



Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, August 27, 2019 at 6:30pm
Town Hall, 231 Atlantic Avenue
North Hampton, NH 03862

These Minutes were prepared as a reasonable summary of the essential content of the Meeting, not as a transcription. All exhibits mentioned, or incorporated by reference, in these Minutes are a part of the official Case Record and available for inspection at the Town Offices.

In attendance: Mark Janos, Chair; Jonathan Pinette, Vice Chair; Members Joseph Bernardo, David Buchanan, and Robin Reid; Alternate Members Audrey Prior and Vin Carbone; and Recording Secretary Rick Milner.

I. Preliminary Matters.

Chair Janos called the meeting to order at 6:35pm.

Mr. Janos presented the minutes of the July 23, 2019 meeting.

Mr. Pinette moved that the ZBA accept the minutes of the July 23, 2019 meeting as written. Second by Ms. Reid. The vote was unanimous in favor of the motion (5-0).

II. New Business.

A. Case #19:03 – Applicant: Matthew Preston, 12 Pine Road, North Hampton, NH 03862. The Applicant requests a variance from the Town of North Hampton Zoning Ordinance Section 203.1 Yard and Lot Requirements to allow less than the required frontage for a proposed two lot subdivision. Property Owner: Theodore Wanyo, Trustee, T & M Wanyo Family Revocable Trust, P.O. Box 578, North Hampton, NH 03862. Property Location: 19A Pine Road, North Hampton, NH 03862; M/L: 007-010-000; Zoning District: R-1, High Density District.

In attendance for this application:

Matthew Preston, applicant; Theodore Wanyo, property owner; Henry Boyd, engineer; James Scully, attorney.

All potential witnesses for Case #19:03 were sworn in.

Mr. Boyd addressed the Board. Mr. Boyd presented a plan of land showing a proposed two lot subdivision of the 19A Pine Road (Map/Lot 007-010-000) property. A complete, detailed survey of the approximately 14 acre property has not been completed. The applicant did not want to spend a considerable amount of money on a detailed survey in case the variance request was denied. The wetlands have been flagged in the field by a certified wetlands scientist. The plan of land shows:

- a. a proposed lot line creating a 5.29 acre Lot A to the north with an existing home and 44.68 feet of frontage and a 8.51 acre Lot B to the south for a proposed home with 44.84 feet of frontage,
- b. an approximate wetlands boundary, and
- c. a potential building area on Lot B.

Mr. Boyd stated that the property had two access points approximately 44 to 45 feet in length along Pine Road. The applicant proposed to use a shared driveway at the southerly access point to access both

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of the proposed lots rather than create a long driveway from the northerly access point to access the current home on the newly created Lot A. The proposal would be less impactful on the land. There is a large amount of land on the property which could accommodate a second home without adversely affecting the neighborhood. The proposed subdivision plan requires variances to allow less than the required 175 feet of frontage for both proposed lots.

Ms. Reid asked for the dimensions of the potential building area for proposed Lot B shown on the plan.

Mr. Boyd stated that the potential building area was a large area which could be greater than 0.25 acres. However, Mr. Boyd could not provide a precise figure for the area since the land had not been surveyed.

Mr. Janos asked if the applicant had any desire to create a driveway or other type of access at the northerly access point on the property.

Mr. Boyd stated that the applicant had no desire to utilize the northerly access point.

Mr. Preston addressed the Board. Mr. Preston expressed his desire to live in North Hampton in a reasonably sized home on a suitable portion of land.

Mr. Scully addressed the five criteria for granting a variance identified in the State of NH RSA's.

1. Granting the variance would not be contrary to the public interest. A variance allows for good and reasonable use of the property. Rather than putting in an additional driveway to access a proposed additional single family dwelling on the property, the proposed shared driveway will minimize environmental impact. There will be no visual changes seen by the public from Pine Road.

2. Granting the variance would be consistent with the spirit of the ordinance. There will be no changes to the visual appearance of the property from the road. The proposed additional single family dwelling will be set back a considerable distance from the road. The required frontage does not currently exist for a large parcel of land.

3. Substantial justice would be done by granting this variance. A variance would allow for a greater use of this large parcel of undeveloped land. The applicant is attempting to minimize environmental impact on the property and not change any of the frontages that currently exist.

4. Granting the variance will have no impact on the values of the surrounding properties. The proposed house will be set back from the road as well as surrounding property lines.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property. Frontage relief is necessary to build another house on this 13.9 acre parcel of land. The applicant is seeking to build one additional single family house. The proposed use is reasonable since there is buildable land on the property.

Abutter Brenda Tharp addressed the Board. Ms. Tharp stated that she was in favor of the variance application.

Abutter Amy Kontos addressed the Board. Ms. Kontos stated that she was in favor of the variance application.

Abutter Rodney Knott addressed the Board. Mr. Knott stated that there is a lot of granite in the area around the northerly access point to the property. Also, he had concerns regarding water drainage in the same area. He asked for confirmation that the applicant did not intend to create a driveway at the northerly access point.

Mr. Boyd confirmed that the applicant did not intend to create a driveway at the northerly access point.

Attorney Thomas Keane, representing abutter Patrick Carey, addressed the Board. Mr. Keane stated that, if the Board were to consider granting the variance, then Mr. Carey requests that the following conditions be placed on the approval:

- a. a prohibition against use of the northerly access point for access to the property,
- b. no further subdivision of the property would be allowed, and
- c. no cutting would be allowed on the property currently designated as Map/Lot 007-010-000 within 75 feet of the property lines shared with the property currently designated as M/L 007-019-000.

Mr. Keane stated that Mr. Carey believes that there would be a diminution in the value of his property if the variance were granted without the proposed conditions attached.

Mr. Boyd stated that the applicant did not have an issue with the tree cutting restriction. The applicant's intent is not to further develop the area near Mr. Carey's property. The applicant only wants to have two house lots on a large piece of land.

Mr. Janos closed the public hearing at 7:03pm.

Mr. Pinette stated that he was in favor of granting a variance with an understanding that Mr. Carey's concerns are addressed.

Mr. Buchanan stated that he was in favor of granting a variance as long as the proposed home is restricted to a single family dwelling.

Mr. Janos noted that other local and state approvals may be required for the proposed subdivision.

Mr. Bernardo suggested that the Board may be overreaching its responsibilities by adding extra conditions to a property, the proposed Lot A, which may restrict a future landowner from exercising his property rights.

Ms. Reid stated that she has not heard any comments which address why this property is unique and should be allowed a variance. Also, the information regarding the buildable area is not detailed enough to make an informed decision on the variance request.

Mr. Buchanan stated that he is aware of other properties in North Hampton which have narrow access points along frontage not in conformance with the zoning ordinance.

Mr. Boyd stated the following in response to Board member comments:

- a. The applicant would agree to the conditions requested by Mr. Carey.
- b. The parcel is very unique in that it is approximately 14 acres in size.
- c. The potential building area size issue will be resolved with a more detailed survey presented during the Planning Board review process.

Mr. Janos stated that the parcel is unique with respect to its large size, shape, and topography. Since the applicant has expressed a willingness to accept the abutter's conditions, Mr. Janos is in favor of granting a variance with conditions included.

Mr. Bernardo moved that the Zoning Board of Adjustment grant a variance from Section 203.1 of the Town of North Hampton Zoning Ordinance for a proposed two lot subdivision to allow a frontage distance of 44.68 feet for the northerly section of the property along Pine Road associated with proposed Lot A and a frontage distance of 44.84 feet for the southerly section of the property along Pine Road associated with proposed Lot B subject to the following conditions:

1. No driveway or access to a public way shall be allowed using the frontage distance of 44.68 feet for the northerly section of the property along Pine Road associated with proposed Lot A. Access to the existing home on proposed Lot A and proposed home on proposed Lot B shall be through the use of a shared driveway located within the frontage distance of 44.84 feet for the southerly section of the property along Pine Road associated with proposed Lot B.

2. The proposed home on proposed Lot B shall be restricted to a single family home only.

3. There shall be no further subdivision of the land currently designated as Map/Lot 007-010-000 beyond the proposed two lots.

4. A 75 foot no cut buffer zone shall be established on land currently designated as Map/Lot 007-010-000 along all property lines shared between land currently designated as Map/Lot 007-010-000 and Map/Lot 007-019-000.

5. If the proposed subdivision plan requires any additional variances, then the applicant shall apply to the Zoning Board of Adjustment for consideration of additional variances.

6. The proposed subdivision plan shall receive Town of North Hampton Planning Board approval.

7. The proposed subdivision plan shall receive all necessary federal, state, and local permits and approvals.

Second by Mr. Pinette. The vote was unanimous in favor of the motion (5-0).

III. Other Business.

Mr. Janos presented to the Board a request to rehear Case #19:02 submitted by the attorney representing the applicant of Case #19:02.

The Board came to a consensus without objection to schedule a meeting to consider the rehearing request on September 16, 2019 at 6:00pm.

Mr. Pinette moved to adjourn the meeting at 7:50pm. Second by Mr. Bernardo. The vote was unanimous in favor of the motion (5-0).

Respectfully submitted,

Rick Milner
Recording Secretary