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**THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS**

July 23, 2015

Special Permit for Dimensional Variation

A Special Permit for Dimensional Variation was granted to Joshua & Pamela McKenna, 44 Lexington Circle, Leominster, MA 01453 under the Lunenburg Protective Zoning By-Law Section 5.1.2.1.c) 1. The property which is the subject of this case is located at 59 Easter Brook Road (known as Lot 5B), Lunenburg, MA 01462, and owned by Roger S. & Kimberly A. Lucier, 59 Easter Brook Road, Lunenburg, MA 01462. The petitioners are seeking a Special Permit for Dimensional Variation to create a new lot with reduced frontage to build a home

Board Members present: Raymond Beal Chairman, Donald F. Bowen, Alfred Gravelle and Hans Wentrup and James Besarkarski.

Special Permit for Dimensional Variation has been issued to Joshua & Pamela McKenna, 44 Lexington Circle, Leominster, MA 01453, affecting the rights of the owner with respect to land and buildings 59 Easter Brook Road (known as Lot 5B), Lunenburg, MA 01462, and owned by Roger S. & Kimberly A. Lucier, 59 Easter Brook Road, Lunenburg, MA 01462. Deed recorded Worcester Northern Registry of Deeds, Book 2838, Page 14 and dated April 9, 1996 as described in plans submitted with the petition. Assessors Map 138, Lot 5.

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering.

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Chairman Raymond Beal opened the hearing and explained the meeting procedure to the applicant. Lisa Normandin read the petition into the record. A memo from the Board of Health was read that outlined the requirements for Title V of the State Environmental Code that must be met by the applicants prior to the issuance of a building permit.

A letter was received July 22, 2015 from Robert & Sharon Yousey, 71 Easterbrook Road abutters to the property. They are the immediate abutters and in their letter they gave permission for the McKenna's to utilize their driveway and to create an appropriate property easement for a shared driveway for their new lot.

There was no public discussion and the applicant was comfortable with the petition as read.

Raymond Beal explained that the by-law does not allow more than two lots with reduced frontage to be side by side. The creation of the new parcel would make three lots with reduced frontage in a row.

Alfred Gravelle asked the applicant questions regarding the driveway placement. Pam McKenna introduced a larger plan and the Board reviewed the driveway placement, she indicated to the Board that the new driveway area would actually cross the Yousey property and branch off to their proposed new home. The area in front of the two existing driveways is landscaped and they wanted to keep the integrity of the curb appeal by not creating a third entrance.

Mr. Beal cautioned the applicants regarding easements that would need to be in place for crossing the neighbor's property as well as a utility and drainage easement that currently exist. He wanted to be sure that they had legal counsel review the deeds and easements prior to the execution of the property sale.

Jim Besarkarski asked about the existing fire pond easement located on the plan, Mr. Lucier an abutter was in the audience and explained that there was a fire hydrant located at the end of the drive in case of a fire emergency; the fire pond is located on the Yousey property known as 71 Easterbrook Road.

Hans Wentrup had reservations with regard to the integrity of the by-law by creating three reduced frontage parcels and indicated that he had spoken with the Building Official about his concerns. He felt that the Board should not open a Pandora's Box by allowing the Special Permit and going against the by-law requirements.

Raymond Beal was not concerned given the fact that the parcel is over twelve acres and will only have two driveways on the street not three.

Alfred Gravelle said that the situation was unique in that the parcel, lot 5B is 12.16 acres and is created from a lot owned by their parents also it will be located over three hundred feet from the street. He added that only other abutters affected are in favor of the petitioner's request.

MOTION

After due deliberation Alfred Gravelle made a motion to grant the Special Permit for Dimensional Variation to allow three reduced frontage lots side by side in accordance with the plans submitted and subsequently on file with the Zoning Board of Appeals. James Besarkarski seconded the motion.

FINDINGS

In granting a Special Permit for Dimensional Variation the Board of Appeals specifically found:

- a. The specific site is an appropriate location for such building or alteration.
- b. The proposed building or alteration is compatible with the existing neighborhood with regard to size, location and architecture.
- c. The granting of the special permit for dimensional variation will not adversely affect the neighborhood.
- d. The granting of the special permit for dimensional variation will not unreasonably diminish the available light, air, sunlight and other amenities: and
- e. there will be no nuisance or serious hazard to vehicles or pedestrians as outlined in Section 8.3.2.1.

The Special Authorization is granted with the contingency that Joshua & Pamela McKenna comply with all licenses, regulations, statues and ordinances of any and all applicable state, local and federal board or agencies with jurisdiction over the premises.

The Special Permit is subject to a periodic review by the permit granting authority (Zoning Board) or the Enforcement Officer, to insure compliance with the enumerated conditions. Non-compliance to these conditions may result in revocation of this permit.

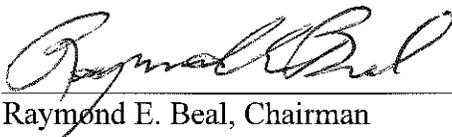
After closing the discussion, the Board acting in its capacity as the Special Permit Granting Authority, granted the Special Permit Dimensional Variation with the above members present and voting as follows with respect to the issuance of the Special Permit.

VOTE

- Raymond Beal voted in favor of granting the Special Permit Dimensional Variation.
- Alfred Gravelle voted in favor of granting the Special Permit Dimensional Variation.
- Donald Bowen voted in favor of granting the Special Permit Dimensional Variation.
- Hans Wentrup voted in favor of granting the Special Permit Dimensional Variation.
- James Besarkarski voted in favor of granting the Special Permit Dimensional Variation.

In making this determination, the Board specifically found that the granting of this Special Permit and Dimensional Variation would not contravene the purpose of the Protective Bylaws or the provisions of Chapter 40A of the Massachusetts General Laws.

Voted and executed,

 7/23/15
 Raymond E. Beal, Chairman Date

Lunenburg Zoning Board of Appeals
Special Permit Granting Authority

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N/F LESIE J. BOVENZI
TRUSTEE OF THE EASTERBROOK
NOMINEE TRUST
#560 GOODRICH STREET
BOOK 2780 PAGE 216
BOOK 3236 PAGE 110

EXISTING
HOUSE #71

ROBERT F. &
SHARON M. YOUSEY
#71 EASTER BROOK RD.
BOOK 3143 PAGE 50
161,240 SQ. FT. ±
FRONTAGE: 69.32'

N/F LUCIUS A. STRAZDIS
&
VIDA M. JUODAITIS
BOOK 4273 PAGE 371
#72 EASTER BROOK ROAD
FRONTAGE: 100.00'

EASTER BROOK ROAD

N/F WILLIAM P. O'BRIEN
&
LAUREEN M. O'BRIEN
BOOK 3403 PAGE 291
#47 EASTER BROOK ROAD
FRONTAGE: 177.51'

EXISTING
HOUSE #59

PROPOSED
HOUSE

PROPOSED
LOT 5B
12.26 ACRES
FRONTAGE: 51.32'

PROPOSED
LOT 5A
5.63 ACRES ±
FRONTAGE: 59.86'

WETLANDS

WETLANDS

N/F PAUL D.
HARRIS
BOOK 1189 PAGE 210

637.21'

N/F NORTH LEOMINSTER
ROAD & GUN CLUB
BOOK 789 PAGE 162

470.65'

N/F TOWN OF LUNENBURG
BOOK 290 PAGE 370

NOTES:

1. THE LAND SHOWN HEREON IS GRAPHICALLY SITUATED IN THE RESIDENCE B ZONING DISTRICT, WITH THE FOLLOWING MINIMUM DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA	80,000 SQ. FT.
MIN. LOT FRONTAGE	100 FEET*
MIN. LOT WIDTH	100 FEET*
MIN. LOT WIDTH THROUGH BUILDING	175 FEET
MIN. FRONT SETBACK	40 FEET
MIN. SIDE SETBACK	25 FEET
MIN. REAR SETBACK	30 FEET

*MAY BE REDUCED TO 50 FEET IF LOT AREA IS INCREASED TO 160,000 SQUARE FEET, PROVIDED NO MORE THAN TWO SUCH LOTS ARE CREATED SIDE BY SIDE.

2. THE LAND SHOWN HEREON IS NOT GRAPHICALLY SITUATED IN THE 100-YEAR FLOOD HAZARD ZONE, PER FLOOD INSURANCE RATE MAP 25027C0287E, DATED JULY 4, 2011.

3. DEED REFERENCES:
BOOK 2838 PAGE 14 (ROGER S. LUCIER AND KIMBERLY A. LUCIER)
BOOK 7799 PAGE 348 (ROGER S. LUCIER)

4. THE EXISTING LOT OF ROBERT F. & SHARON M. YOUSEY CONTAINS MORE THAN 160,000 SQUARE FEET OF AREA AND HAS MORE THAN 50 FEET OF FRONTAGE, AND THEREFORE COMPLIES WITH THE DIMENSIONAL REQUIREMENTS OF THE LUNENBURG ZONING ORDINANCE. IT IS PROPOSED THAT THE LUCIER LAND BE DIVIDED INTO LOTS 5A AND 5B, EACH LOT CONTAINING MORE THAN 160,000 SQUARE FEET OF AREA AND HAVING MORE THAN 50 FEET OF FRONTAGE. HOWEVER, THE CREATION OF LOTS 5A AND 5B WOULD RESULT, WITH THE YOUSEY LOT, IN THREE ADJACENT LOTS HAVING LESS THAN THE NORMAL MINIMUM FRONTAGE OF 100 FEET. ACCORDING TO THE DIMENSIONAL REQUIREMENTS OF THE LUNENBURG ZONING ORDINANCE, ONLY TWO SUCH LOTS ARE PERMITTED TO BE ADJACENT. THEREFORE THE DIVISION OF THE LUCIER LAND INTO LOTS 5A AND 5B REQUIRES A ZONING VARIANCE TO BE GRANTED BY THE LUNENBURG ZONING BOARD OF APPEALS.

5. MODIFICATION OF THE EXISTING LOT ASSOCIATED WITH HOUSE #59 WILL REQUIRE THE APPROVAL OF THE LUNENBURG BOARD OF HEALTH.

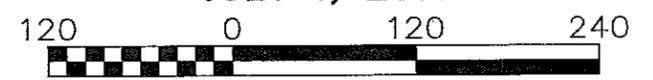


7/1/2015

PLAN TO ACCOMPANY
PETITION FOR ZONING VARIANCE
LUNENBURG, MASS.

PREPARED FOR
ROGER S. LUCIER

JULY 1, 2015



WHITMAN & BINGHAM ASSOCIATES, LLC
REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS
510 MECHANIC STREET - LEOMINSTER, MASSACHUSETTS 01453