
137 **reasonably used in strict conformance with the ordinance, and a variance is**
138 **therefore necessary to enable a reasonable use of it because:** The location of the
139 existing house, and the existing frontage being 6-feet short of the requirement for two
140 lots would disqualify the landowner from putting 2 houses on his 26 acre parcel.

141 Mr. True questioned why they would have any frontage if they planned to access the lot
142 from the graveled road. Mr. Meisner noted because they would then have a lot that is
143 completely non-conforming.

144

145 Mr. Meisner noted he hoped the Planning Board would require an easement on lot 22-55-
146 1. Mr. Hatch noted when the original deed is drawn, it will have an easement on it.

147

148 Mr. Meisner noted given how far back this lot sits he doesn't feel like it would need any
149 additional buffers, in his opinion. His concern was that other houses may be able to see
150 the home and that doesn't seem to be a concern.

151

152 **MOTION:** Mr. St. Amand made a motion to approve the application submitted by
153 Nordic Lincoln Realty Trust requesting a variance from Article IIB, Section 3B of the
154 zoning ordinance to permit a new lot to be created with 50' of frontage. The property is
155 located at 56 North Road and is identified on Map 22 as Lot 55.

156

157 Mr. True seconded the motion.

158

159 *Discussion:* Mr. True didn't feel there was a need to put any conditions on it.

160

161 Mr. St. Amand feels that they've met the criteria. They are large lots. If they were small
162 lots, he wouldn't be comfortable with it. There is plenty of room and the homes wouldn't
163 be on top of each other.

164

165 Mr. Meisner agreed with that.

166

167 All members voted unanimously in favor; no opposed, no abstentions. The variance was
168 granted with a 3-0-0 vote.

169

170 Mr. Meisner reminded the applicant that there was a 30-day appeals timeframe.

171

172 **Review of applications**

173 **Case #3-M29L43.** The property is located at 34 North Shore Road and is identified on
174 Map 29 as Lot 43. An application submitted by Patricia L. Rivers requesting a variance
175 from Article II, Part A, Section 15 to allow the installation of a replacement septic system
176 closer than 75' from wells and surface water.

177

178 Mr. True and Mr. St. Amand verified the abutters list was accurate.

179

180 Mr. Meisner noted they have the application fee and five stamped and addressed
181 envelopes and all the criteria questions were answered.

182

183 Mr. Meisner noted they need a stamped and certified septic plan and hoped the applicant
184 would bring that to the hearing. He noted they needed that so they had something to
185 reference which would show exactly where the septic system would be.

186

187 **MOTION:** Mr. True made a motion to accept the application for case #3-M29L43. The
188 property is located at 34 North Shore Road and is identified on Map 29 as Lot 43. An
189 application submitted by Patricia L. Rivers requesting a variance from Article II, Part A,
190 Section 15 to allow the installation of a replacement septic system closer than 75' from
191 wells and surface water with the following condition:

- 192 • A septic plan must be presented at the hearing

193

194 Mr. St. Amand seconded the motion. All members voted in favor. The motion passed.

195

196 **Case #4-M6 L72.** The property is located at 20 Beechwood Road and is identified on
197 Map 6 as Lot 72. An application submitted by Carolyn Miro and Thomas Whiteneck
198 requesting a special exception from Article V, Section 5 to permit an accessory
199 apartment.

200

201 Mr. True and Mr. St. Amand verified the abutters list.

202

203 Mr. Meisner confirmed there were drawings of the home, test pit data sheet, application
204 fee, plot plan from 2001, eight stamped and addressed envelopes and the criteria
205 questions have been answered. There is a complete application.

206

207 **MOTION:** Mr. True made a motion to accept the application for case #4-M6 L72. The
208 property is located at 20 Beechwood Road and is identified on Map 6 as Lot 72. An
209 application submitted by Carolyn Miro and Thomas Whiteneck requesting a special
210 exception from Article V, Section 5 to permit an accessory apartment. Mr. St. Amand
211 seconded the motion. Members voted unanimously in favor. The motion passed.

212

213 **Correspondence**

214 Legal notice from the Town of Merrimack regarding a cell tower.

215

216 **Review of Minutes**

217 Minutes needed to be deferred to the next meeting because they didn't have enough
218 members present who attended those meetings.

219

220 Members discussed trying to have a second meeting on June 19th to accommodate the
221 hearing for the failed septic. Mr. Meisner, Mr. True and Mr. St. Amand all noted they
222 could be there for that meeting.

223

224 **MOTION:** Mr. True made a motion to adjourn. Mr. St. Amand seconded the motion. All
225 members voted in favor. The motion passed. Meeting adjourned at approximately 8:45 p.m.

226

227 Respectfully Submitted,

228 

229 Andrea Cairns