

**MINUTES
SPECIAL MEETING
REMOTE ACCESS**

Zoning Board of Appeals

August 13, 2020

3:00 PM

Members Present:	Josh Friedman, Chair; Cathy Newlin, Vice Chair; Warren Mackenzie; Michele Kripps
Members Absent:	Anne Darling, Secretary
Alternates Present:	Jason Maryeski; Danielle McCarty
Alternates Absent:	Darcy Van Ness
Staff Present:	Jill Pisechko, Zoning Official; Mark Wujtewicz, Planner; Anna Scanlon, Recording Secretary

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2020 AUG 19 PM 10:33
TOWN OF BURLINGTON

1. CALL TO ORDER AND APPOINTMENT OF ALTERNATES

Chair Friedman called the meeting to order at 3:00 PM and appointed Jason Maryeski to sit for Anne Darling.

2. APPROVAL OF MINUTES

MOTION: Motion made by Michele Kripps seconded by Cathy Newlin, to approve the minutes of the August 6, 2020 meeting as written.

VOTE: 5-0

3. RECEIPT OF APPLICATIONS

No new applications received.

4. CONTINUATION OF PUBLIC HEARINGS

Application #Z-20-2 - Appeal of Rydan, LLC., owner and applicant; James Bernardo, LS, agent at 52 R Millstone Road West, R-20 zone. Variances are requested from zoning regulations section 4.4.1—Front yard setback variance of 37 feet to allow a front yard setback of 13 feet. Section 4.4.2 Side yard setback variance of 12 feet to allow a side yard setback of 8 feet. Variances are required to construct single family dwelling as proposed on plan entitled "Zoning Location Survey, Property of RYDAN, LLC for property located at 52R Millstone Road West" dated June 1, 2020.

Agent James Bernardo, LS, addressed the board. Mr. Bernarndo stated that a hardship of the variance is needed 1) because of the unusual configurations of the property boundaries does not permit a reasonable use of the land under the current zoning regulations, 2) There is currently a non-conforming accessory structure which is typically not allowed on the property without a primary residence. By adding a primary residence with the a accessory structure the property will be in compliance with the current regulations 3) 100 feet from the wetlands set back all put a hardship on this property in order to develop it in accordance to the regulations.

M. Wujtewicz addressed the Board and stated that the Environmental Planner reviewed the proposal and found that the work proposed in the Upland Review Area would not require a permit from the Inland Wetlands Commission.

Exhibits #1 - 16 were previously submitted into the record.

Exhibit #17 PA17-39 Non-Conforming Buildings

Chairman Friedman asked if there was anyone in the audience who wished to speak regarding this application. Jessica Cleary of 50 Millstone Road West spoke in opposition of the application #Z-20-2. There being no further comments or questions, the public hearing was closed on application #Z-20-2 at 3:34 PM

Application #ZBA-20-3 - Appeal of Michael Kempski & Dawn Pusey-Kempski, owners and applicant and James Bernardo, LS, agent at 25 Riverside Drive, R-20 zone. Variances are requested from zoning regulations section 4.4.1—Front yard setback variance of 10 feet to allow a front yard setback of 40 feet. Section 4.4.2 Side yard setback variance of 8 feet to allow a side yard setback (south) of 12 feet. Section 4.4.2 Side yard setback variance of 8 feet to allow a side yard setback (north) of 12 feet. Variances are required to construct single family dwelling as proposed on plan entitled "Boundary and Topographic Survey, Property of Michael Kempski & Dawn Pusey-Kempski for property located at 25 Riverside Drive" dated April 4, 2020. A COASTAL SITE PLAN REVIEW IS REQUIRED IN ACCORDANCE WITH THE COASTAL MANAGEMENT ACT

Mark Wujtewicz reviewed the CAM Written Findings and Report with the board.

MOTION: Motion to approve the Coastal Area Management site plan written findings and report made by Warren Mackenzie and seconded by Cathy Newlin, with the following conditions:

1. Erosion control measures during construction shall be provided on site for the duration of the project and until the establishment of vegetative cover on disturbed areas.
2. No work covered by this permit including the stockpiling of materials shall be conducted west of the proposed silt fence.
3. An as-built survey shall be submitted and approved by the Zoning Official prior to issuance of a Certificate of Zoning Compliance. This requirement is to verify that all improvements have been constructed in accordance with the approved site plan.

VOTE: 5-0

Applicant Michael Kempski was in attendance and agent James Bernardo, LS, addressed the board. Mr. Bernardo stated that the variances requested are needed in that the parcel is pre-existing and non-conforming with regards to frontage, width and lot area. It is approximately half the size that is required in the zone. Strict enforcement of the current R-20 zoning regulations creates an unreasonable hardship and does not permit a reasonable use of the property.

Exhibits #1 – 11 were previously submitted into the record.
Exhibit #12 - PA17-39 Non-Conforming Buildings
Exhibit # 13 - Photos
Exhibit # 14 - Town's Appraised Value of 27 Riverside Drive

Chairman Friedman if there was anyone in the audience who wished to speak regarding this application. Marilyn Lohrs of 27 Riverside Drive spoke opposition of the application. There being no further comments or questions, the public hearing was closed at 3:57 PM.

5. APPLICATION REVIEW

Application #Z-20-2 - Appeal of Rydan, LLC., owner and applicant; James Bernardo, LS, agent at 52 R Millstone Road West, R-20 zone. Variances are requested from zoning regulations section 4.4.1—Front yard setback variance of 37 feet to allow a front yard setback of 13 feet. Section 4.4.2 Side yard setback variance of 12 feet to allow a side yard setback of 8 feet. Variances are required to construct single family dwelling as proposed on plan entitled "Zoning Location Survey, Property of RYDAN, LLC for property located at 52R Millstone Road West" dated June 1, 2020.

After discussion by the Board, a motion was made to approve Application #Z-20-2.

MOTION: Motion to approve Application # **Z-20-2** by Cathy Newlin, seconded by Michele Kripps.

VOTE: 5-0

REASON:

1. Based on the property is a pre-existing, non-conforming lot.
2. It eliminates an existing non-conformity by placing a principle structure on a lot with an existing accessory structure
3. The new location is less non-conforming of the proposed home.

Application #ZBA-20-3 - Appeal of Michael Kempinski & Dawn Pusey-Kempinski, owners and applicant and James Bernardo, LS, agent at 25 Riverside Drive, R-20 zone. Variances are requested from zoning regulations section 4.4.1–Front yard setback variance of 10 feet to allow a front yard setback of 40 feet. Section 4.4.2 Side yard setback variance of 8 feet to allow a side yard setback (south) of 12 feet. Section 4.4.2 Side yard setback variance of 8 feet to allow a side yard setback (north) of 12 feet. Variances are required to construct single family dwelling as proposed on plan entitled "Boundary and Topographic Survey, Property of Michael Kempinski & Dawn Pusey-Kempinski for property located at 25 Riverside Drive" dated April 4, 2020

After discussion by the Board, a motion was made to approve Application #ZBA-20-3.

MOTION: Motion to approve Application # ZBA-20-3 by Cathy Newlin, seconded by Michele Kripps

VOTE: 5-0

REASON:

1. Based on the fact it is in keeping with the neighborhood
2. The property is a pre-existing, non-conforming lot.

6. OLD BUSINESS

No old business was discussed.

7. NEW BUSINESS

No new business was discussed.

8. CORRESPONDENCE

No correspondence was discussed.

9. ADJOURNMENT

MOTION: Motion made by Cathy Newlin, seconded by Warren Mackenzie to adjourn meeting at 4:05 PM.

VOTE: 5- 0

Respectfully Submitted,

Anna M. Scanlon
Recording Secretary