

HANSON BOARD OF APPEALS
Minutes of Public Hearing October 27, 2020

Board Members: Kevin Perkins, Vice-Chair
Sean Buckley, Clerk
Joanne Minuti, Alternate
Joshua Pratti, Alternate

Petitioner: Red Barn Realty Group – Case#20OC12
Representing Jay Campbell
125 Glenwood Place – 7:45 PM
Variance
Attorney Rebecca Coletta for the Petitioner

The Petitioner is requesting a variance on frontage requirement on Lot #1 from 175' to 174.03 at the above address. Property is in Residence AA zone.

Coletta stated that this was a very simple application for a variance asking for less than a foot. Plan submitted was prepared by Hoyt Land Surveying, 1287 Washington St., Weymouth, Ma., dated 3-4-20. (from the seat that Atty. Coletta was sitting in to the proximity of the recorder, some context is jumbled.) back lot is over 2 acres (2.25 acres) and it allows for all the building setbacks that are expected on the property. It would add to the town without creating any adverse affects on the neighborhood. She mentioned that there were a lot of other decisions where variances were granted and she would hope that this would be something that the Board would grant, too.

Vice-Chair Perkins stated that there are a few things he is concerned with – one is the plan is not stamped or signed by a surveyor – copy the Board has – because without that it tells that they don't agree with it. The other concern is he doesn't see for a retreat lot 40' of frontage maintained the whole width and need double the area in that district. The other part of that is that is exclusive of the access portion. The other concern is you can not create a nonconformity with a subdivision and by saying that you are creating a nonconformity. Perkins continued saying that this is conforming the way it is now without being subdivided so you are going to subdivide, create a nonconformity and request a variance for that. He thinks that what needs to happen to do this correctly in his opinion (and request an opinion from Town Counsel as well) that what remaining land is left needs to be subdivided as unbuildable property and then if you want to come in for a variance that is how you need to approach it. You can't subdivide, cut off a Form A lot and then ask for a variance on the nonconforming you created.

Coletta's understanding of the law on that is that when you have the lot that is being created as (????). She continued with they cannot go to the Planning Board and say they are creating a Form A lot and leave a nonconforming lot behind.

Perkins stated that they should make Lot 1 a conforming lot with the house on it – leave that as a conforming lot- the rest would be unbuildable parcel A, B, C – whatever you want to name it. It is not a buildable lot it would be unbuildable and then that would be the piece of property you would request a variance on.

Coletta stated that she would be interested in hearing Town Counsel's opinion on that. She continued saying that this Board has granted various other variances and based on that she is looking at this as) for an unfairness to this property and would look to appeal if this is denied. She said that is a property given the amount of square footage could very likely do a subdivision plan which would be expensive and more impactful on the neighborhood.

Perkins stated that they are looking for this board to grant a variance on new construction which the problem is other people would say I am only looking for 2 feet, I am only looking for ' – this creates a snowball effect. With preexisting nonconforming there is a lot of latitude but with new construction variances in his opinion should be granted probably very scarcely. He thinks that how that was applied is incorrect.

Coletta stated that she feels the Board is being unduly harsh to one landowner.

Perkins continued with the access portion has to be excluded- he is sure she read the by-laws that it cannot include the access portion and until you meet the lot width of what is required in that district that this access portion does not count as your uplands – it does not count as your area- its exclusive – it states that in the by-laws.

Coletta stated she does not spend a lot of time with the by-laws, the surveyor spends a lot of time studying the by-laws. She does not doubt the survey – she will get it stamped.

Perkins said he thinks the issue here is that the project was filed incorrectly. Because you are looking to create a nonconformity by subdividing this property. He thinks this is a title issue and a legal issue. The Board is looking for correct information which Coletta does not have.

Coletta spoke about Pembroke and how things are done there and is surprised at how this is being handled here. She stated that as a resident and a taxpayer she is not in favor of paying for Town Counsel as it would be a waste of money. She would like to resubmit with a stamped plan.

Motion made to continue the application for Jay Campbell, 125 Glenwood Place to December 15, 2020 at 7:00 pm: Kevin Perkins
Second: Sean Buckley
Vote: 3-0