

**Town of Sandown  
Zoning Board of Adjustment  
Minutes 6/26/14**

**Meeting Date:** June 26, 2014  
**Type of Meeting:** 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, Curt Sweet,  
Dave Ardolino, Brian St. Amand, Donna Green

**Opening:** Mr. Meisner opened the meeting at 7:01 p.m.

**Case #1 – 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.**

*Kevin Hatch of Cornerstone Survey Associates presented the application  
Neil McCarthy from Promised Land Survey was also present  
Peter Holmes, 66 Phillips Pond Road*

Mr. Hatch presented the application. He noted that the application would create two lots with insufficient frontage. The parent lot is almost 13.72 acres. There is only one home on the property. The frontage before the proposed subdivision is 227.17'. The lot it is an odd configuration so they are proposing 2 lots on the 14 acres. The existing structure is 100s of feet away from the road. The proposal creates a lot that meets all other subdivision regulations for the town and the state. The new lot will be 1.41 acres. The new lot would have 154.55 feet of frontage. They looked at different scenarios; the hope is not to put as many houses as possible. The soil density would allow additional units, but it doesn't make sense putting an additional road in there. This proposal is a limited use of the 14 acres and allows Mr. Holmes to utilize his property.

Mr. Meisner noted there was one abutter's envelope that came back. It was sent to Sandra Marchetti and Raymond Marchetti. The notice was sent out but was sent back because it was never picked up.

Mr. True questioned if Phillips Pond Estates was originally part of this property. Mr. Hatch confirmed it was.

Mr. Meisner questioned if there were any wetlands on the new proposed lot. Mr. Hatch noted it is completely dry. Mr. Meisner questioned if there were any issues with where the house and septic would be placed. Mr. Hatch noted there weren't any.

47 Ms. Green questioned where the septic system would be located. Mr. Hatch noted the  
48 building envelope was indicated on the plans. He noted there is 4,000 sq. ft. of available  
49 space for the septic, but the typical septic only required 600’.

50

51 Ms. Green questioned what the incline of the driveway would be. Mr. Hatch noted even  
52 though there are a lot of contour lines around the proposed area, the driveway would be  
53 fairly level to the road. They would look at the landscape to determine the ideal location  
54 for the home and driveway.

55

56 Mr. Meisner questioned how far away the driveway for the abutting home was. Mr.  
57 Holmes noted it was approximately 100’ and she owns 14 acres as well.

58

59 Mr. St. Amand confirmed that Mr. Holmes’ driveway would stay in the same location.  
60 Mr. Hatch noted it would and there was sufficient buffer between the lot and his  
61 driveway. He noted for the board that the town had an easement for the fire department to  
62 utilize Mr. Holmes’ driveway to gain access to the pond for water. Mr. Hatch indicated  
63 the driveway was approximately 12’ wide and approximately 20’ to the proposed  
64 property line at the narrowest point.

65

66 Mr. Hatch noted that the intent of frontage ordinance was to keep the rural character. This  
67 proposal will still only have one home on that 200+ foot frontage. The other home is  
68 approximately 500’ away and isn’t visible from the road. They feel they are still  
69 complying with that intent.

70

71 Mr. St. Amand questioned if all other lots in the development had 200’ of frontage. Mr.  
72 Hatch confirmed they did.

73

74 Mr. True questioned what percentage of the original lot was wetlands. Mr. Hatch  
75 estimated about ½ the property was wetlands.

76

77 Mr. Meisner opened the hearing to the public. There was no public present. Mr. Meisner  
78 closed the hearing to the public

79

80 Ms. Green questioned why they didn’t just have an easement for the existing driveway  
81 instead of putting two driveways on the frontage. Mr. Hatch noted they could do that, but  
82 Mr. Holmes would prefer to have the ability to maintain his driveway the way he wanted  
83 to; easements can cause issues and get messy. They also had concerns about it becoming  
84 a town issue since the fire department also had an easement on the driveway.

85

86 Mr. Meisner noted the ordinance was to keep rural character. In order for them to put a  
87 third house on the lot it would be more complicated. In his opinion, with the amount of  
88 frontage they are asking for, they are abiding by the spirit of the ordinance. There are no  
89 other homes on that frontage.

90

91 Mr. St. Amand thought it was better to have two short frontages, than have one really  
92 small one. He thinks it makes the proposed lot look more conforming.

93

94 Mr. Meisner noted if someone down the line wanted to develop that parcel and wanted to  
95 put a road down there, they would need a minimum of 50' to put in a road.

96

97 Mr. True noted his issue is that Mr. Holmes had all that land, and then subdivided it to  
98 create Phillips Pond Estates. M6, L11 was created during that subdivision and felt they  
99 created that lot the way they wanted it and should have subdivided it then. He felt the  
100 only special condition he sees on the land is one that the owner created himself; lack of  
101 frontage is the way he chose to create that lot.

102

103 In terms of substantial justice, in this case the landowner chose to create the lot as is so he  
104 doesn't see any loss to the individual.

105

106 In terms of hardship, the owner is not being denied any reasonable use of his land. He has  
107 full use of his land. The special condition exists because Mr. Holmes created the lot that  
108 way.

109

110 Mr. Sweet noted that what Mr. True brings up is valid, but things have changed since the  
111 subdivision was created in 2007. They don't have any abutters stating it's an issue. It's a  
112 lot of land and he doesn't feel adding another house lot is going to impact the  
113 neighborhood in a negative way. Over time, circumstances change. We are here to look at  
114 the situation today and if what he is asking for is reasonable or not.

115

116 Mr. Meisner noted it is the board's duty to look at the answers to the variance questions  
117 and decide how they want to vote. The board needs to hear pros and cons.

118

119 Mr. Meisner noted that circumstances change over time. If it was a really irregular shaped  
120 lot and they had any issues besides frontage, he would personally have more concerns  
121 about granting it.

122

123 Mr. Meisner opened the hearing back up to the applicant to read the questions and  
124 address any concerns of the board.

125

126 Mr. Hatch noted that the hardship isn't self-inflicted. They could have opted to put in a  
127 road and add more lots, but that wouldn't do anyone any good and doesn't reflect the  
128 rural character goal.

129

130 Mr. Hatch read their answers to the variance questions.

131

132 1. **The variance will not be contrary to the public interest because:** This near 14-  
133 acre lot is large enough in size to easily support a minimum of two single family  
134 residential lots per the high intensity as observed. Mr. Hatch added that the soil  
135 numbers are really good to sustain the additional lot and it will also save  
136 additional infrastructure for the town to maintain by not adding in a road.

137

138 2. **The spirit of the ordinance is observed because:** The soils and subsequent lot  
areas are not compromised within this reduced frontage request. Mr. Hatch added

- 139 that the lots are large enough to meet town and state subdivision approval. It will  
140 also go through engineering review. The homes will be 400-500' apart and only  
141 one will be visible from the street.
- 142 3. **Substantial justice is done because:** The land owner of Map 6 Lot 11 will be  
143 able to continue enjoyment of his dwelling at Phillips Pond while being able to  
144 subdivide a lot along the frontage of Phillips Pond Drive. Mr. Hatch added that it  
145 allows him to keep his property and maintain it as he would like which is what the  
146 towns' goals are. Being able to use his land without impacting the town with  
147 additional infrastructure.
- 148 4. **The values of surrounding properties will not be diminished because:** The  
149 new lot and dwelling will be constructed in a similar manner to that of the  
150 abutting properties and in conjunction with the covenants and restrictions as  
151 outlined in RCRD Book 4820 page 2182. Mr. Hatch added that the home would  
152 conform to the covenants of the neighborhood and will support the value of the  
153 neighborhood and keep current home values up.
- 154 5. **Literal enforcement of the provisions of the ordinance would result in an  
155 unnecessary hardship because:**

156  
157 **The Special conditions of this property that distinguish it from other  
158 properties in the area are as follows:** The lot is large in size (14 acres) and its'  
159 soils per HISS depict two plus lots which substantiates a subdivision of two lots  
160 will easily support two dwellings, two septic systems, and two wells. Mr. Hatch  
161 added that the application noted 2+ lots because there is the potential for more  
162 than one house lot but they are not choosing to go that route.

163  
164 **A. Owing to the special conditions of the property, set forth above, that  
165 distinguish it from other properties in the area:**

166  
167 (i) **No fair and substantial relationship exist between the general public  
168 purposes of the ordinance and the specific application of that  
169 provision to the property because:** In addition, the owner of the  
170 parcel, from a financial and also land use standpoint, would benefit in  
171 this subdivision and be able to continue his enjoyment of his dwelling.

172 (ii) **The proposed use is a reasonable one because:** The soils of this 14-acre  
173 lot support a minimum of two single-family residential lots.

174  
175 Mr. Meisner closed the hearing to the applicant.

176  
177 Ms. Green noted that one thing they are considering is how close other homes might be.  
178 They are creating a small lot on the opposite side of the driveway and there could be  
179 another home put there. Would it be reasonable to put in a proviso to say there won't be  
180 any building on the remaining side of the driveway? Mr. Hatch noted that once you go  
181 back 75' that lot widens substantially and if a home were put there, it would be separated  
182 even more than most homes are separated in a normal subdivision. Ms. Green withdrew  
183 her comment.

184

185 Mr. Meisner added that he didn't want the board to overstep their bounds. There is  
186 enough space to put in a road and add another lot of they chose to. He also noted that he  
187 didn't see a reason for an additional buffer on the lot lines, which they have done in past  
188 situations.

189  
190 Mr. St. Amand questioned if they could control how the fire department widened the  
191 driveway and if they could do it on the other side of the new lot. Mr. Meisner noted there  
192 is a lot of space between the lots and the fire department was only talking about widening  
193 it an additional 2' on the shoulders. He also felt there were a lot of people involved in that  
194 decision and it would be difficult for ZBA to get involved.

195  
196 **MOTION:** Mr. Sweet made a motion to GRANT the variance for the application  
197 submitted by Peter Holmes requesting a variance from Article II, Part B, Section 3B to  
198 permit the subdivision of Map 6 Lot 11 into two single family dwelling lots resulting in  
199 two lots with insufficient frontage. The property is located at 66 Phillips Pond Road. Mr.  
200 St. Amand seconded the motion. Members voted in favor. Mr. True voted against. The  
201 motion passed with a 4-1-0 vote.

202  
203 Mr. Meisner noted for the applicant that there was a 30-day appeals timeframe.

204  
205 **Case #02 – M6 L72 – The property is located at 20 Beechwood Road and is**  
206 **identified on Map 6 as Lot 72. An application submitted by Carolyn Miro and**  
207 **Thomas Whiteneck requesting a special exception from Article V, Section 5 to**  
208 **permit an accessory apartment.**

209  
210 Mr. Meisner reminded the board that a special exception works differently than a  
211 variance. If the applicant met the criteria, they had to grant the special exception. If they  
212 didn't meet the criteria, they could not grant the special exception.

213  
214 Mr. Whiteneck explained his drawing of the apartment and noted it is an existing  
215 apartment in the basement level of the home. He also submitted a parking layout.

216  
217 Mr. Sweet questioned what the square footage of the home without the apartment was.  
218 Mr. Whiteneck noted it was approximately 1,850 sq. ft.

219  
220 Members all reviewed the floor plan.

221  
222 Mr. Meisner reviewed the application against the criteria.

223  
224 1. Members felt that looking at the home there weren't two doors and it looked like  
225 a single family home. The main door only services upstairs. The garage doors for  
226 the home have been replaced by sliding doors.  
227 2. Mr. Whiteneck confirmed it was not a duplex or multifamily dwelling.  
228 3. The new apartment is smaller than the remaining square footage of the house. The  
229 apartment is approximately 465 sq. ft. All members agreed the apartment was  
230 smaller than the main home.

- 231 4. Mr. Whiteneck understood that the home needed to be owner-occupied. Mr. St.  
232 Amand questioned whom Carolyn Miro was—the other applicant listed. Mr.  
233 Whiteneck explained that was his wife. They bought the property before they  
234 were married and that was her maiden name. He thought they should keep all  
235 legal language on the application to avoid any confusion.
- 236 5. Mr. Meisner asked Mr. Whiteneck to write in the dimensions for the parking area.  
237 He noted there is parking for approximately six cars.
- 238 6. Mr. Meisner noted that in order to get a certificate of occupancy Mr. Whiteneck  
239 would need to provide the notice of decision. Mr. Whiteneck was aware of that.
- 240 7. Mr. Meisner noted that the applicant didn't need to install a new septic system,  
241 but they needed to provide state approved septic plans that met the regulations for  
242 the combined use of the home. He noted the apartment was considered 1.5  
243 bedrooms, the house is three bedrooms, and so Mr. Whiteneck would need to  
244 provide plans for a 4.5 bedroom home. The plans that were submitted with the  
245 application were the plans for the existing system for a three-bedroom home. Mr.  
246 Meisner noted they require that because if the system failed and needed to be  
247 replaced, they need to know that the larger system could fit on the lot.  
248
- 249 Mr. Meisner noted that Mr. Whiteneck didn't meet that criteria, but he could ask  
250 for a continuance to address that issue. He noted that he had the option to continue  
251 the hearing to make sure there wasn't anything else that needed to be addressed,  
252 but he could at any time opt to ask for a continuance. Mr. Whiteneck opted to  
253 continue.  
254
- 255 Mr. Meisner also noted that if he was to have a septic plan redrawn, then he  
256 should add the parking lot on the plans.  
257
- 258 8. Mr. Whiteneck noted there was one electric meter, but the apartment had a  
259 separate electric panel. Mr. Meisner noted the town's electric inspector had his  
260 own opinion on what that language meant and felt the apartment should have it's  
261 own meter. Mr. Sweet noted they have always allowed just the separate panel.  
262 Mr. Whiteneck noted it would be extremely expensive to add a separate meter.  
263
- 264 Mr. Meisner noted in the future, that is something they should discuss with the  
265 planning board and have the electrical inspector weigh-in on the language. They  
266 should also clarify the language for 7a. The language implies they need to install a  
267 new system, but really they just need the plans in place.  
268
- 269 9. Mr. Whiteneck understood that criteria.  
270
- 271 10. Mr. Whiteneck understood that criteria.  
272
- 273 11. Mr. Whiteneck understood that criteria. Ms. Cairns will look into the form that  
274 needs to be provided to the registry of deeds.  
275

276 Ms. Green was concerned that the home didn't look like a single family dwelling and  
277 asked if they could require some kind of screen or fence be put in front of the sliding  
278 doors. Mr. Whiteneck noted that would impact the parking.

279

280 Mr. Meisner felt it didn't give the impression of an accessory apartment in his opinion. It  
281 just looked like garage doors were taken off and it was a family room. Mr. Sweet agreed.

282

283 Mr. Whiteneck noted he would need to put a fence across his entire property and then put  
284 a smaller fence to block the sliders. He would lose two parking spaces and thought it  
285 would be more of an eyesore.

286

287 Mr. Meisner questioned if Mr. Whiteneck wanted to move forward with the hearing and  
288 open the discussion up to the public since there was an abutter present. Mr. Whiteneck  
289 agreed to continue the hearing.

290

291 *Dan Gannon, 22 Beachwood Road*

292 Mr. Gannon noted he lives to the right of the property. In principle he doesn't have a big  
293 issue with the apartment. His main concern was the septic system and how that could  
294 potentially impact his property. The apartment is adding to the load of the system. He felt  
295 it was a strange condition that they only needed to provide plans for the upgraded septic  
296 system, but didn't need to install it. If they were building a brand new five-bedroom  
297 home, they would need to put in a septic system that could handle that many bedrooms.

298

299 Mr. Meisner noted they do their best without causing a huge financial burden to the  
300 owner of the property. For the safety of the neighbors, we try to make sure that lot can  
301 sustain the additional system, and the well radius is sufficient. He noted if they were to  
302 required an applicant install a new system before they apply, and something goes wrong  
303 and the special exception is denied, then they made them spend \$15,000-20,000 for a  
304 system they didn't need.

305

306 Mr. Gannon noted having it on paper doesn't do abutters any good. He's not saying he  
307 opposes it, he just feels that it's an unusual requirement.

308

309 Mr. Sweet noted that on a positive note, they know the apartment exists and has been  
310 there for eight years. The system is working fine. They just want to know the potential for  
311 an upgraded system is there.

312

313 Mr. Gannon noted he's just looking out for his property.

314

315 Mr. Meisner noted that abutter input is welcomed and they are happy he turned out to  
316 give his input.

317

318 Mr. Whiteneck requested a continuance to the July 31, 2014 meeting.

319

320 Members discussed the language of the septic criteria and the logic behind it.

321

322 **Review of the 3/27/14 Minutes**

323 **MOTION:** Mr. Sweet made a motion to accept the 3/27/14 minutes as written. Mr. True  
324 seconded the motion. Mr. Ardolino, Ms. Green and Mr. St. Amand abstained. The motion  
325 passed.

326  
327 **MOTION:** Ms. Green made a motion to adjourn. Mr. St. Amand seconded the motion.  
328 All members voted in favor. The motion passed. Meeting adjourned at approximately  
329 9:49 p.m.

330  
331 Respectfully Submitted,



332  
333 Andrea Cairns