



# TOWN OF UPTON, MASSACHUSETTS

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## Code Enforcement Department Zoning Board of Appeals

### **Minutes from ZBA meeting December 21, 2022**

#### **In-person and Remote meeting (Microsoft Teams)**

Members Present: Steadman Briggs, William Andrews, Eric Reustle

Associate Member Present: Robert Humes

Town Planner:

Administrative Clerk: Amy Bonina

Meeting Opened at 6:30pm – S. Briggs

**Application of Peter A. Albee, 130 South Street, for a variance to change the size and shape of the lot, and grant a frontage variance of approximately 8.3 feet to create a subdivision for a road and multiple buildable lots.**

Visitors:        Leanne & Kelly Luetkemeyer  
                     Kathy Lee & Trinity Scanlon  
                     Linda & Douglas Usher  
                     Matt Deming  
                     Sarah, Mark and Lenore Kost  
                     Mark & Tammy May

Attorney for Mr. Albee, Robert Knapik presented the request for the variance which would allow for 2 large lots and also presented an additional new site plan if the variance would not be approved creating a 5 lot development. He indicated that the planning board is in favor from initial discussions of the 2 lot development.

Members of the ZBA will reach out to planning to see what their thoughts are and received several comments against the approval by Visitors noted above regarding concerns about Storm water drain off, Traffic, Lights, Wildlife, proximity of driveway to other properties, traffic. Residents who spoke were Kathy Scanlon, Mark May, Sarah Kost, Kelly Luetkemeyer, Linda & Doug Usher and Mark Kost.

S. Briggs also brought up concerns about access to additional parcels for fire / emergency vehicles proposed if variance is not granted.

Due to the amount of time the discussion was taking and needing time to reach out to the planning board, Chair Briggs motioned to continue discussion to January 18<sup>th</sup> meeting. W. Andrews 2<sup>nd</sup>, E. Reustle 3<sup>rd</sup>.

**Decision:** Continue discussion to next meeting and in the interim, reach out to planning to see if they have any comments on the project.

**Application of Matthew & Elizabeth Collins, 1 Barbara's Path, variance to place a shed and reduce the minimum setback requirements.**

B. Andrews had driven out to look at the lot, due to topographical restrictions. E. Reustle agreed and felt that the neighbor's property was far enough away to that side of the property to not be disturbed by its placement.

**Decision:** Motion to Approve: E. Reustle, W. Andrews 2<sup>nd</sup>, S. Briggs 3<sup>rd</sup>

**Application of Joseph and Gail Pelli, 8 Stearns Road for a special permit to build a 2 car detached garage with an in-law apartment above for family members to visit and stay in.**

Visitor: Thorley Cook

Mr. Pelli explained that he has a large family in the area and would like the in-law apartment for when they visit. It will never be used for a rental space.

B. Andrews mentioned he will need to go to the Board of Health as he is on septic for the additional bath. It was also discussed that the structure will need to be attached by a walkway and Mr. Pelli will need to sign an affidavit to be on file. S. Briggs requested the size be less than 1,000 sq/ft and due to the 3 bay car by-law, he will need to install one larger door instead of 2 for the garage space. Mr. Pelli agreed to these adjustments.

**Decision:** Motion to Approve by signing affidavit, living space to be under 1,000 sq/ft, structure to be attached by walkway and door to garage will be one unit. : S. Briggs, E. Reustle 2<sup>nd</sup>, W. Andrews 3<sup>rd</sup>

**Application of Ludlow Franklin, 27 Hartford Ave N. for a variance to building a covered patio on the property line less than 10 feet from side due to rocks and boulders on property which hinder its location within setbacks.**

Mr. Franklin explained that he had topographical issues with his plot.. W. Andrews had driven out to look at the lot, and agreed. The abutter's property was also not close enough to the line to cause an issue. S. Briggs asked if it could be a bit more than just 4' as requested but due to ledge, it cannot.

**Decision:** Motion to Approve: W. Andrews, E. Reustle 2<sup>nd</sup>, S. Briggs 3<sup>rd</sup>

**Application of Burak Yilmaz, 58 East Street, for a variance to keep an installed yurt and platform closer to the side setback allowed.**

Mr. Yilmaz explained that the placement was a genuine mistake and they did not know it was misplaced until after the inspection and S. Johnson requested them to have a survey done and they found out it was out of compliance. He also explained they are looking to eventually move the yurt to a property they purchased in Hopkinton and they are going through the process with Hopkinton currently.

Board Members discussed that they could not allow the yurt to stay on the neighbor's property indefinitely but due to the hardship of potentially moving it twice to his current property within setbacks and then to Hopkinton, they discussed allowing it to stay until October 31<sup>st</sup>, 2023 before weather restricts the ability to move it and hopefully Mr. Yilmaz will be able to move it directly to Hopkinton.

Mr. Yilmaz requested their 2<sup>nd</sup> yurt application within setbacks be approved but due to Commissioner Roche's request to rectify the situation with the existing yurt first, he requested the board not to consider the 2<sup>nd</sup> yurt application which was also indicated to be used as and in law apartment and would also need approval by the Zoning Board.

**Decision:** Motion to extend the placement of the yurt to be moved or removed by October 31<sup>st</sup>, 2023 W. Andrews, E. Reustle 2<sup>nd</sup>, S. Briggs 3<sup>rd</sup>.

**Public hearing for a comprehensive permit application to be located on the property at 27 James Rd.**

Chair - S. Briggs excused himself as he is an abutter.

Visitors: John Simone  
Linda & Michael Mongiat  
Susan Briggs  
Donald O'Neil  
Linda Mongiat  
Online: Chris Alphen – Consultant for the Board through the MA Housing Partnership  
Dean Harrison – Consultant  
Eli Leino – Council for applicant  
David Glen – Civil Engineer / Sentec

Discussion of the project proceeded. Lot will be one lot but subdivided for each resident to have own parcel of yard. Discussion of waivers both updated and reduced.

Visitors / abutters concerned with blasting, storm water run off, proximity of septic to personal wells, traffic, emergency vehicle access, and plowing. W. Andrews reassured residents Planning, Board of Health and DPW would make sure all those items are addressed appropriately.

Is structure Historical? D. Harrison will research.

Board would like comments from: Fire, Board of Health, Code Enforcement and Planning Board on waiver requests as well as any issues they would see as problematic.

**Decision:** Need of additional time for other board comments. Request to continue to next meeting on January 18<sup>th</sup> 2023. Motion to continue R. Humes, E. Reustle 2<sup>nd</sup>, W. Andrews 3<sup>rd</sup>.

**Governor's Landing, request for continuation of public hearing for a comprehensive permit application to January 18<sup>th</sup>, 2023.**

Approved meeting minutes previous meeting. R. Humes, E. Reustle 2<sup>nd</sup>, W. Andrews 3<sup>rd</sup>

Motion to conclude meeting: R. Humes motion, E. Reustle 2<sup>nd</sup>, W. Andrews 3<sup>rd</sup>