

DRAFT



ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, August 24, 2022
Belmont Mill & Zoom
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members Mark Mastenbrook, David Dunham and Sharon Ciampi.
Alternates Absent: John Froumy (E).
Staff: Elaine Murphy and Sarah Whearty.

The Chairman opened the meeting at 6pm and welcomed those in attendance. He announced that as Chairman of the Belmont Zoning Board of Adjustment, this public body is authorized to meet using electronic means. He said that the Board gave notice to the public of the necessary information for accessing the meeting using Zoom or telephone, and he announced that any party experiencing any difficulty in accessing the meeting at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

BOARD'S ACTION -MINUTES:

MOTION: On a motion by M. Mastenbrook, seconded by N. Patten it was voted unanimously to accept the minutes of July 27, 2022 as written. The motion carried. (5-0)

The Chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

ABUTTERS' HEARING – PAUL E. MAGGIOLI & ROSALINDA J. SWEENEY: Request for two Variances of Article 5 Table 2 of the Zoning Ordinance to construct a shed:

- A. Closer (1.9') to the side property line than allowed (12.5'). ZBA #3322Z
- B. Closer (35.6') to the front property line than allowed (50'). ZBA #3422Z

Request for two Variances of Article 5 Table 2 of the Zoning Ordinance to allow a membrane structure:

- C. Closer (0.7') to the side property line than allowed (12.5'). ZBA #3522Z

D. Closer (21.4') to the front property line than allowed (50'). ZBA #3622Z
Property is located at 109 Tucker Shore Road in the "RS" Zone, Tax Lot 107-016-000-000.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by D. Dunham and carried. (5-0)

Ms. Rosalinda Sweeney presented the application and explained that they have been living there for four seasons, about a year. There are critters living inside the shed and it needs maintenance. They have an updated survey and submitted a permit for the wood shed, she did not know she needed a permit for the membrane structure. She thanked the Land Use staff for all their help with the building permit and zoning application. There are two parts to the application. There is an existing 8'x10' shed that they want to replace with a 10' x 12' newer one. The house has no basement and they are using the house more now as she is working from home. The shed will be on blocks and they are maintaining the existing distance from the side property line. They want to retain the existing membrane structure they use it for the pellets for the pellet stove. The pellets are the main heat source for the house. The membrane structure will remain in the same footprint and the setbacks will remain the same.

The Variance is not contrary to the public interest because there no impact to the public. It doesn't alter the essential character of the neighborhood or injure the public rights.

The spirit of the ordinance is observed because there is no impact to the public. Substantial justice will be done because the loss to the individual is not outweighed by the gain to the public. The proposal is aesthetically pleasing and will enhance the character of the neighborhood.

The lot size is inadequate for any structures without relief from the Zoning Board. The use is the same as others in the neighborhood.

Ms. Sweeney read a letter in support of the proposal from the former owner and neighbor who lives a few houses away, Mr. Michael & Mrs. Donna Iacopucci. The letter states that Ms. Sweeney and Mr. Maggioli continue to improve the appearance and quality of the site. The new shed will be attractive and is similar to others in the area. The membrane structure is typical of the neighborhood and will give them a place to store wood pellets.

P. Harris read the Department response from the Land Use Technician stating the building permit application should reflect the 8.2' x 8.2' membrane structure. A NHDES permit is not required for this project per an email from Lori Sommer. There were no other comments.

M. Mastenbrook wanted to clarify that the membrane structure will stay in the same footprint. Ms. Sweeney stated it will. The shed will be removed and replaced with a new shed maintaining the same distance from the shoreland. M. Mastenbrook stated there is not enough room on the site to move structures around, whatever they do requires a Variance.

S. Ciampi wanted to know if the stockade fence is the property line. Ms. Sweeney stated it is. S. Ciampi wanted to know why they don't have one large structure instead of two. Ms. Sweeney

stated they thought about it. They have a small fence and they put their garbage pails behind the membrane structure. P. Harris stated the shed is a single story.

The Chairman opened the hearing to public comment.

Ms. Jean Lucas, an abutter, stated that she has concerns about the membrane structure. It is an eye sore, is near the road and there are no other membrane structures in the area. She suggested that the Board do a site walk to make the best decision. Ms. Sweeney stated there is one large membrane structure as you turn onto Tucker Shore Road. She stated she didn't know that she needed a permit and applied for one when she found out one was needed. Her membrane structure is not fully exposed to the street, there is vegetation around it. It is not close to the street there is room for a car in front of it. P. Harris wanted to know how long it has been there. Ms. Sweeney stated since they started storing pellets there. Mr. Maggioli clarified that it has been there since they bought the property in 2018.

D. Dunham asked the abutter if they had concerns about the proposed proximity to property line. Mr. Wayne Lucas commented that it abuts a vacant lot.

P. Harris read a letter from abutters Mr. Wayne & Ms. Jean Lucas. They requested that the ZBA members continue the public hearing until there is an onsite visit so they can see the impact of allowing accessory structures within the setback. They also want the site evaluated to whether a shed could be relocated on the lot and meet the setbacks. They also have concerns about lot coverage and green space. P. Harris stated that four members have viewed the site and a survey was provided as part of the application. He also stated that the membrane is in the same area as it is now.

There being no further questions or comments the chairman closed the public hearing.

S. Ciampi stated the membrane structure stands out like a sore thumb that was the first thing she saw as she turned onto the road.

BOARD ACTION – PAUL E. MAGGIOLI & ROSALINDA J. SWEENEY:

MOTION: M. Mastenbrook moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a shed closer (1.9') to the side property line than allowed (12.5') as it meets all the criteria:

1. The Variance will not be contrary to the public interest because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.
2. The spirit of the ordinance is observed because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.
3. Substantial justice will be done because the loss to the individual is not outweighed by the gain to the public. If the Variance is denied there will be no gain to the public.
4. The Variance would not diminish the value of surrounding properties. The new shed will be aesthetically pleasing and will enhance the neighborhood. It will increase

property values.

5. Owing to special conditions of the property, that distinguish it from other properties in the area denial of the Variance would result in unnecessary hardship because of the following:

- A. 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 because they are replacing a shed that is in disrepair with a newer one. Strict adherence to the Zoning Ordinance would render the property unusable due to the size of the property.

and

- B. the proposed use is a reasonable one because there are other sheds in the area.

Additional conditions:

1. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
2. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
3. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
4. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
5. Approval expires on 8/24/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
6. Submit final paper plans (3 full-size, 1 reduced). Submit one pdf for approval prior to submitting all required copies. Make the following changes/corrections:
 - i. Add subplot and unit "000" – 107-016-000-000
 - ii. General Note 1.9 should be changed to a 35' wetland setback.
 - iii. Include the dimension from Tucker Shore Road to the proposed membrane shed.
 - iv. Include the membrane shed in General Note 1.0 (purpose).

The motion was seconded by N. Patten and carried. (5-0)

MOTION: M. Mastenbrook moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a shed Closer (35.6') to the front property line than allowed (50') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.
2. The spirit of the ordinance is observed because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.
3. Substantial justice will be done because the loss to the individual is not outweighed

- by the gain to the public. If the Variance is denied there will be no gain to the public.
4. The Variance would not diminish the value of surrounding properties. The new shed is aesthetically pleasing and will enhance the neighborhood. It will increase property values.
 5. Owing to special conditions of the property, that distinguish it from other properties in the area denial of the Variance would result in unnecessary hardship because of the following:
 - A. 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 because they are replacing a shed that is in disrepair with a newer one. Strict adherence to the Zoning Ordinance would render the property unusable due to the size of the property.

and

 - B. the proposed use is a reasonable one because there are other sheds in the area

Additional conditions:

1. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
2. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
3. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
4. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
5. Approval expires on 8/24/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
6. Submit final paper plans (3 full-size, 1 reduced). Submit one pdf for approval prior to submitting all required copies. Make the following changes/corrections:
 - i. Add subplot and unit "000" – 107-016-000-000
 7. General Note 1.9 should be changed to a 35' wetland setback.
 8. Include the dimension from Tucker Shore Road to the proposed membrane shed.
 9. Include the membrane shed in General Note 1.0 (purpose).

The motion was seconded by N. Patten and carried. (5-0)

MOTION: M. Mastenbrook moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to allow a membrane structure closer (0.7') to the side property line than allowed (12.5') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.

2. The spirit of the ordinance is observed because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.
3. Substantial justice will be done because the loss to the individual is not outweighed by the gain to the public. If the Variance is denied there will be no gain to the public.
4. The Variance would not diminish the value of surrounding properties. The membrane structure is aesthetically pleasing and will enhance the neighborhood. It will increase property values.
5. Owing to special conditions of the property, that distinguish it from other properties in the area denial of the Variance would result in unnecessary hardship because of the following:
 - A. 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 because they are maintaining an existing membrane structure. Strict adherence to the Zoning Ordinance would render the property unusable due to the size of the property.and
 - B. the proposed use is a reasonable one because there are other similar structures in the area.

Additional conditions:

10. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
11. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
12. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
13. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
14. Approval expires on 8/24/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
15. Submit final paper plans (3 full-size, 1 reduced). Submit one pdf for approval prior to submitting all required copies. Make the following changes/corrections:
 - i. Add subplot and unit "000" – 107-016-000-000
 - ii. General Note 1.9 should be changed to a 35' wetland setback.
 - iii. Include the dimension from Tucker Shore Road to the proposed membrane shed.
 - iv. Include the membrane shed in General Note 1.0 (purpose).

The motion was seconded by N. Patten and carried. (5-0)

MOTION: M. Mastenbrook moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to allow a membrane structure closer (21.4') to the front property line than allowed (50') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.
2. The spirit of the ordinance is observed because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.
3. Substantial justice will be done because the loss to the individual is not outweighed by the gain to the public. If the Variance is denied there will be no gain to the public.
4. The Variance would not diminish the value of surrounding properties. The membrane structure is aesthetically pleasing and will enhance the neighborhood. It will increase property values.
5. Owing to special conditions of the property, that distinguish it from other properties in the area denial of the Variance would result in unnecessary hardship because of the following:
 - A. 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 because they are maintaining an existing membrane structure. Strict adherence to the Zoning Ordinance would render the property unusable due to the size of the property.and
 - B. the proposed use is a reasonable one because there are other similar structures in the area.

Additional conditions:

16. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
17. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
18. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
19. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
20. Approval expires on 8/24/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
21. Submit final paper plans (3 full-size, 1 reduced). Submit one pdf for approval prior to submitting all required copies. Make the following changes/corrections:
 - i. Add subplot and unit "000" – 107-016-000-000
 - v. General Note 1.9 should be changed to a 35' wetland setback.
 - vi. Include the dimension from Tucker Shore Road to the proposed membrane shed.
 - vii. Include the membrane shed in General Note 1.0 (purpose).

The motion was seconded by N. Patten and carried. (5-0)

ABUTTERS HEARING –PETER M. PALMER: Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to create a buildable lot with frontage on a Class VI Road. Property is located at 66 Diane Drive in the “R” Zone, Tax Lot 201-052-000-000. ZBA #3722Z

Atty. Stephan Nix, Mr. Peter Palmer and Mr. Angelo Palmer were present for this application.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by M. Mastenbrook and carried. (5-0)

P. Harris read the Department response from Public Works stating the proposal is located on a Class VI non-maintained town Road. A Municipal Liability waiver should be signed and recorded. There were no other concerns.

Atty. Nix explained they are requesting a Variance to subdivide with frontage on a Class VI road where 180’ is required on a Class V town road. The property is on Old Ladd Hill Road. The property has a house, barn, and several outbuildings and is accessed via Diane Drive. The proposal is to subdivide 15-20 acres with the appropriate frontage. Once the survey is done the dimensions will be determined. The existing 60 acres has one dwelling on it and historically has frontage on Ladd Hill Road. The section of Old Ladd Hill Road from the Golf Course east to Mile Hill Road was discontinued subject to gates and bars in 1969. At that time the only access to the property was from Old Ladd Hill Road. In 1976, the Planning Board approved the Diane Drive subdivision and that subdivision left a 50’ section of a Right of Way leading to the property and the developer deeded Diane Drive to the Town and the Selectmen accepted the road as a Class V Road. This gave the property 50’ of frontage on a Class V Road. In 2019, the portion of Old Ladd Hill Road east of the property was totally discontinued. The new building lot will have frontage on and a driveway off the Class VI portion of Old Ladd Hill Road. There are two existing houses that are accessed via onto the Class VI portion of Old Ladd Hill Road. In 1992, the Selectmen signed and recorded a Waiver of Municipal Liability. In 2005 a single-family home was constructed at 39 Old Ladd Hill Road. This lot was determined to be an existing lot of record with frontage on a Class VI Road.

The section of Old Ladd Hill Road is in good condition.. It is good gravel and the brush is mowed back. Two cars can pass but one car must stop to let the other car pass. There are a few trees grown out but that does not impede the ability to get through. The road is privately maintained. There are existing power lines that go down the road so power is not an issue.

Addressing the criteria for public interest and the spirit of the ordinance it states that a Variance be granted if it doesn’t violate the basic Board objection or alter the public. This a rural area and there are two houses on the road so it will not alter the character of the neighborhood. Health and safety in this case is addressed by the owner signing the Municipal Liability Waiver. The facts of the case do not support the gain to the general public by denying the Variance outweighs the loss to the individual. The purpose of requiring frontage on a Class V or private road is to ensure that the physical characteristic of the road allow safe access to the property owners. The lot is over 5 acres and support the values of the neighborhood. The special condition of the property is the majority of frontage on a Class VI road. There are already two houses on the road and adding one

more house will not degrade the road. The proposed use is reasonable to allow a single-family house on a lot over the minimum lot size.

M. Dunham wanted to know who owns the road beyond the Palmer's lot. S. Whearty stated the road was discontinued in 2019 and reverted back to the property owners.

M. Mastenbrook stated it is a single-family home on 17 acres. Atty. Nix stated that once they get permission to build it will reasonable to maybe add a barn or accessory structures in the future.

P. Harris wanted to know how they can protect the property from developing more houses on the site. S. Whearty stated they would have to go back to the Zoning and Planning Boards for further approval.

The chairman opened the hearing to public comment.

Mr. John Acorace, an abutter at 65 Diane Drive, stated he has no objections to this proposal.

M. Mastenbrook stated he is struggling with the hardship. Atty. Nix stated the property cannot be reasonably used in strict conformance with the ordinance. A Variance is therefore necessary to enable a reasonable use of it. To develop 1000' of road is unreasonable and a financial burden for one home a lot this size.

There being no further questions or comments the chairman closed the public hearing.

BOARD ACTION – PETER M. PALMER:

MOTION: M. Mastenbrook moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to create a buildable lot with frontage on a Class VI Road as it meets all the criteria:

1. The Variance will not be contrary to the public interest because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.
2. The spirit of the ordinance is observed because there is no impact to the public and does not alter the essential character of the neighborhood. It does not injure the public's rights.
3. Substantial justice will be done because the loss to the individual is not outweighed by the gain to the public. If the Variance is denied there will be no gain to the public.
4. The Variance would not diminish the value of surrounding properties because another single-family home will increase property values.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
 - a. 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 because it is on a Class VI Road and the frontage is nonexistent

- making the lot unusable.
and
- b. the proposed use is a reasonable one because they are building a single-family home on the property that is similar to others in the neighborhood.

Additional conditions:

22. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
23. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
24. Approval expires on 8/24/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
25. Subdivision approval from the Planning Board is required.

The motion was seconded by N. Patten and carried. (5-0)

ABUTTERS HEARING – ROBERT & KATHLEEN MORRILL: Request for two Variances of the Zoning Ordinance to construct a single-family residence on a lot:

- A. RSA 674:41 on a lot without frontage. ZBA #3822Z
- B. Articles 11.C & 15 on a lot without the required frontage. ZBA #3922Z

Property is located on Federal Street in the “R” Zone, Tax Lot 216-003-000-000.

Mr. Tyson Morrill and Mr. & Mrs. Robert Morrill were present for this application.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by M. Mastenbrook and carried. (5-0)

P. Harris read the Department response from Public Works stating the driveway is located beyond the area in which town maintenance occurs and should not affect their operations.

Mr. T Morrill stated his goal is to construct a single-family residence on 7.4 acres with a deeded ROW. In 1900, the ROW was used by the land owner and abutters to access the lot for agricultural use. Today the ROW follows an established route exclusively through hay fields and traveled by vehicles and farm equipment.

The Variance is not contrary to public interest because it is for a single-family structure that will not need any dimensional setbacks. The parcel is vacant and landlocked. On Federal Street there are 13 existing homes with parcels ranging from 1.18 to 62 acres averaging 9.96 acres. The proposed dwelling is a single-family home on 7.4 acres. The ROW will be upgraded to a driveway and no trees are being cut. During the winter the lot is minimally visible from the nearest home and not at all visible from the town road. The use is a reasonable one and is similar to other in the neighborhood. There is an existing ROW.

S. Ciampi stated she and N. Patten are cemetery trustees and there is a cemetery near the property. Mr. T. Morrill stated there is a cemetery near the end of the Town-owned portion of Federal Street and it is protected and they will not be touching it.

M. Mastenbrook stated that it is a ROW to other properties and numerous neighbors use it. Mr. T. Morrill stated the ROW is in the deed and the description is the same as in the abutter's deeds. M. Mastenbrook stated there is a single-family home out back is that what the ROW is used for. Mr. T. Morrill stated the description states it is access for the backland.

The Chairman opened the hearing to public comment.

Mr. John Bickford, an abutter, referred to the deed for the ROW and stated the path is 8' to 10' wide not the 50' width the applicant referred to in his application. In the deed for Tax Lot 216-001-000-000, the path is 8' and that ROW will increase with the applicant using it. They have to look what is on the ground. Are there wetlands on the site? Has a plan been done by a Wetlands Scientist? If the path is graded will the drainage affect the livestock. Federal Street ends at the ROW. The ROW is not 50' wide and it is not straight its width varies. The plan in the Registry for Tax Lot 216-001-000-000 shows a 16' gravel road. Mr. Bickford had concerns about an abutter not being notified and staff confirmed that all abutters were notified as required by statute.

Mr. Bickford stated the Variance is contrary to the public interest because historically this is a wood and hay lot and this would open it to traffic and may impact the well that he uses for his livestock. Mr. John Bickford Jr. stated that his dad had issues with traveling thru the hay field. Mr. Bickford Sr. reiterated the ROW is not 50' but now is 5'-6'. He also stated that a family member was not noticed as an abutter. S. Whearty explained that they used the address in the Town's file which is how they have to legally notify abutters. The applicant will share the path and he wanted to know who is responsible to maintain the ROW. If they widen the ROW for emergency vehicles, it could affect the livestock. For substantial justice to be done they need to meet the road regulations. It will impact properties because it is not a 50' ROW but a path. The proposal will diminish property values. He is concerned the vehicle access along the path could affect his well. This is not a Town ROW but a path to a hay field.

Mr. T. Morrill stated that the ROW is not 50' he made a mistake and agrees that it is 16.5' wide. P. Harris wanted to know why the ROW was put in. Mr. Bickford stated it is between working fields. Mr. Mastenbrook stated the applicant has a ROW through the property and they cannot stop someone from the use of the property.

Mr. Bickford Jr. stated the Town maintains Federal Street to the turnaround, they stop at his grandfather's tomb.

D. Dunham wanted to know if there would be a sewage problem. Mr. T. Morrill stated there was a subdivision in 1991 that showed the soil conditions and neither that or GIS show wetlands. The assessing card show wetlands but that is being removed from the card as it is inaccurate. Mr. T. Morrill stated they have been allowed to hay the field for the last two years where there is supposed to be wetlands.

M. Mastenbrook stated the deed shows the ROW as 1 rod wide. Mr. T. Morrill agreed with that.

D. Dunham stated there is concern about the well. Mr. T. Morrill stated the well is capped. It is a dug well. Mr. Bickford stated he uses the water for the cattle. Mr. T. Morrill stated the proposed dwelling is 700'-1000' from where the well is. The proposed driveway is less than 8% grade and the remainder is 2-3% grade. M. Mastenbrook stated the dwelling is far away from the well and the concern is the grades of the ROW, the elevation, and vehicle traffic. This Board is not here to discuss the elevation. Mr. T. Morrill stated he provided road data provided by DOT. The ROW is one rod wide, 16.5'.

S. Whearty stated the applicant found new information at the registry after the closing date for the meeting. S. Ciampi clarified that the ROW is 16.5' not 50'. Mr. T. Morrill stated that it could be part of the condition of approval that the ROW is 16.5' P. Harris stated they need to hear from the Fire Department that they have no problem with accessing the property through the ROW. Mr. T. Morrill stated the width of the ROW is sufficient for NH municipal standards.

Mr. Bickford still has concerns about the elevation. Mr. T. Morrill stated there will be no damage to the abutting hay field. M. Mastenbrook questioned if Mr. Bickford is concerned fertilizer with regards to his well. There will be minimal impact from a driveway accessing one, single-family residence.

S. Ciampi wanted to know if they could make it a private road. Mr. T. Morrill stated it is currently subdivided with a ROW. P. Harris stated the lot was developed through a subdivision and was considered unbuildable. If the Board ignores the frontage ordinance, then they would be setting a precedent. They have to be concerned with the Zoning Ordinance and the Master Plan. Mr. T. Morrill stated the deed with the ROW goes back to 1900.

S. Whearty stated that the Board seems to want more input from the Fire Department and the Public Works Department. Mr. T. Morrill stated if emergency access is a concern, it can be part of the application. Public Works doesn't have any concerns with the ROW. S. Ciampi stated safety concern is for everyone not just the applicant. S. Whearty stated that the safety concerns are addressed when they sign the Municipal Liability Waiver.

N. Patten wanted to know who plows the road. Mr. T. Morrill stated there is one house beyond the turnaround and that is part of the documents he submitted.

P. Harris stated that in order to make an informed decision he needs more information and needs to consult with counsel on how to proceed and if more information is needed. S. Whearty stated she can confer with counsel if the Board would like to her to do so. Mr. T. Morrill stated he has tracked the deeds back to 1900.

P. Harris stated that the hardship cannot be a financial. The hardship goes with the property such as wetlands but it cannot be the cost of building a road. Mr. T. Morrill stated the hardship is the subdivision was done poorly and the land became landlocked. Having a private road standard is

above and beyond what is needed for a single house, which meets the criteria for granting relief from RSA 674:41.

The Board discussed needing more information from the Fire Department and Public Works Department with the adjusted ROW going from 50' to 16.5'. Mr. T. Morrill stated he will make the correction to the plan to indicate it is a 16.5' ROW.

BOARD ACTION — ROBERT & KATHLEEN MORRILL:

MOTION: N. Patten moved to Table the application for a Variance of RSA 674:41 to construct a single-family residence on a lot without frontage and a Variance of Articles 11.C & 15 of the Zoning Ordinance to construct a single-family residence on a lot without the required frontage. The meeting is tabled to September 28, 2022 at 6 PM to allow the Board to consult counsel about criteria for building on a landlocked property.

The motion was seconded by S. Ciampi and carried (5-0).

ADJOURNMENT:

MOTION: On a motion by S. Ciampi seconded by D. Dunham it was voted unanimously to adjourn at 8:16 pm. (5-0)

Respectfully submitted,

Elaine M. Murphy
Land Use Coordinator