

HAMPSTEAD BOARD OF ADJUSTMENT MINUTES
MAY 4, 2022

Selection
DRAFT

Members present: Hank Riehl, Dale Blaine, Proc Wentworth, Randy Clark, Karen Hanides and alternate Jaye Dimando.

A copy of the Posting Notice and abutters' notice are a part of these minutes.

PAUL & JANICE FRANK 12/144

It was a rehearing of the request for a variance to permit the creation of a vacant lot, by subdivision, which will not meet lot size by soils, for property owned by Alan and Judith Woodman and located at 20 Bonnies Way, Hampstead, NH in the Residential Zone, Map 12 Parcel 144. The lot is 2.2 acres. The rehearing was continued from April. The applicants were represented by Att. Bernard Campbell. Dale recused himself and Jaye sat in and joined the board. The attorney summarized the points of the case. He showed a map of the proposed subdivision. There is 1000 ft. of frontage. The applicants propose to build a single-family dwelling. The Town Ordinance requires on-site septic and water supply. The new lot would not have a well because it would be served by an off-site water company. The required area would be 54,625 square ft. and the proposed lot would have 48,000 square ft. He addressed the five criteria for a variance. He said it would not be contrary to the public interest because it would not alter the character of the neighborhood and would not violate health, safety and no threat to the general welfare. He said it met spirit and intent because of the off-site water there would be no violation. He noted that the applicants' application was filed prior to the Town's March 2022 Town Meeting, at which the off-site water requirement for lot-sizing was changed. He said it met the substantial justice test because it would be one of the largest lots in the subdivision. He said the Woodman's lot would still be a conforming lot and they would be able to sell the new lot. He said there would be no diminution of property values because the proposed four-bedroom house would be 3,800 square ft. He showed a rendering of the house, which, according to a broker, would be worth \$900,000 in today's market. Att. Campbell addressed the hardship test. He said the property has special conditions and is unique in the neighborhood because of its geographical layout. He said the new lot will have 580 ft. of frontage. Hank asked why it is unique in the neighborhood. He said there are other parcels that are wet so he didn't see why that made this parcel unique. He said he didn't see why the frontage issue is germane. Randy said the lot has a wetlands area so it is under the requirement. Karen said the lot is under water most of the time and cited the consequences of fertilizers and pesticides. She said a huge roof would impact the permeable soil. She said it is connected to a huge wetland. Att. Campbell said they are meeting the wetland setback and are

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not asking for any wetland relief. Wetlands scientist from Gove Environmental Services, Luke Hurley, said his company helped write the town's soil-based lot sizing requirements. He said this lot will have off-site water so will not require a well on the lot. Hank said the issue is not just based on science but also on wildlife habitat and other criteria which can't be ignored. Abutter at 9 Bonnies Way, Mr. Conte, said there are other houses in Hampstead the Franks could buy and even two right on Bonnies Way. Brian Condon, 19 Bonnies Way said the subdivided lot would change the character of the neighborhood. He said the lot is split the two houses will be the smallest properties. He also said the wetlands are an issue. He said it does not meet H.I.S. requirements. Mr. Nahabedian, 15 Bonnies Way, said the lot is not unique and that there is more than well and septic to be considered. Bill Lynch read a letter from abutter Andrew Jensen who said it will decrease his property value. He said there are lots of wetlands and wildlife to consider. Andrew Wallach of Chelsari Way said the objections are frivolous and petty. He said the proposal will benefit all. Alan Woodman, owner of the subject lot, said there were the same conditions in a lot across the street and that the board allowed the owners to build a deck. Att. Campbell said that any issues about drainage will be addressed when the plan goes before the Planning Board for subdivision. He said they are not asking for any wetlands relief and just want to be treated like any other property. Hank said he had issues with spirit and intent and contrary to the public interest tests. Karen said to protect the wetlands is to protect the public. She said she didn't believe the lot is unique. Randy said he had a problem with hardship – with the lot being unique. Randy made a motion to grant the request to create a vacant lot, by subdivision that would not meet lot size by soils. Proc seconded the motion. Members filled out their variance worksheets. The motion was denied 4-1 with Proc voting in favor and Randy, Hank, Jaye and Karen opposed.

BRIAN NASTASI 8B/89

The request was for a Special Exception to permit the lifting of the roof over two of three garage bays and building a great room above on an undersized lot at 5 Lake Ave. Mr. Nastasi said he has a three-car garage. He showed a plan to the board. Dale asked about the one and a half story restriction. He said this looked like two stories. He said there could be a dormer. The total height will be 24 ft. Mr. Nastasi submitted letters from four abutters who have no objection. Chief Building Official, Kris Emerson arrived at the meeting late and explained to the board members why the proposal is not restricted to a story and a half. Randy read from the ordinance that the second floor has to be measured directly over the lower floor. Kris explained the meaning of the calculations. Proc made a motion to permit the lifting of the roof, per drawing submitted. Karen seconded the motion. The request was granted with three affirmative votes from Hank, Dale, and Proc and Randy and Karen abstaining.

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HAMPSTEAD SCHOOL DISTRICT SAU 55 7/51 & 87

The request was for two variances to permit a lot line change and waive minimum area requirements and soil-based lot size requirements for property owned by Christopher and Suzanne Cronin at 13 Emerson Avenue. Randy recused himself, as an abutter, and Jaye joined the board. Licensed Land Surveyor, Chris Dane, represented the applicants. The line is between the Cronin property and the Central School. By means of a handshake with former property owner, Dr. Hart, 30 years ago, the school has been using a 17 ½ ft. strip of the Cronin property for a portion of their driveway and a light pole. The school district proposes to buy the strip of land from the Cronins. The lot is already non-conforming. It meets frontage and will not affect setbacks. He said it will improve the Cronin lot. SAU CFO, Geoff Dowd, said it makes the lot smaller but there will be no change in septic. Chris addressed the requirements for a variance. Hank said he thought the requirements have been met. Chris said there will be no change in the use of the property. Geoff said the land in back all belongs to the school and this strip is only along the driveway. He thanked the Cronins for being good neighbors. Randy said he has seen the situation for 44 years. Dale made a motion to permit the lot line change between Map 7 parcels 51 and 87, per plan presented. Karen seconded the motion. Members filled out variance worksheets and the vote was unanimous to grant the request. Proc made a motion to permit waiving the minimum area and soil-based lot size, per plan presented. Dale seconded. Members filled out their worksheets and the vote was unanimous to grant the request.

OTHER BUSINESS

Minutes – The minutes of the April meeting were unanimously approved as submitted.

Respectfully submitted.

