



Town of Pepperell
BOARD OF APPEALS
One Main Street
Pepperell, Massachusetts 01463
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Zoning Board of Appeals Meeting Minutes of February 16, 2011

PRESENT: Sherrill Rosoff, Mark Walsh, Annette McLean, Sean McCaffery and Attorney Edward Richardson (Town Counsel). Also present (for second hearing only): Cheryl Lutcza (ZBA Assistant).

7:00P.M. Sherrill Rosoff, Chair, opened the meeting and announced the first agenda item is a hearing regarding an application submitted by John Chapman, requesting Zoning Board of Appeals **VARIANCES** under Sections 4230, 4235 and 4000 of the Town of Pepperell Zoning-By-Law, which if granted, would allow for reduced contiguous upland area of approximately 14,951 square feet rather than the required 30,000 s.f. Variance from lot shape requirement specified in Section 4234 to allow lot shape calculation of .32 rather than the required lot shape of equal to or greater than .40. Subject property is located at 60A Nashua Road, Pepperell, MA, as shown on Assessor's Map 15 as Parcel 20-1.

Applicant, John Chapman, was present and paid the fees associated with the ZBA Application. Also present, were Applicant's legal counsel, Attorney Thomas Gibbons and Attorney Darren Lanza of the Law Office of Thomas Gibbons, Ayer, MA.

There were no abutters present at the hearing.

Clerk read the Notice of Public Hearing into the record.

Chair invited Applicant and/or legal counsel to address the Board regarding the relief being requested.

Attorney Gibbons addressed the Board, on the Applicant's behalf, as follows:

- Explained the creation of the parcel subject to the requested relief. Mentioned previous variances granted in 1998, 1999 and 2005 and creation of lots 1-2A and 2B.

- 1977: Joyce Chapman and husband purchased property (3.95 acre lot). Lot was split into two lots.
- 1999: Decision based on the condition that the house would be connected to Town Sewer. Due to the cost of septic system, Applicant waited for Town Sewer, which never came to fruition.
- 2005: Variance granted by Zoning Board of Appeals (ZBA), but Applicant never acted on it due to financial and other reasons.

Applicant, John Chapman, addressed the Board and explained that it is his intent to build the house for his mother, and he wants to open a business in Pepperell (another location for existing cleaning business). His mother wants to move back to Pepperell.

Attorney Gibbons explained that the Applicant has a hardship due to the lot shape factor, “strange lot”. Lot 1-2A has a number of different property lines; weird shape. There is a natural brook that traverses the property and the conditions that were present for the past ZBA Decisions of 1998, 1999 and 2005, are still present today.

Applicant explained the purpose of the house and that it would be a two-bedroom home.

Clerk read responses from the following Town Boards/Departments and/or concerned parties into the record:

- Assessor’ s Office
- Conservation Commission
- Treasurer-Collector’ s Office
- Highway Department
- Planning Board
- Police Department
- Sewer Department
- Town Engineer
- Water Department

Town Counsel read his letter to the Board (Exhibit: S), dated February 16, 2011, into the record.

Town Counsel explained the purpose of zoning, lot shape factor, and contiguous upland.

Attorney Gibbons addresses the comments from the other Town boards and reads from the 1998 ZBA Decision about revisions to plan (map). Explained that upland area is actually smaller now and the division of the lots was a collaborative process.

Board Member, Mark Walsh, asked Attorney Gibbons who/what parties were involved in creating the two lots, who was involved in the collaboration. Attorney Gibbons responded that he did not know and suggested that it may have been suggested by the ZBA.

Sherrill Rosoff inquired what the size the house would be. Applicant responded that the size has not been set yet.

Attorney Gibbons continued responding to comments from the other Town Boards and stated that the requested Variance would not be a detriment to the area.

Mark Walsh asked how could having half the contiguous upland area, from what is required, not be a detriment to the area?

Town Counsel explained purpose of zoning (density and access) public safety.

Mark Walsh asked how it would not derogate from the intent and purpose of the bylaw/public good.

Town Counsel explained purpose of contiguous upland and wetlands requirement. Discussion ensued relative to purpose of zoning, bylaws, Conservation Commission jurisdiction, etc.

Discussion ensued regarding a possible Site Visit by the ZBA to view the subject property. Board members discuss dates and announce that they will conduct a Site Visit to the subject property on Wednesday, March 23, 2011, at 5:00p.m. At the conclusion of the Site Visit, the Board will reconvene to a continuation of the public hearing at Town Hall (Conference Room A) at 5:30p.m.

Mark Walsh motioned to continue the hearing and leave the record open to March 23, 2011 at 5:00p.m., when the Board will conduct a Site Visit at the subject property and then reconvene at Town Hall (Conference Room A) at 5:30p.m., to continue the public hearing. Annette McLean seconds. All concur.

8:20 P.M. Chair announced the second agenda item is a hearing regarding an application submitted by J&A 7 Tarbell Street, LLC (by its members Mary F. Rowse and Richard J. Rowse), requesting a Zoning Board of Appeals **VARIANCE** under Section 7321 of the Town of Pepperell Zoning-By-Law, which if granted, would allow a variance of minimum lot size from 30,000 sq. ft. to 29,176 sq. ft., to allow 3 dwelling units in the existing premises located in an Urban Residence district. Subject property is located at 7 Tarbell Street, Pepperell, MA, as shown on Assessor's Map 26 as Parcel 165.

Applicants, Mary and Richard Rowse were present and paid the fees associated with the ZBA Application. Also present, were Applicant's legal counsel, Attorney Ernest Sheldon of Sheldon Law Offices, Pepperell, MA.

There were no abutters present at the hearing.

Clerk read the Notice of Public Hearing into the record.

Chair invited Applicant and/or legal counsel to address the Board regarding the relief being requested.

Attorney Sheldon addressed the Board, on the Applicant's behalf, as follows:

- Makes a correction, and initials, the Assessor's Map Number that was handwritten on the original application, from Map 22 (incorrect map number) to Map 26 (correct map number).
- Gives both an oral and written summary (Exhibit T - dated February 16, 2011), of the requested relief. Explained that the Applicants are requesting relief to create another affordable apartment in the existing 2-unit structure. Applicants have exhausted their options for obtaining other land to increase size of lot.

Mark Walsh inquired about layout. Discussion ensued and layout drawings submitted with application are referenced.

Clerk read responses from the following Town Boards/Departments and/or concerned parties into the record:

- Assessor's Office
- Board of Health/Nashoba Associated Boards of Health
- Conservation Commission
- Treasurer-Collector's Office
- Highway Department
- Planning Board
- Police Department
- Sewer Department
- Town Engineer
- Water Department

Town Counsel read his letter to the Board (Exhibit: U), dated February 16, 2011, into the record. He reminded Board that the application before the ZBA is for a Variance, and the Applicants will still need to go before the Planning Board for a Special Permit. The ZBA is only ruling on a Variance.

Annette McLean inquired if renovation will only be to the inside of the structure, with no external changes? Applicant responded that there will be no external changes to the structure, only interior changes to change from two to three-unit structure. Ms. Mclean inquired about parking shown on the plan, and if the parking shown is proposed or existing? Applicant responded that it is proposed – nine spaces.

Chair inquired about maximum occupancy related to parking. Applicant responded that there will be three units, with likely two adults per unit.

Town Counsel commented that the Bylaw requires two parking spaces per dwelling unit.

Annette McLean motioned to close the hearing and record. Mark Walsh seconds. All concur.

Mark Walsh motioned to grant a Variance under Section 7321 of the Town of Pepperell Zoning-By-Law, to allow a variance of minimum lot size from 30,000 sq. ft. to 29,176 sq. ft., to allow 3 dwelling units in the existing premises located in an Urban Residence district. Annette McLean seconds. All concur.

Old and New Business:

- Mark Walsh motioned to approve the ZBA Meeting Minutes of January 5, 2011. Annette McLean seconds motion. All concur.

Mark Walsh motioned to adjourn the meeting. Annette McLean seconds. All concur.

Meeting Adjourned at 9:03 P.M.

ZBA Minutes of February 16, 2011 filed with Town Clerk: March 28, 2011

Respectfully submitted by:

**Cheryl Lutcza,
Assistant to the Zoning Board of Appeals**

cc: Town Clerk
Inspector of Buildings
Town Counsel
ZBA Minutes file
ZBA Members
ZBA Application File(s)