



**ZONING BOARD OF ADJUSTMENT**

**Draft Minutes**

**January 14, 2020**

**7:30 pm @ Community Development Department**

**Attendance:**

**Chairman Mike Scholz- excused**

**Vice Chair Mark Samsel- present**

**Pam Skinner, Secretary- present**

**Bruce Breton, regular member- present**

**Neelima Gogumalla, regular member- present**

**Nick Shea, alternate member- present**

**Kevin Hughes, alternate member- excused**

**Staff:**

**Brian Arsenault- ZBA Administrator/ Code Enforcement**

**Anitra Brodeur, minute taker (watched the tape)**

**Case #01-2020: Parcel 7-A-1900**

**Applicant – Benchmark Engineering, Inc.**

**Owner – A2 Properties, LLC**

**Location – 54 Morrison Road**

**Zoning District – Rural District**

Variance relief is requested from **Section(s) 601.3, 601.4.2, 601.4.6, 601.4.8.4, 702 and Appendix A-1**; to allow an existing 2.29 acre +/- parcel of land with two pre-existing non-conforming single-family dwellings (SFD) to be subdivided into two separate parcels (Lot A and Lot B) with one SFD on each lot. And from **Sec. 601.4.2**: To allow the area around the SFD on Lot B and yard area to be developed where the WWPDP shall be a buffer and include land area within one hundred feet (100') of any wetland one (1) acre in size or larger. And from **Sec. 601.4.6**: To allow the existing septic system (Lot A and Lot B) to remain approx. 30' from a wetland, which also exerts WWPDP where 100' is required, and to allow the existing shed to remain approx. 90' from the edge of a wetland that exerts WWPDP where such use is not permitted. And from **Sec. 601.4.8.4**: To place the required WWPDP signage along the existing tree line as the Planning Board shall determine to the markings to prevent encroachment is required. And from **Sec. 702 and Appendix A-1**: To allow Lot A to be approximately 49,258 +/- sq. ft in size where 50,000 sq. ft is required, and to allow 110' of frontage (measured at the 50' setback) where 175' is required, and to allow the existing home to be approximately 35' from the Morrison Rd. ROW where 50' is required, and 29' from the westerly side lot line where a sideline setback of 30' is required, and to allow the existing SFD to be 18' from the proposed lot line where 30' is required, and to allow an existing shed to remain approximately 4' from the proposed lot line with 30' is required. And from **Sec. 702 & Appendix A-1**: To allow Lot B to be approximately 50,000 sq. ft in size where 50,500 +/- sq. ft is required, and to have 140' of frontage (at the 50' setback) where 175' is required, and to allow the existing SFD on this lot to

45 be approximately 40' from Morrison Rd. ROW where 50' is required, and to allow SFD to be  
46 23' from the new proposed lot line where 30' is required. And from **Sec. 702 - 301 Notes for**  
47 **Table in Appendix A-1**, Minimum Lot Area by Soil Type: To allow Lot A to have  
48 approximately 20,000 sq. ft of land area outside of WWPD where 30,000 sq. ft of land area  
49 outside WWPD is required and to not require a 100'x 100' building box, and to allow Lot B to  
50 have approximately 5,000 sq. ft of land area outside the WWPD where 30,000 sq. ft of land area  
51 is required, and to not require a 100'x 100' building box on this lot as required in the 301 Notes  
52 for Table under Appendix A-1.

53

54 **A motion was made by Ms. Skinner to suspend with the reading of Case #01-2020 due to**  
55 **the lengthy posting of the variance request as it was posted publicly. Seconded by Mr.**  
56 **Shea. Vote 5-0. Motion passes.**

57

58 Ms. Skinner read the letter of authorization and the list of abutters.

59

60 Mr. Joseph Maynard addressed the Board. Mr. Maynard explained the history of the lot where  
61 the previous owner had attempted to separate the two structures onto two lots. It was an  
62 unsuccessful application. The two structures share a well and a septic system. If and when the  
63 septic system fails, each structure would then be willing to design their own separate septic  
64 system. There are some wetlands on the lot and they have been identified. Mr. Maynard stated  
65 they are not looking to change any structure, any well, any septic system or any driveway. Mr.  
66 Maynard stated that the lengthy listed is mostly due to dimensional requirements. Three of the  
67 requests are around the wetland requirements. Mr. Maynard explained that the eventual  
68 improved septic system would be sized smaller and may then meet the setbacks; it is currently  
69 sized for the 5 bedrooms across the two structures. Mr. Maynard stated that they are looking to  
70 plat the lot down the center.

71

72 Mr. Maynard then explained the WWPD impact on both of the proposed lots; one has 5,000  
73 square feet out of the WWPD and the other has 20,000 square feet out of the WWPD. Mr.  
74 Maynard then spoke to the "building box" and how it is not possible under the current conditions  
75 to build on either of the lots under current zoning requirements.

76

77 Vice Chair Samsel asked about the condition on the variance around the potential eventual failed  
78 septic and that it be replaced; it is in the application but it should perhaps be part of the  
79 condition.

80

81 Mr. Shea asked how the property was purchased in 2018 if financing was difficult if not  
82 impossible. Mr. Maynard stated that it may have been a cash purchase. Ms. Gogumalla asked  
83 about the potential typo on the application around 50,000 square feet; this will be corrected in the  
84 motion.

85

86 The Board and Mr. Maynard spoke to potential lifetime of the current septic system based on  
87 usage.

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89 Vice Chair Samsel asked about the WWPD signage. Mr. Maynard is requesting that the signs be  
90 along the existing tree line on the property.

91  
92 Mr. Maynard then reviewed the 5 criteria contained in the public packet. There were no other  
93 members in the audience to speak to the request but the Vice Chair did acknowledge that.

94  
95 **A motion was made by Mr. Breton to go into Deliberative session. Seconded by Mr. Shea.**  
96 **Vote 5-0. Motion passes.**

97  
98 Vice Chair Samsel reviewed the 5 criteria. The applicant is splitting this into two properties to  
99 provide benefit to all. The character will not be changed due to the variance and Vice Chair  
100 Samsel does not see a hardship. Mr. Breton also agrees with the Vice Chair. Mr. Breton  
101 suggested that Mr. Maynard write the corrected measurement on the plan (50,000 square feet  
102 rather than 50,500 square feet) and initial the plan.

103  
104 Ms. Skinner also read the letter from the Conservation Commission who have no issues with the  
105 plan as presented.

106  
107 **A motion was made by Ms. Gogumalla to grant relief as requested for Case #01-2020:**  
108 **Parcel 7-A-1900 and to edit the 50,500 square feet to 50,000 square feet and with the**  
109 **condition to require two different septic systems when the existing septic system fails per**  
110 **plan submitted dated October 22, 2019 and signed and dated by the Chair. Seconded by**  
111 **Mr. Shea.**

112  
113 **Vote 5-0.**  
114 **Motion passes.**  
115 **The Chair advised of the 30-day appeal period.**

116  
117 **Case #02-2020: Parcel 16-P-189A; 16-P-800; 16-P-801**  
118 **Applicant – Benchmark Engineering, Inc.**  
119 **Owner – MacThompson Realty Trust**  
120 **Location – 31 Second Street**  
121 **Zoning District – Res. A District and Cobbetts Pond & Canobie Lake Watershed Prot. Dist.**

122 Variance relief is requested from **Section(s) 405.2, 616.6.4.1, 616.8.1, 702 & Appendix A -1** to  
123 allow construction of a replacement dwelling for a pre-existing non-conforming single-family  
124 dwelling (SFD) on a pre-existing non-conforming lot, with two frontages; (Second Street/Right  
125 of Way (ROW) and C-Street (ROW). Specifically from **Sec. 405.2:** To allow an expansion in the  
126 area and/or volume of the house from 780 sf to 1,592 sf in area and 6,240 cu/ft to 19,920 cu/ft in  
127 volume, where the ordinance does not allow an increase in the area and/or volume of the  
128 structure. And from **Sec. 616.6.4.1:** To allow a new paved driveway to be constructed 25'+/-  
129 from a wetland area where no new driveways within 100' of a wetland area are allowed. And  
130 from **Sec. 616.8.1:** To allow the entire lot of record, currently within the buffer zone, to be  
131 developed without a buffer zone where a 100' wide buffer zone shall be maintained along the  
132 edge of any tributary stream discharging into Cobbett's Pond is required. And from **Sec. 702 &**  
133 **Appendix A-1:** To allow a lot size of 8,000 sf where a minimum land area of 50,000 sf is  
134 required and to allow 80'+/- frontage on Second Street (a private road) and 100'+/- of frontage on  
135 C-Street (a private road) where 175' of frontage is required on a public road, and to allow the

136 SFD a Second Street front yard setback of 18' +/- from the edge of the ROW and 35' from the  
137 edge of C-Street where 50' is required from the ROW, and to allow an easterly side yard setback  
138 of 15', a northerly side/rear yard setback of 11' where 30' is required.

139 **A motion was made by Mr. Breton to waive the reading of the notice for Case #02-2020:**  
140 **Parcel 16-P-189A; 16-P-800; 16-P-801 as it was posted in the appropriate locations.**  
141 **Seconded by Ms. Skinner. Vote 5-0. Motion passes.**

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143 Ms. Skinner read the letter of authorization and the list of abutters into the record.

144

145 Mr. Arsenault spoke to the posting. There are three separate lots in the posting and only one lot  
146 has an actual address, only 37 2<sup>nd</sup> St. The applicant would prefer an address located on C Street  
147 due to topography issues. Mr. Arsenault stated that the parcel numbers are correct. Vice Chair  
148 Samsel asked how the address was determined. The Board discussed the best way to grant or  
149 deny the variance based on the labeling of the parcels. The lot numbers are correct on the notice.

150

151 Mr. Joe Maynard addressed the Board. Mr. Maynard stated that there are 3 lots of record. There  
152 is an older home on one of the lots; 29.8% impervious area is the total coverage on all the lots  
153 combined. The lots combined are 8,000 square feet. There is a septic system easement that has  
154 been obtained for this lot on a separate neighboring lot. Currently, there are no drainage  
155 improvements on the lot. Mr. Maynard stated that the grade off of C St. is flat. Yet, the grades  
156 are very steep off of 2<sup>nd</sup> street. Under the Cobbetts Pond Watershed Ordinance, new driveways  
157 cannot be installed within the buffer. The driveway would be smaller than the current driveway  
158 but the living space would be larger. The post development would be 29.9% impervious and the  
159 building coverage is still under 20%.

160

161 Mr. Maynard explained that the setbacks have improved in a post development scenario. Mr.  
162 Maynard also spoke to the proposed drainage improvements on the lot. The cubic feet on the  
163 property would increase as a result of the second story on the home. Mr. Maynard explained that  
164 the existing home is in the 100-foot buffer already and there would not be any more of an impact  
165 than the current conditions. Mr. Maynard stated that the neighbors have wells nearby so the  
166 septic could not be installed on the lot and the proposed septic easement is necessary. Mr.  
167 Maynard stated the applicant would be willing to merge all three lots at the end of the process.

168

169 Vice Chair Samsel asked about the size of the lot and the home in relation to the neighborhood.  
170 Mr. Maynard stated that there are a lot of newer homes that are bigger, yet, the neighborhood is a  
171 mix of homes.

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173 Ms. Skinner read the letter from the Conservation Commission; there are no issues with the plan  
174 and the Board appreciates the drip edge trenches.

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176 Mr. Maynard then reviewed the 5 criteria contained in the public packet. Mr. Maynard spoke to  
177 the improvements on the property and how that would positively impact the surrounding lots as  
178 well as the desire to conform with the town's zoning as much as possible.

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180 Vice Chair Samsel noted there was no one in the audience to speak to the variance request.

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Mr. Shea asked about the drip line on the plan and if there was any reason it would not be installed. Mr. Maynard stated that the plans will be scrutinized through the process and the drip line will be part of the plan.

**A motion was made by Mr. Shea to go into Deliberative session. Seconded by Ms. Skinner. Vote 5-0. Motion passes.**

Vice Chair Samsel then reviewed the 5 points. He does believe that the variance request meets all the points. Mr. Breton does agree and noted the improved septic system and other improvements. Mr. Breton also wished to note that three lots are being merged into one.

**A motion was made by Mr. Breton to approve the variance request for Lots 16-P-189A, 16-P-800, and 16-P-801 in a Residential A District as posted on the plan dated November 21, 2019 as presented and signed and dated by the Chairman. Seconded by Ms. Skinner.**

Mr. Arsenault stated that the merger is shown on the plan. Mr. Breton suggested Mr. Arsenault write a letter to explained the proposed new addressed. Mr. Arsenault stated that all of the proposed conditions are stated on the plan.

**Vote 5-0.  
Motion passes.  
The Chair advised of the 30-day appeal period.**

Mr. Arsenault stated that there was an attorney hired for a case at 14 Ledge Road. The January 28<sup>th</sup> meeting has been cancelled as there are no cases that need to be heard.

**A motion was made by Mr. Breton to adjourn at 8:30pm. Seconded by Mr. Shea. Vote 5-0. Motion passes.**

**Respectfully submitted by Anitra Brodeur**