

TOWN OF CUMBERLAND
BOARD OF ADJUSTMENTS AND APPEALS MINUTES
Thursday, August 8, 2019

Roll Call: Board Members Present: Andrew Black, Ronald Copp, Sr., Matthew Manahan & Sally Pierce. **Staff:** Code Enforcement Officer Bill Longley & Administrative Assistant Christina Silberman. **Board Members Absent:** Christian Lewis, Michael Martin & Amanda Vigue. **Others Present:** Robert & Brenda Piampiano.

Acting Chairman Matthew Manahan opened the meeting at 7:00 p.m. Board member introductions were made.

Code Enforcement Officer Bill Longley was present and chose to sit in the audience during the meeting because one of the matters on the agenda involves his interpretation of the ordinance.

1. Election of Chairman and Clerk per Town of Cumberland Zoning Ordinance

Chapter 315-77.A.1: Chairman Manahan explained that the ordinance requires that the Board elect a Chairman and a Clerk each year. The Board has not elected a new Chairman in many years. Scott Wyman has moved out of Town. Chairman Manahan thanked Mr. Wyman for his many years of service to the Town. Chairman Manahan said that he does not recall ever having a Clerk because Town staff have done this for the Board.

Mr. Black nominated Matt Manahan to be the new Chair, seconded by Mr. Copp. There were no other nominations for Chair. The nomination for Matthew Manahan to serve as Chairman for the Board of Adjustments and Appeals was then **VOTED, 3 yeas, 1 abstained (Manahan).**

The Board discussed the election of Clerk. Chairman Manahan noted that the ordinance states that the Board shall elect a Clerk. Mr. Copp nominated Christina Silberman as Clerk, seconded by Mr. Black. There were no other nominations for Clerk. The nomination of Christina Silberman as Clerk of the Board of Adjustments and Appeals was then **VOTED, 4 yeas.**

Chairman Manahan noted that the Board is expecting another member to arrive and asked that the Board consider approval of November 8, 2018 meeting minutes at this time.

Approval of the minutes for the November 8th 2018 meeting: Chairman Manahan explained that Board members present during the 11/8/18 meeting that are present tonight are Andrew Black and himself. Mr. Black moved to accept the minutes, seconded by Mr. Manahan and **VOTED, 2 yeas, 2 abstained (Copp & Pierce) – motion carries.**

2. PUBLIC HEARING: Interpretation Appeal: Robert and Brenda Piampiano owners of property off Blanchard Road Ext. as shown on Tax Assessor Map R08, Lot 68-I, to appeal the Code Enforcement Officer's advisory decision dated June 19th, 2019 denying building permit for above lot unless private access road upgraded to existing town standards adopted 5-09-2016 in the Rural Residential District 2 Zone. This is an interpretation appeal under section 315-77.B.1 of the Zoning Ordinance.

Chairman Manahan introduced the item and asked the appellant for a summary of their appeal.

Robert Piampiano noted that his wife, Brenda Piampiano, is here and said that he and his wife are the owners of the property that is the subject of the appeal. Mr. Piampiano passed out some additional items that were not included in the packet of materials he provided when he filed the appeal.

Chairman Manahan stated that the public notice that went out to abutters referred to an incorrect date for this hearing. The notice published in the newspaper and online was accurate. The heading of the abutter notice that was mailed out says the meeting will be on Thursday, August 8th at 7 pm, which is accurate, but the first line, that copies from a prior notice, says it will be heard at the October 11, 2018 meeting. There have been no questions or concerns raised regarding this from members of the public. Chairman Manahan said that it would be obvious to anyone reading the notice that the meeting is not on October 11, 2018, which was last year, and the header is correct. Chairman Manahan asked if the Piampianos have any objection to proceeding tonight. Mr. Piampiano replied that they have no objection. Chairman Manahan asked if the Board has any concerns about proceeding and no concerns were voiced. Chairman Manahan concluded that the error is non-substantive and the Board proceeded with the hearing.

Mr. Piampiano presented his case and answered questions from the Board.

Code Enforcement Officer Bill Longley provided testimony in support of his opinion and answered questions from the Board.

Mr. Piampiano provided additional testimony and answered questions from the Board.

Chairman Manahan opened the public hearing.

Brenda Piampiano, co-owner, spoke in support of the appeal.

Chairman Manahan closed the public hearing.

Mr. Black moved to deny the application for appeal of Robert and Brenda Piampiano, seconded by Ms. Pierce.

Ms. Pierce asked if it is correct to decide that because the Piampiano's sold off a lot that they altered the large parcel therefor this is why they lost the grandfather, because it was altered.

Chairman Manahan replied that he thinks that this is the fundamental question before the Board. Mr. Piampiano is arguing that it is not an alteration or a change. The

question is, does a carving off of a portion of a lot mean that you have two new lots. Chairman Manahan referred to the ordinance language in section 315.61.H that says these standards apply unless such dwelling is to be constructed on a lot that was in existence on August 10, 1998. The question is was this lot in existence on August 10, 1998.

Mr. Black said that he feels that no, this lot was not in existence in 1998. Mr. Black noted that the lot that existed in 1998 was a lot that is comprised of both lots, indicating the displayed plan. Mr. Black continued that had Mr. Piampiano kept these lots together, the grandfathering provision would apply. Had Mr. Piampiano built on the lot prior to 2016, there would be a different situation as well. Mr. Black said this did not occur and the Board's job is to decide if Mr. Longley made a correct interpretation of the ordinance. Mr. Black thinks Mr. Longley did make a correct interpretation. Mr. Black said the Board's duty is to uphold what the Town Council's intention was when they adopted these ordinances and what the Council wanted is to have all the roads in Town up to the new safety codes.

Mr. Copp said that he is not a lawyer and he agrees with Mr. Longley that the lot has been altered. Mr. Copp said that with a \$165,000 value as a house lot, even if Mr. Piampiano spent \$66,000 (to improve the road), there would still be a value of \$100,000. Mr. Copp referred to Mr. Piampiano being taxed for a buildable house lot and said that this is a buildable house lot if he fixes the road to comply.

Chairman Manahan said that the Board is obliged to follow the language of the ordinance. The Town Council made this decision and it is pretty clear that the Council made the decision to apply to all existing lots as of 1998. Chairman Manahan said that he gets the somewhat creative argument that Mr. Piampiano is making that this lot is the same lot but he thinks this is inconsistent with the facts and the law. If you carve out a portion of a lot from another lot, it creates two new lots.

The motion to deny the appeal was then **VOTED, 4 yeas – unanimous, motion passes.**

3. ADMINISTRATIVE MATTERS: Approval of the minutes for the November 8th 2018 meeting. This item was taken out of order and heard prior to Item #2.

Adjournment: Ms. Pierce moved to adjourn the meeting at 8:40 pm, seconded by Mr. Black and **VOTED, 4 yeas – unanimous, motion passes.**

A TRUE COPY ATTEST:

Matthew Manahan, BoAA Chairman

Christina Silberman, Admin. Asst.