

**Town of Sandown
Zoning Board of Adjustment
Minutes 5/25/17**

- Meeting Date:** May 25, 2017
- 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, Vice Chairman - Christopher True, Brian St. Amand, Dave Ardolino,
- Members absent:** Curt Sweet, Chris Longchamps – Alternate, Steve Brown – Selectmen’s Liaison

Mr. Meisner opened the meeting at 7:00 p.m.

M29 L38, 23 North Shore Road – An application submitted by Giuseppe Naimo requesting a variance from Article III, Part A, Section 1D to permit an addition to the home that will be 23’ from a wetland where 50’ is required.

Mr. Naimo presented the case. He noted they are intending on building an addition with a two car garage and bedroom above it. They are proposing building directly above the existing driveway. They are too close to the wetlands, but do not plan to disturb the wetland or the area around it. There are no issues with setbacks. The lot is 2.8 acres.

Mr. St. Amand noted there would need to be some wetland mitigation during construction. Mr. Naimo confirmed there would be.

Mr. True questioned if they could put the addition on the other side of the home. Mr. Naimo noted they could not because the well and septic are on that side and they would have concerns about placing the driveway to that side.

Mr. True questioned if they would be cutting any trees. Mr. Naimo noted they may cut back the large tree that is adjacent to the driveway, but they have no plans to remove it.

Mr. Meisner opened the hearing to the public. There was no public input.

Mr. True noted although he appreciates that they will be going over the existing driveway he always has concerns about additional pressure put on wetlands.

Mr. Meisner agreed, but in this case, the driveway is already paved and they will be building where there is already pavement and won’t be adding additional impervious surface causing more runoff. With the garage, there will be less sand and salt on the driveway and less runoff from cars with sand and salt on them going into the wetland. He is not further impacting the wetland.

48 Mr. True had concern that they would cut into the foliage on the property. Mr. Naimo noted
49 they did have an architect confirm it would not need to impact the area around it. They
50 wouldn't want to take any trees off the lot because of privacy issues.

51
52 Mr. Meisner noted for the applicant there was only a four person board and they had the
53 option to postpone the hearing until the following month so they could try and have a full
54 board review the case. Mr. Naimo opted to continue with the four person board.

55
56 **MOTION:** Mr. True made a motion to grant the variance for an application submitted by
57 Giuseppe Naimo requesting a variance from Article III, Part A, Section 1D to permit an
58 addition to the home that will be 23' from a wetland where 50' is required for the property
59 located at 23 North Shore Road and identified on Map 29 as Lot 38. Mr. Ardolino seconded
60 the motion. All members voted in favor. The motion carried.
61 Vote 4-0-0.

62
63 Mr. Meisner noted there is a 30 day appeal timeframe.

64
65 **M14 L19-53, 65 Montana Drive** – An application submitted by Montana Realty Trust
66 requesting a special exception from Article V, Section 5 to permit an accessory dwelling unit.

67
68 Robert Villella presented the case.

69
70 Mr. Meisner noted for the applicant there was only a four person board and they had the
71 option to postpone the hearing until the following month so they could try and have a full
72 board review the case. Mr. Villella opted to continue with the four person board.

73
74 Mr. Villella reviewed the application. They are proposing to put in an accessory apartment
75 into the basement of the dwelling. The home is currently being built. It will be a three-
76 bedroom home and a one-bedroom apartment. They have a state approved septic plan.

77
78 Mr. Meisner reviewed the special exception criteria with Mr. Villella. Mr. Villella noted the
79 entrance to the apartment would be through the garage; there would not be a separate front
80 door. The apartment will also have sliders in the back. There is sufficient off-street parking.

81
82 Mr. Meisner opened the hearing to the public. There was no public input.

83
84 **MOTION:** Mr. True made a motion to approve the application submitted by Montana Realty
85 Trust requesting a special exception from Article V, Section 5 to permit an accessory
86 dwelling unit for the property located at 65 Montana Drive and identified on Map 14 as Lot
87 19-53. Mr. St. Amand seconded the motion. All members voted in favor. The motion carried.
88 Vote 4-0-0.

89
90 Mr. Meisner noted there is a 30 day appeal timeframe.

91
92 **M28 L92, 21 Birch Drive** – An application submitted by Phillip Towne requesting a
93 variance from Article II, Part B, Section 3A and 3B to permit the construction of a new home
94 on a lot containing 20,480 sq. ft where 40,000 sq ft is required and has 152' of frontage
95 where 200' ft. is required.

96

97 Tim Lavelle presented the application. Phillip Towne was also present.

98

99 Mr. Meisner noted for the applicant there was only a four person board and they had the
100 option to postpone the hearing until the following month so they could try and have a full
101 board review the case. Mr. Towne opted to continue with the four person board.

102

103 Mr. Meisner noted previously they had requested to have well radiuses indicated on the plans
104 and asked the applicant if they did that. Mr. Lavelle noted there were no well radiuses to
105 indicate. There were none within 75'. The home across the street is approximately 100' off
106 the road and their well is in the backyard. The lot adjacent is undeveloped.

107

108 Mr. Lavelle noted they were originally two lots that were combined to create the 20,480 sq. ft
109 lot. They have a state approved septic which will be installed in the front yard.

110 The well will be in the back yard. The lots were created in the 1950s and there was no other
111 way to combine lots to create larger lots. They are empty lots that have never been
112 developed. The proposed dwelling will easily meet all the setbacks. They are proposing a
113 28x38, 3-bedroom home. Due to the lot size, that is the largest home that would fit on the
114 property. There are no wetlands on the lot. The driveway will come off of Birch Drive and
115 they will most likely put a garage under the home.

116

117 Mr. Lavelle reviewed the five criteria.

118

119 Mr. True had concerns with the area already being very congested and the roads being very
120 narrow. He would have concerns for safety and well-being if building continued in that area.

121

122 Mr. Meisner opened the hearing to the public.

123

124 *Fran Landry, 20 Birch Drive*

125 She had concerns about the congestion of the street. They have been doing a lot of building
126 on Holt's Point Road so there is a lot of traffic that goes by already. There is a sign that states
127 "approved building lot for sale" on the lot currently. She questioned if it was already
128 approved. She hoped it wouldn't have a negative effect on home values.

129

130 Mr. Meisner noted the lot size and frontage requirements have changed throughout the years
131 but the intention was to try and reduce congestion. The lot will support a septic system. The
132 lot is not buildable without a variance, so the sign is not accurate.

133

134 *Don & Angela Wilkens, 15 Birch Drive*

135 He also had concerns about the congested streets and allowing a home on such a small lot.
136 The roads are disintegrating and increased traffic will further that.

137

138 Ms. Wilkins questioned why they would put a Cape style home on the property when most of
139 the homes in the neighborhood are ranches. She had concern about the size of the home.

140

141 Mr. Meisner noted three out of the four homes surrounding it are three bedrooms, so the size
142 of the home is comparable to others in the neighborhood.

143

144 Mr. Meisner closed the hearing to the public.

145

146 Mr. True noted he is always concerned about limiting what a property owner can do with his
147 property but he is concerned with the overcrowding in that section of town. He has been there
148 in the winter and can't image how safety equipment could get down there now. While the
149 town is stuck with those kinds of lots, we should not be encouraging the continuation of
150 building on undersized lots.

151
152 Mr. St. Amand questioned if the lots around it were undersized as well. Mr. Meisner noted it
153 varied. Some were but some were over an acre.

154
155 Mr. Meisner added if it was surrounded by all larger lots, he would be concerned that it
156 would be out of place. He always has concerns about building on smaller lots.

157
158 **MOTION:** Mr. True made a motion to grant the variance for an application submitted by
159 Phillip Towne requesting a variance from Article II, Part B, Section 3A and 3B to permit the
160 construction of a new home on a lot containing 20,480 sq. ft where 40,000 sq ft is required
161 and has 152' of frontage where 200' ft. is required for the property located at 21 Birch Drive
162 and identified on Map 28 as Lot 92. Mr. Ardolino seconded the motion. Members voted in
163 favor. Mr. True opposed. The motion carried. Vote 3-1-0.

164
165 Mr. Meisner noted there is a 30 day appeal timeframe.

166
167 The Board took a 5-minute recess.

168
169 **M23 L1, 68 North Road** – An application submitted by Nordic Lincoln Realty Trust
170 requesting a variance from Article II, Part B, Section 3B to permit two building lots with less
171 than 200' of road frontage.

172
173 Tim Lavelle, Linda Meehan and Ed Mencis were present.

174
175 Mr. Meisner noted for the applicant there was only a four person board and they had the
176 option to postpone the hearing until the following month so they could try and have a full
177 board review the case. They opted to continue with the four person board.

178
179 Mr. Lavelle noted it is an existing 6.4 acre lot with 82.14' of frontage on North Road. They
180 are proposing to create two building lots. One would be 2.72 acres, the other would be 3.67
181 acres. There is an existing gravel roadway that goes out to a pond and field area of Sandlot
182 Sports where the properties would be accessed from. They would be given access easements.
183 The existing gravel roadway is wide enough for fire trucks and they wouldn't need to
184 construct a driveway of 1,200' off of North Road. They need the variance because the lots
185 would exist without proper frontage. The property is presently a field area and not wooded.
186 Each lot would have its own well and septic and would be much larger than they would need
187 for soils.

188
189 Mr. Lavelle continued, stating the long strips of land would be for legal frontage only, but the
190 driveways would be off the gravel access road. The area off North Road is a tough curve with
191 a difficult hill. They would also need to clear trees between two neighbors to construct the
192 driveways on that location and they don't want to do that. They already have good access
193 with the existing gravel roadway and would prefer to use that as their entrance.

194

195 *Debbie and Bill Mace, 66 North Road*

196 Their biggest concern was the loss of privacy. They have a horrible time getting out of their
197 driveway and are happy to hear they are proposing to use the gravel road instead. They
198 questioned what would happen if the properties were sold, would the new owners want to use
199 that frontage.

200
201 Mr. Lavelle noted the access would be granted through easements and would be there for the
202 life of the property regardless of ownership. Mr. Meisner added they could put a condition of
203 approval that the frontage on North Road is never used for access.

204
205 Ms. Mace also questioned if they would stay away from the wetlands and wanted to ensure
206 the boundaries are well marked. Mr. Lavelle noted there are no wetlands on the properties.
207 The Planning Board will require that all boundaries are marked.

208
209 *Dan and Kathy Bosse, 72 North Road*

210 They had similar concerns about the strip of property and trying to get out of that driveway.
211 They would be against any kind of driveway coming from there.

212
213 *Letter from Jack and Alice Corbett, 67 North Road*

214 North Road's rural character, make it unsuitable for narrow road frontage. They were against
215 the application.

216
217 Mr. True confirmed the easement would be an addendum to the deed. Mr. Lavelle confirmed
218 it would be.

219
220 Mr. Meisner questioned if there would be a maintenance agreement. Mr. Lavelle noted he
221 was unsure if the Planning Board would require one or not.

222
223 Mr. Lavelle read the five criteria.

224
225 Mr. Meisner suggested they could make the strip of property going down to North Road a no
226 cut zone to prevent a driveway from going in there.

227
228 Ms. Meehan had concerns about placing restrictions telling her how she can use her property.
229 What if her son wanted to plant a garden. They should not be restricted in a way that they
230 couldn't use their property. She has no concern about a condition that stated access could
231 only be from the gravel road through an easement.

232
233 Mr. True preferred to restrict the access through the three lots which would address public
234 safety.

235
236 Mr. Ardolino suggested they could state "no access off North Road." Mr. Lavelle had
237 concerns with that because even by using the gravel access road, they would be gaining
238 access off of North Road.

239
240 **MOTION:** Mr. True made a motion to grant the variance from Article II, Part B, Section 3B
241 for an application submitted by Nordic Lincoln Realty Trust for the property located on 68
242 North Road and identified on Map 23 as Lot1 to permit two building lots with less than 200'
243 of road frontage. The following condition to apply:

- 244 • All access to the proposed lots will come through M22 L55-3, M22 L55-4, M22 L55
245

246 *Discussion:* Mr. True added the condition is to keep with the spirit of the ordinance and allow
247 for the property to be developed with no overcrowding of the property lines on the main road.
248 It also addresses the health safety and well-being of the public.
249

250 Mr. St. Amand seconded the motion. Members voted in favor. The motion carried. Vote 4-0-
251 0.

252
253 **M25 L25-40, 42 Pillsbury Road** – An application submitted by Amanda Bruen and Todd
254 Fitzgerald requesting a variance from Article II, Part B, Section 3A & B to permit the
255 construction of a new home on a lot containing 10,363 sq. ft. where 40,000 sq. ft is required
256 and containing 59.74’ of frontage on a Class V town road where 200’ is required.
257

258 Mr. Fitzgerald noted they previously came before the board to get a variance from the 20,000
259 sq. ft. receiving layer for a seasonal conversion. They received that variance. They have since
260 met with the building inspector and determined that in order to make the existing home year-
261 round it would take a lot of work. They would like to raise the existing home and build a
262 brand new home. They would also like to move the home further back off the street to make
263 it more appealing for the neighborhood. The house will meet all setbacks. They will have a
264 new septic and well. They are proposing a two-bedroom cape with a farmers porch.
265

266 Mr. Meisner noted for the applicant there was only a four person board and they had the
267 option to postpone the hearing until the following month so they could try and have a full
268 board review the case. They opted to continue with the four person board. The applicant
269 wanted to continue with the four member board.
270

271 Mr. Meisner did do research on the surrounding properties and found they are predominantly
272 one and two bedroom homes. The three-bedroom homes are on larger lots.
273

274 Mr. Meisner added that although they only have 59’ of frontage on Pillsbury Road, they also
275 have frontage on Spring Road that makes their road frontage over 200’. They cannot include
276 the Spring Road frontage because it is a private road.
277

278 Mr. Meisner opened the hearing to the public. There was no input from the public.
279

280 Mr. True added that his concerns remain the same, the continued building on small lots and
281 the overcrowding effect it has on public safety. Most of the lots in that area are undersized
282 and he has a concern with continuing the overcrowding.
283

284 Mr. Meisner noted going forward he would hope that the town could potentially address the
285 narrow roads and possibly widen them.
286

287 **MOTION:** Mr. True made a motion to grant the variance for the application submitted by
288 Amanda Bruen and Todd Fitzgerald requesting a variance from Article II, Part B, Section 3A
289 & B to permit the construction of a new home on a lot containing 10,363 sq. ft. where 40,000
290 sq. ft is required and containing 59.74’ of frontage on a Class V town road where 200’ is
291 required for the property located on 42 Pillsbury Road and identified on Map 25 as Lot 25-

292 40. Mr. Ardolino seconded the motion. Members voted in favor. Mr. True opposed. The
293 motion carried. Vote 3-1-0.

294

295 **Paul Bernier - Regarding 21 Pillsbury Road, M25 L63**

296 Mr. Bernier was before the board to discuss a building permit he believes was erroneously
297 issued based on a flawed variance.

298

299 Mr. Bernier reviewed the history of the property. In his opinion and through his own
300 research, this is what he found:

301

- The original subdivision created 12 lots

302

- In 2002, the Davids purchased five lots

303

- The Davids came to the town for a variance in 2003

304

- They had 112' of road frontage on Pillsbury and a 50' setback for the building

305

- The town gave them a variance based on the fact that it was an undersized lot

306

- The Davids stated they owned abutting lots, but the Loefflers found out they didn't

307

- own Lots 21, 23 and 25 and purchased them

308

- The two parties went into litigation over the three lots that the Loefflers purchased

309

- The variance was granted to the David's based on them owning all five lots even

310

- though they only owned the back two lots

311

- There was no determination made by the court on ownership since they settled out of

312

- court

313

314 Mr. Meisner noted that if he can prove the information the Davids provided for the variance
315 was incorrect, then the variance would no longer be legal. The same would be for the
316 building permit.

317

318 Mr. Bernier added that the Loefflers, who own the property now, wrote a letter to the
319 Selectmen in 2003 stating the Davids did not own the lots. Because the Loefflers were the
320 ones to state that, the building permit should be null and void since they are the ones who
321 own it currently.

322

323 Mr. St. Amand noticed that Mr. Bernier was on the original abutters notice for the variance
324 and questioned if Mr. Bernier went to that hearing with his concerns. Mr. Bernier could not
325 recall if he went to the hearing or not.

326

327 Mr. Meisner noted that back then, the variance was good for one year, the Davids acted upon
328 it within that timeframe when they put in the foundation. That would grandfather the variance
329 because action was taken on it. Both Mr. Bernier and Mr. Loeffler confirmed that was the
330 case.

331

332 Mr. Bernier noted that Mr. Loeffler did a lot line adjustment in 2006 and shrunk the frontage
333 from 112' to 10' and they still tried to act on the existing variance that he believes was
334 erroneously issued even though they knew the lot had changed.

335

336 Mr. Meisner stated on Mr. Bogosh's behalf, he issued a building permit, based on a variance
337 which he believed to be valid. He is not going to do this level of research.

338

339 Mr. Bernier added that he has been advised the only board that can take a non-conforming lot
340 and make it more non-conforming is the Zoning Board. Only the lot line adjustment
341 application went to the Planning Board in 2006. They don't have the authority to make a non-
342 confirming lot more non-conforming. The Loefflers applied for the building permit even
343 though they were aware of the lot line adjustment.

344

345 Mr. Meisner added in the Loefflers defense, they went to the planning board and received
346 approval for the lot line adjustment. They may have believed that was all they needed to do.

347

348 Mr. Bernier added that they went from 0.75 acres to 0.46 acres. The building permit
349 application they provided in 2017 states it is 0.75 acres, which is incorrect.

350

351 Mr. Meisner expressed concern that the information on a legal document may be incorrect.

352

353 Mr. Meisner added that he could only address the original variance from 2003. He would do
354 more research on his own and provide an opinion. It seems that there may be an issue with
355 the planning board decision of 2006.

356

357 Mr. Bernier noted he did address the issue of the lot size with the building inspector and there
358 is nothing to show that they went for a variance when they went to the planning board.

359

360 *Tom Loeffler*

361 Mr. Loeffler confirmed they did go to court for litigation and the purchasing of the lots. They
362 worked with Kevin Camm who went to both ZBA and Planning on their behalf. When they
363 did the lot line adjustment they were told all they needed was frontage and a state approved
364 septic system, both of which they have. The house has gone up, the foundation has been
365 certified and all setbacks have been met.

366

367 Mr. Bernier questioned what the board would consider legal frontage. Mr. Meisner noted it is
368 the side that has frontage off a Class V road according to the Zoning Ordinance, so Pillsbury
369 would be their legal frontage.

370

371 Mr. Meisner stated again that the original variance was acted upon by the installation of the
372 foundation, so that variance is good for the life of the property. So unless the information
373 provided to receive the variance was false, that variance would be valid.

374

375 **Review of Application**

376 **M26 L44 and L45, 48 Holts Point Road** – An application submitted by Thomas Stachulski
377 requesting a variance from Article II, Part B, Section 3A to permit the construction of a new
378 home on a lot containing 21,344 sq. ft. where 40,000 sq. ft. is required.

379

380 The Board reviewed the application and determined the abutters list that was previously
381 missing was submitted. They reviewed the abutters and determined the list was complete.

382

383 **MOTION:** Mr. True made a motion to accept the application submitted by Thomas
384 Stachulski requesting a variance from Article II, Part B, Section 3A to permit the
385 construction of a new home on a lot containing 21,344 sq. ft. where 40,000 sq. ft. is required.

386

387 Mr. Ardolino seconded the motion. The Board voted in favor. The motion passed. Vote 4-0.

388 **Review of the 4/27/17 Minutes**

389 **MOTION:** Mr. St. Amand made a motion to accept the 4/27/17 minutes as written. Mr.
390 Ardolino seconded the motion. Members voted in favor. Mr. True abstained. The motion
391 carried.

392
393 **MOTION:** Mr. St. Amand made a motion to adjourn. Mr. True seconded the motion. All
394 members voted in favor. The motion passed. Meeting adjourned at approximately 10:20 p.m.

395
396 Respectfully submitted,



397
398 Andrea Cairns