



ZONING BOARD OF ADJUSTMENT

Approved Minutes

February 25, 2020

7:30 pm @ Community Development Department

Attendance:

Chairman Mike Scholz- present

Vice Chair Mark Samsel- present

Pam Skinner, Secretary- present

Bruce Breton, regular member- present

Neelima Gogumalla, regular member- present

Nick Shea, alternate- excused

Kevin Hughes, alternate- excused

Staff:

Brian Arsenault, Code Enforcement/ZBA Administrator

Public Hearing

Case #04-2020: Parcel 22-L-30

Applicant - Cronin, Bisson & Zalinsky, P.C.

Owner - David and Elena Richards

Location - 46 West Shore Road

Zoning District - Residential A District and Cobbetts Pond & Canobie Lake

Watershed Protection Overlay District (WPOD)

Variance relief is requested from **Section 702 and Appendix A-1**: To allow construction of a new 1,096 sf two-bedroom single family dwelling (SFD) on a pre-existing non-conforming lot of record that contains 4,791 +/- sf of building area where a minimum land area of 50,000 sf is required. To allow 22 % of building coverage for the SFD, where a maximum building coverage of 20% is allowed. To allow the SFD a 11' southerly side yard setback and a 12' northerly side yard setback, where 30' is required. To allow the SFD a 28' rear yard setback, where 30' is required. To allow the SFD a 22' front yard setback from West Shore Road, where 50' is required. To allow 50' of frontage along West Shore Road, where 175' is required.

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

Attorney Daniel Muller addressed the Board representing the owners. Attorney Muller stated that the applicant was here to build a two-bedroom home on their pre-existing lot of record in the Canobie Lake and Cobbetts Pond Overlay District. Attorney Muller stated that this property was put on the market for several months by the applicant but they are now seeking relief to build on the lot. Attorney Muller stated that this was a common sized lot when first conceived. The home would be 1,096 square feet and will meet the minimum requirements. The structure has an approved septic and an approved Shoreland Protection Permit.

46 Attorney Muller reviewed the 5 criteria contained in the public packet. Attorney Muller stated
47 that since this was part of the original subdivision, the structure would not alter the essential
48 character of the area. Attorney Muller further stated there was a comparably sized smaller lot in
49 the neighbourhood that was approved several years ago. Attorney Muller then reviewed the
50 development of surrounding properties to show the potential impacts. Attorney Muller stated that
51 the well radii of this lot does not impact the surrounding lots and vice versa, hence, it will not
52 impact the health, safety or welfare of the surrounding properties. Attorney Muller stated that the
53 proposed house was a modest home with minimal impact. Attorney Muller stated that the plan
54 does honor the spirit of the ordinance. Attorney Muller does not believe the value of the
55 surrounding properties will be diminished. Attorney Muller then addressed hardship; without the
56 variance, the applicant would have no reasonable use of the property. Attorney Muller stated that
57 the proposal is reasonable for the size of the lot.

58
59 Chairman Scholz asked if the lot was still being used for a septic for an adjoining lot; it is no
60 longer being used for septic. Chairman Scholz also asked when it was purchased by the owner; it
61 was purchased in 2011 and the deed was contained in the public packet.

62
63 Chairman Scholz invited public comment.

64
65 Ms. Susette Frank, 42 West Shore Road addressed the Board. Ms. Frank stated that she has
66 spoken with approximately 24 neighbors and her list of concerns is a collection of those
67 concerns. First, she stated that the neighbors are in opposition to the request mainly because the
68 information on the application is misrepresented, the variances requests are too numerous and
69 extreme and the request does not meet any of the variance criteria.

70
71 Ms. Frank stated that the neighbors estimate that the lot is less than 5,000 square feet. Further,
72 they do not believe the plan from 1927 is not an accurate survey of the land today. For example,
73 the lot line is 96 feet, not 100 feet and the dimensions of the lot are inaccurate by today's
74 standards. Ms. Frank stated that the current zoning standards should apply to any new parcels
75 that have been separated by the original lot. Ms. Frank stated that she and the neighbors do not
76 believe this will increase property values.

77
78 Ms. Frank stated that the requests are too numerous and too extreme; Ms. Frank then reviewed
79 the variance requests and how much relief was being requested which the neighbors see as in the
80 extreme. Ms. Frank also stated that another house will impact both parking and traffic issues as
81 well as silt and sand run off in the watershed area. Ms. Frank stated that they do not believe that
82 the allowable coverage is accurate. Ms. Frank then mentioned a bump out on the second floor
83 which will be two feet closer to the neighbor, which is her home. Ms. Frank stated that the
84 proposed structure is 3 stories and she and the neighbors do not believe this is a modest house.

85
86 Ms. Frank then reviewed the 5 criteria. Ms. Frank stated that there are no houses on 50 by 100
87 feet parcels on the non-waterfront side of West Shore Road; all of these small lots are on the lake
88 side. Further, these smaller lots are sometimes being used to support other larger lots for parking
89 or septic. Ms. Frank stated that West Shore Road is a small, winding dead end that may not meet
90 the safety standards of today. Ms. Frank stated that the environmental impacts should also be
91 considered.

92
93 Ms. Frank reviewed the history of the separation of the lot from a nearby lot and a real estate
94 proposal from 2008. Ms. Frank then read from the notes of the Conservation Commission who
95 do not approve of the proposal as presented. Ms. Frank stated that the owners should have known
96 the zoning regulations before they sold off the adjoining lot and that there would potentially be
97 these restrictions. Ms. Frank also stated that several neighbors did approach the applicant about
98 purchasing the property for what she would consider a fair return on their investment.
99

100 Ms. Gogumalla asked if the individuals who signed the letter needed to be verified. Ms. Frank
101 explained that she and a neighbor met with several neighbors and those neighbors signed and
102 printed their name and address on the letter. Ms. Gogumalla asked how many of the lots were
103 still the 50 by 100 sized lot; Ms. Frank stated that she does believe it was still 2 or 3 but she
104 would be happy to confirm.
105

106 Ms. Gogumalla asked about the size of the lot in relation to the certified plot plan and how Ms.
107 Frank thought the dimensions were different. Ms. Frank references Exhibit A which shows that it
108 was not 50 feet but 46 feet which impacts the mathematical calculation.
109

110 Vice Chair Samsel stated that any document they were to work off of would be a certified plot
111 plan. Vice Chair Samsel stated that constitutionally, something is allowed to be built on the
112 property. Vice Chair Samsel asked Ms. Frank what she considers to be “smart and thoughtful
113 planned development”. Ms. Frank stated that the expectations for the small lots should be
114 brought into consideration but she is interested in more careful development.
115

116 Chairman Scholz asked about the 50 by 100 lots and how they were currently being used. Ms.
117 Frank verified they were often used for parking and septic. Mr. Arsenault confirmed that West
118 Shore Road was a town road but it was not a road width by today’s standards according to Mr.
119 Breton.
120

121 Mr. Jeffrey Wentz, 73 West Shore Road addressed the Board. Mr. Wentz asked how close to a
122 road a well is allowed to go. Mr. Wentz also stated that the septic system was put in the corner of
123 his lot to free up another lot. Mr. Wentz stated that there is a bit of a “water issue” on his
124 neighbor’s lot. Mr. Wentz is concerned about where all the water is going to go with the increase
125 in impervious surface. Mr. Wentz is concerned about water going into his garage if this lot is
126 built on. Mr. Wentz has already recently installed dry sump systems on his lot to mitigate the
127 water coming onto his lot. He is concerned about how development on this lot will impact both
128 his lot and that of his neighbor. Mr. Wentz confirmed he signed the letter presented by Ms. Frank
129 in the earlier presentation.
130

131 Mr. Wentz stated that there is a limited crown on the road which is protecting his property from
132 the run-off, yet, he is concerned about capturing the water long term. Mr. Wentz stated he can no
133 longer use his boat ramp because it goes over his septic, something he was not aware of when he
134 purchased the property.
135

136 Mr. Russell Karlbero, 75 West Shore Road addressed the Board. Mr. Karlbero stated that he is
137 concerned that the building on the lot will impact the options they will have to build on his

138 adjoining lot. Mr. Karlbero is in opposition to the request. Mr. Karlbero owns two pieces of
139 property on the road and he is further concerned about run off on his property as well.

140
141 Mr. Breton asked for clarification on the plan dates.

142
143 Mr. Kurt Meisner, the site engineer, addressed the Board. Chairman Scholz asked if there is
144 anything different in the two plans, one from May and the other from December. Mr. Meisner
145 stated there is nothing different in the plan for both the septic system and the Shoreland Impact
146 Permit.

147
148 Mr. Michael Balles, 12 Pine Ridge Road addressed the Board. Mr. Balles stated that in 2015,
149 there was a lot of material left in his yard that last time there was construction on an adjoining
150 lot. Mr. Balles would like a fence installed so no material is left on his property.

151
152 Mr. Breton returned to his question about the difference in the plan. Mr. Breton stated that the
153 coverage percentage is different; one plan states 29% and the other plan stated 32%. Chairman
154 Scholz stated that they would address this during rebuttal.

155
156 Ms. Betty Dunn, a resident of Canobie Lake addressed the Board. Ms. Dunn does not live on
157 West Shore Road but she has concerns about the lake. Ms. Dunn stated that these were camp lots
158 that did not require: refrigeration, septic system, parking, or any other full-time amenities. Ms.
159 Dunn asked when is a lot too small? Ms. Dunn refutes the fact that any lot of record can be built
160 on; she does not believe a decision should be made based on that assumption because the lot of
161 record will vary in size. Ms. Dunn stated that you might have some rights to use the lot but
162 building on the lot might not make sense. Ms. Dunn stated that West Shore Road is a very
163 “skinny” road. Ms. Dunn mentioned parking as an issue on a smaller lot on small lots on small
164 roads like this. Ms. Dunn would like to know: if the lot is going to be stripped, how tall the
165 structure will be and how tall the structure will be in relation to surrounding trees. Ms. Dunn
166 stated that she does believe this may indeed diminish the property values of surrounding houses.
167 Ms. Dunn also mentioned fire truck access and turn arounds for this and other properties. Ms.
168 Dunn stated that the Conservation Commission is not in favour of this variance request and
169 encouraged this Board to consider that input. Ms. Dunn stated that the reason she did not think
170 the property sold on the market is that potential buyers did not believe it was a buildable lot.

171
172 Vice Chair Samsel stated that the owner does have “reasonable use of the property”.

173
174 Chairman Scholz asked if Ms. Dunn had any information about houses that might have been put
175 on this lot in relation to some of the history of the area she provided; she did not.

176
177 Mr. Karlbero wished to clarify that he had a leech field on one of his properties that were
178 mentioned.

179
180 Attorney Muller addressed the Board once again for rebuttal. Attorney Muller stated that the Hall
181 and Armstrong plan was mentioned in relation to the title as it was created in 1907. Attorney
182 Muller stated that the dimensions in the field do sometimes vary on paper than in the field.
183 Attorney Muller stated that there is case law that you cannot deny a variance for the reasons that

184 were sought. Attorney Muller stated that the number of variance requests is not legal grounds to
185 deny a request and he also cited case law from a case in 1973 in Nashua. Attorney Muller stated
186 that this lot has been on a separate deed. Attorney Muller stated that the fact that an applicant
187 may have known the land use regulations is not grounds for denial of a variance either and cited
188 a case in Chester to articulate the point. Attorney Muller stated that all of the uses mentioned are
189 accessory structure uses: parking, septic, well, leech fields. Yet, an accessory structure must
190 serve a primary structure. Attorney Muller sees that a hardship does exist if they cannot build a
191 primary structure.

192
193 Chairman Scholz asked Attorney Muller about Residence Code 1060. Attorney Muller stated
194 that that is a taxation and assessing code. Attorney Muller stated that how a property is taxed has
195 no bearing on land use as they are two separate issues.

196
197 Mr Kurt Meisner addressed the Board. Chairman Scholz stated that what was submitted on the
198 plan does not seem to match the shoreland permit. 29.9% is the percentage of coverage on the
199 shoreland permit and on the plan, it is 32.4% of coverage. The Board discussed the discrepancies
200 on the plans. The May 29th plan was determined to be the older plan and the new plan shows all
201 of the impervious surfaces and improvements. Mr. Meisner stated that there is infiltration on the
202 property to handle run off. Chairman Scholz asked how much run off can be handled on the lot.
203 Mr. Meisner stated that they prepare for a five-year storm. Mr. Meisner stated that the well is
204 located about 4 feet off of the right of way. Both the drainage and the well are approved by the
205 state of New Hampshire. Mr. Meisner stated that the well is not located in the right of way or the
206 road.

207
208 Mr. Breton stated that one of the plans in 5,000 square feet and the second plan has less square
209 footage and he contends that they are not the same plan. Mr. Breton stated that all of the DES
210 calculations are based on 5,000 square feet, not the lesser square footage. The DES plan is not
211 required to have land survey lines on it, the second plan is a certified plot plan that is stamped by
212 an engineer.

213
214 Chairman Scholz asked for clarification from Mr. Arsenault. Mr. Arsenault stated that the last
215 name on the deed does not match the applicant's name. Further, the deed stated language around
216 one deed and two parcels. Mr. Arsenault does not have that information from the applicant. Mr.
217 Arsenault stated that there should be a new deed for this parcel and deeds often have distances
218 and bearings. Mr. Arsenault has no description of the lot so he cannot say the town's GIS is
219 wrong. Mr. Arsenault also noted the discrepancy. Plans are based on deeds and the town does not
220 have an accurate deed.

221
222 Mr. Meisner stated that they go through the process with DES and during the process, there is
223 supplemental information that is submitted and it is often a process that results in the approval of
224 a slightly different site plan.

225
226 Mr. Meisner stated that deeds range in description from excellent to horrible. The new deed was
227 written for the Wentz parcel but a new deed was not generated for this parcel yet. The exact
228 existing description is often used. Mr. Meisner stated that a new survey is not always used by an
229 attorney to draw up a deed. Mr. Meisner stated that the lot is 47 by 91 feet. The Board and Mr.

230 Meisner discussed the calculations done on the lot. Chairman Scholz asked about the impact of
231 the run off onto the neighboring property. Mr. Meisner stated that the infiltration and plantings
232 are intended as mitigation. There is mitigation on the house, but not the driveway according to
233 Mr. Meisner. The Board discussed the amount of water that could conceivably run off a
234 driveway on such a small lot. Mr. Meisner discussed the percolation rates and how those vary
235 and can be mitigated. Mr. Meisner stated that the house is a reasonable use of the property,
236 adjectives are not accurate descriptions of properties.

237
238 Mr. Meisner explained the neighboring lots situation and how a leech field and well may be able
239 to exist on that lot.

240
241 Mr. Meisner stated that he would be against a 10-foot chain link fence as suggested by Mr.
242 Balles. Mr. Meisner stated a 6-foot fence would be reasonable. Chairman Scholz asked about the
243 trees on the property. Mr. Meisner showed the trees that would be remaining on the property and
244 the plantings and loam and seed that will be planted on the property.

245
246 Chairman Scholz asked about the height of the house. Mr. Meisner stated the house is
247 approximately 31-32 feet in height; they are not asking for more than 35 feet. Mr. Meisner stated
248 that compared to other homes in the neighbourhood, he believed it is comparable. Chairman
249 Scholz asked about the bump out on the plan and why there was no variance relief. Mr. Meisner
250 and Mr. Arsenault agree that the permit is based on the foundation, not the bump out or overhang
251 and if the variance were granted, this would be a detail to work out with the building inspector.

252
253 Vice Chair Samsel stated that the Board does not have a history of granting a variance of over
254 20% coverage and asked the applicant to speak to the variance request of 22%. Attorney Muller
255 addressed the Board and explained that the square footage of the footprint was 1,096 square feet
256 to conform with the minimum floor area. Chairman Scholz stated that the applicant as not
257 applying for relief from the minimum requirement; the applicant stated that that is correct.

258
259 Mr. Wentz addressed the Board again and asked about the well on the edge of the road. Mr.
260 Wentz would like to know what the rule is about a well in proximity to a right of way. Mr.
261 Arsenault stated that the well is on the property; the proposed well is within the applicant's
262 property. Mr. Wentz then asked how close a tree can be from a neighbor's property. Mr. Wentz
263 also asked about the run off from the driveway and where that water might be diverted to by the
264 homeowner. Mr. Wentz also asked about where a utility pole might be place on his or this
265 property.

266
267 Ms. Frank asked for clarity around the land survey and the discrepancy between the two plans
268 presented and if the discrepancy was relevant.

269
270 Ms. Lei Wen, 75 West Shore Road addressed the Board. Ms. Wen stated that by her calculations,
271 the building coverage is about 31%, not 22%. Ms. Wen stated that water in the basement has
272 been an issue in her house as well as her neighbors. Ms. Wen is concerned that that issue will be
273 exacerbated by the potential structure on the property.

274

275 Mr. Meisner stated that a utility company would not be placed on any private property without
276 an easement. Mr. Meisner stated that the well is not in the right of way; the well is not in the
277 right of way. Mr. Meisner then spoke to the impervious surface calculation. Mr. Meisner stated
278 that if several hundred square feet needs to be removed from the driveway to meet the
279 calculation requirements, then that would happen to meet the calculation request such as a
280 porous driveway. Mr. Meisner stated that the goal is to mitigate the water run off by being sure it
281 will infiltrate into the ground and that plan is approved by the State of New Hampshire.
282

283 Chairman Scholz stated that the Conservation Commission did weigh in on this case and it was
284 submitted as part of the exhibit giving to the Board by Ms. Frank on behalf of the residents.
285

286 **A motion was made by Mr. Breton to enter Deliberative session. Seconded by Ms. Skinner.**
287 **Vote 5-0. Motion passes.**
288

289 Chairman Scholz stated that he has some questions included multiple plans with difference
290 percentages on them. Chairman Scholz asked how the Board would like to proceed. Mr. Breton
291 stated that because the lot is so small, the more precise the applicant is, the better it is.
292

293 Vice Chair Samsel stated that the Board can select which plan they would like to approve, the
294 DES submittal is separate from their decision, some shoreland permits are submitted after the
295 fact. Vice Chair Samsel stated that their job is to discuss the “per plan submitted”. Vice Chair
296 Samsel stated that his issue is the coverage. Vice Chair Samsel stated that the Board is
297 comprehensive in their review of all lots, especially these smaller lots. Vice Chair Samsel stated
298 that there is no reason the applicant cannot create a plan that complies with coverage.
299

300 Chairman Scholz reviewed the 5 variance criteria. Chairman Scholz stated that he believes there
301 is too much relief being requested for impervious coverage. There are no dry wells on the plan
302 and more could have been done to reduce impervious coverage according to Chairman Scholz.
303 Chairman Scholz also discussed additional congestion on the road which leads him to believe it
304 does not meet the 4th criteria. Chairman Scholz does not believe it meets to substantial justice or
305 hardship criteria either. Ms. Gogumalla concurs.
306

307 **A motion was made by Ms. Gogumalla for Case #04-2020: Parcel 22-L-30 to deny relief as**
308 **requested per the December 12, 2019 plan submitted. Seconded by Mr. Breton.**
309

310 **Yes to deny: Vote 5-0.**

311 **Motion passes.**

312 **The Chair advised of the 30-day appeal period.**
313

314 **After a brief recess, all members of the Board cited all 5 variance criteria for their reasons**
315 **for denial. The variance will not be contrary to the public interest. The spirit of the**
316 **ordinance is observed. Substantial justice is done. The values of the surrounding properties**
317 **are not diminished. Literal enforcement of the provisions of the ordinance would result in**
318 **an unnecessary hardship.**
319

320 **Case #05-2020: Parcel 16-P-353**

321 **Applicant - Paul R. LaPonius**
322 **Owner - Paul R. LaPonius**
323 **Location - 59 Ministerial Road**
324 **Zoning District - Residential A District and Cobbetts Pond & Canobie Lake**
325 **Watershed Protection Overlay District (WPOD)**
326

327 Variance relief is requested from **Section 702 and Appendix A-1**: To allow a revised subdivision
328 of lot 16-P-353 to create two buildable lots. A new lot on Fourth Street will be created having
329 150' +/- of contiguous frontage on a private road (Fourth Street), where 175' of frontage on a
330 public road is required. Based on soil mapping, neither lot satisfies minimum lot area by soil
331 type.

332
333 Ms. Skinner read the case and the list of abutters into the record.

334
335 **A motion was made by Mr. Breton to waive the reading of the list of abutters contained in**
336 **the public packet for Case #05-2020. Seconded by Ms. Skinner. Vote 5-0. Motion passes.**
337

338 Ms. Seren Elizabeth addressed the Board. Ms. Elizabeth stated that the case was originally going
339 to be presented to the Planning Board but it was decided they would need to go before ZBA. Ms.
340 Elizabeth stated that the applicant purchased the frontage needed to meet the setbacks and sold
341 several parts of the parcel to neighbors. Ms. Elizabeth reviewed the purchases and sales of the
342 parcels. Parcel C was the parcel that was not able to be conveyed between the two parties.
343 Without the Parcel C, Ms. Elizabeth is not able to get a building permit. Chairman Scholz asked
344 if the owner of Parcel C is the same. Ms. Elizabeth said the house is being rented but the owner
345 is the same. Ms. Elizabeth stated that the owner of Parcel C has not communicated with her since
346 she sent the drafts of the deed over a year ago and she is not sure how to proceed. Chairman
347 Scholz and Ms. Elizabeth discussed that the applicant was willing allow the neighbor's shed to
348 remain on the property.

349
350 Ms. Elizabeth does not have the old plan in the package. Vice Chair Samsel stated that Parcel C
351 is not being conveyed. Ms. Elizabeth stated that everything has been conveyed except for Parcel
352 C.

353
354 Ms. Elizabeth reviewed the variance criteria contained in the public packet. Ms. Elizabeth stated
355 that the conveyance of deeds made 2 lots that were more conforming. Ms. Elizabeth said that two
356 of the encroachments were also resolved. Ms. Elizabeth stated that settling the issue behind the
357 conveyance of Parcel C is a separate issue. Ms. Elizabeth stated that this lot does have unique
358 frontage. Ms. Elizabeth stated that this is already a state approved plan; the state considers this to
359 a modification of a plan, not a new plan.

360
361 Ms. Skinner read the comments from the Conservation Commission. The Commission
362 recognizes that the soil-based lot sizing is closer to compliance but still does not comply.

363
364 The Board discussed soil type in relation to soil-based lot sizing. Vice Chair Samsel asked why
365 the one condition was not just removed and a new request made. Mr. Arsenault stated that the
366 recording happened before the land was conveyed which was a mistake. Mr. Arsenault stated that
367 he sees this as a substantial change in the plan. Ms. Elizabeth asked how this might be corrected

368 if a condition of approval could not be met.

369

370 Chairman Scholz stated that all of the lands should have been conveyed together at the registry
371 and they were not; one parcel is missing.

372

373 Attorney William Studzinski addressed the Board. Attorney Studzinski stated that there is no
374 reasonable way to make sure that all of the land is conveyed at the same time nor does it make
375 sense to ask an applicant to acquire land.

376

377 Chairman Scholz stated that the applicant needs an updated letter to represent the owner.

378 Attorney Studzinski asked of the Board might consider a motion to remove the condition so the
379 deed can be properly recorded. Vice Chair Samsel stated that there was only one condition and
380 the other requests were courtesies but not conditions.

381

382 Mr. Breton stated that the applicant is being asked that a condition be removed that it out of their
383 control. Chairman Scholz stated that they are authorized to execute certain decisions by the RSA
384 and they cannot make up their own rules or remove conditions. Chairman Scholz stated he thinks
385 the right thing to do to process the application as presented.

386

387 Attorney Studzinski suggested the statute allows the Board to make conditions they have the
388 right to change the conditions. The Board discussed what conditions can be placed by this Board.
389 Chairman Scholz stated that the case has been noticed and posted and the Board is aware of the
390 history of the case. Vice Chair Samsel stated that he believes this may be as simple as removing a
391 condition.

392

393 The Board discussed removing the condition in the motion.

394

395 Mr. Anthony Scenna, 4 Fourth St. is in support of the request.

396

397 **A motion was made by Mr. Breton to go into Deliberative Session. Seconded by Ms.
398 Skinner. Vote 5-0. Motion passes.**

399

400 Chairman Scholz does believe this meets the five criteria. Chairman Scholz stated that the
401 parcels no longer exist because they have already been conveyed. Only Parcel C still exists. Ms.
402 Gogumalla asked why the conditions were put on the case to begin with. Chairman Scholz stated
403 that the applicant was making the effort to accommodate a neighbor and the Board considered
404 that testimony and made the conditioned based on the testimony. Chairman Scholz stated that by
405 not conveying the portion of the lot, the lot becomes more conforming.

406

407 **A motion was made by Vice Chair Samsel for Case #05-2020: Parcel 16-P-353 to grant
408 variance relief is requested from Section 702 and Appendix A-1: To allow a revised
409 subdivision of lot 16-P-353 to create two buildable lots. A new lot on Fourth Street will be
410 created having 150' +/- of contiguous frontage on a private road (Fourth Street), where
411 175' of frontage on a public road is required. Based on soil mapping, neither lot satisfies
412 minimum lot area by soil type per plan submitted and dated January 24, 2020 and signed
413 and dated by the Chairman and removing the condition that was placed through Case #46-**

414 **2018 that required Parcel C would be conveyed exactly as it appeared per plan submitted**
415 **as part of Case #46-2018. Seconded by Mr. Breton.**

416
417 **A motion was made by Vice Chair Samsel for Case #05-2020: Parcel 16-P-353 to GRANT**
418 **variance relief as requested from Section 702 and Appendix A-1: To allow a revised**
419 **subdivision of lot 16-P-353 to create two buildable lots. A new lot on Fourth Street will be**
420 **created having 150' +/- of contiguous frontage on a private road (Fourth Street), where 175'**
421 **of frontage on a public road is required. Based on soil mapping, neither lot satisfies**
422 **minimum lot area by soil type. And per plan submitted with a plan date of January 24,**
423 **2020, that was signed and dated by the Chair on February 25, 2020.**

424
425 **Vote 4-1.**

426 **Motion passes.**

427 **The Chair advised of the 30-day appeal period**

428

429 **The effect granting of this variance removes the condition that was placed on the variance**
430 **granted for Case #46-2018 which required Parcel C to be conveyed exactly per the plan**
431 **that was submitted as part of Case #46-2018.**

432

433 Ms. Gogumalla asked about the Conservation Commission comments. Chairman Scholz stated
434 that their comments are important to him and he believes the new lot is more compliant with the
435 soil-based lot sizing. Ms. Gogumalla stated that the Conservation Commission still does not
436 believe this is soil-based lot sizing compliant and they are concerned about that.

437

438 **Vote to deny: Ms. Gogumalla based on Reasons 1 and 2**

439 **Yes to grant: Chairman Scholz, Ms. Skinner, Mr. Breton, and Vice Chair Samsel.**

440

441 **A motion was made by Mr. Breton to adjourn at 10:45pm. Seconded by Vice Chair Samsel.**

442 **Vote 5-0. Motion passes.**

443

444 **Respectfully submitted by Anitra Brodeur**