

TOWN OF AMHERST  
Zoning Board of Adjustment

August 18, 2020

**APPROVED**

1 In attendance: Doug Kirkwood – Chair, Robert Rowe – Vice Chair, Jamie Ramsay –  
2 Secretary/Treasurer, Charlie Vars, Danielle Pray, and Tim Kachmar (Alternate).  
3 Staff present: Natasha Kypfer, Town Planner, and Kristan Patenaude, Minute Taker.

4  
5 Prior to the meeting being called to order, but with the public present and meeting being  
6 recorded, Bob Rowe stated that he was appalled at not having recent a paper packet for this  
7 evening’s meeting. He stated that he cannot sit for the meeting, as he has not reviewed the  
8 electronic copies of the information that were sent to him. He also doesn’t understand why the  
9 ZBA cannot meet in-person for these meetings. The decision to meet via Zoom was never  
10 discussed by the group and he doesn’t believe that this format works for ZBA meetings.

11  
12 Doug Kirkwood explained that the ZBA and Town are following the Governor’s protocols by  
13 not meeting in-person at this time.

14  
15 Bob Rowe stated that he believes the ZBA could meet and be socially distant.

16  
17 Charlie Vars stated that he was able to obtain a hard copy of the meeting packet by calling Town  
18 Hall. He also feels uncomfortable receiving an electronic copy only.

19  
20 Doug Kirkwood stated that he is uncomfortable with the volume of information being provided  
21 to ZBA members in the packets. He takes issue with the options listed for the ZBA to take after  
22 hearing a case. He believes this is the Community Development Director working in an  
23 advanced fashion, as the ZBA should not be told how to act. He will discuss this further with the  
24 Community Development Director.

25  
26 Charlie Vars stated that the directive to only send out packets electronically did not come from  
27 the Community Development Office, but rather from upstairs at Town Hall.

28  
29 Doug Kirkwood agreed that electronic copies are hard to follow. He has an issue with  
30 suggestions being made for the ZBA as to how to make up their minds on cases.

31  
32 Doug Kirkwood called the meeting to order at 7:20 pm., with the following statement. As  
33 Chair of the Amherst Zoning Board of Adjustment, I find that due to the State of Emergency  
34 declared by the Governor as a result of the COVID-19 pandemic and in accordance with the  
35 Governor’s Emergency Order #12 pursuant to Executive Order 2020-04, this public body is  
36 authorized to meet electronically.

37 Please note that there is no physical location to observe and listen contemporaneously to this  
38 meeting, which was authorized pursuant to the Governor’s Emergency Order.

39 However, in accordance with the Emergency Order, I am confirming that we are:

40 Providing public access to the meeting by telephone, with additional access possibilities by  
41 video or other electronic means:

42 We are utilizing Zoom for this electronic meeting.

43

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44 All members of the Board have the ability to communicate contemporaneously during this  
45 meeting through this platform, and the public has access to contemporaneously listen and, if  
46 necessary, participate in this meeting through dialing the following phone #312-626-6799  
47 and password 879 7485 2721, or by clicking on the following website address:  
48 <https://zoom.us/j/87974852721> that was included in the public notice of this meeting.  
49

50 Providing public notice of the necessary information for accessing the meeting:  
51 We previously gave notice to the public of the necessary information for accessing the  
52 meeting, including how to access the meeting using Zoom or telephonically. Instructions  
53 have also been provided on the website of the Zoning Board of Adjustment at:  
54 [www.amherstnh.gov](http://www.amherstnh.gov).  
55

56 Providing a mechanism for the public to alert the public body during the meeting if there are  
57 problems with access: If anybody has a problem, please call 603-440-8248.  
58

59 Adjourning the meeting if the public is unable to access the meeting:  
60 In the event the public is unable to access the meeting, the meeting will be adjourned and  
61 rescheduled.  
62

63 Please note that all votes that are taken during this meeting shall be done by roll call vote.  
64

65 Let's start the meeting by taking a roll call attendance. When each member states their  
66 presence, please also state whether there is anyone in the room with you during this meeting,  
67 which is required under the Right-to- Know law.  
68

69 **Roll call attendance: Jamie Ramsay, Danielle Pray, Charlie Vars, Robert Rowe,**  
70 **Tim Kachmar, and Doug Kirkwood – all present and alone.**  
71

72 Doug Kirkwood explained that Jamie Ramsay, Secretary, will read and open each case and then  
73 the applicant will have a chance to speak to it. The ZBA will then carry out its business for each  
74 case, including: asking questions, hearing from the public and abutters, going into private  
75 deliberations, and potentially voting.  
76

77 NEW BUSINESS:  
78

79 **1. CASE #: PZ12820-070220 – VARIANCE**  
80 **Co-Ad Realty LLC (Owner & Applicant) Amherst Street, PIN #: 05-051-000 –**  
81 **Request for relief from Article IV, Section 4.3, Paragraph C to construct a single-**  
82 **family residence on a lot without frontage via an existing right of way. Zoned**  
83 **Residential Rural.**  
84

85 Jamie Ramsay read and opened the case.  
86

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87 Tom Quinn, Esq., joined the meeting. He explained that he is representing Co-Ad Realty in this  
88 case and that Adam Vaillancourt, owner of Co-Ad Realty, and Dave Hall are joining him.  
89

90 Tom Quinn, Esq., explained that the property was purchased from Rough Diamond in 2012. The  
91 property is currently under agreement and has been since February. The contract has been  
92 extended since this time and is contingent on tonight's meeting. The property is located at Map  
93 5, Lot 51, and is approximately 9.93 acres. The plan has been recorded at the Registry of Deeds.  
94 The property lacks frontage, but there is access to the lot over an existing driveway that crosses  
95 Map 5, Lot 52. The property has an easement over this area. The property has existed as a  
96 separate parcel since at least 1957. The two lots were conveyed with the existing right of way  
97 before 1957, he believes, it was just not in the language of the deeds at that time.  
98

99 Tom Quinn, Esq., explained that the lots were conveyed to John Dunn in 2007. At this time,  
100 access to the lot was declared via the easement. In March, an application was filed with the  
101 Board of Selectmen for a waiver restriction against RSA 674:41, that a building permit will not  
102 be allowed on a property without frontage on a Class V road or better. This application was hung  
103 up, as the Board of Selectmen needed to discuss it with the Planning Board. In the Board's  
104 opinion, the applicant needs both a variance and a waiver. Thus, the applicant moved forward  
105 with the variance application first. This will still need to go back before the Planning Board and  
106 Board of Selectmen.  
107

108 Tom Quinn, Esq., explained that, per a 2007 Supreme Court case, it is appropriate to address the  
109 two tests regarding the application being contrary to public interest and the application  
110 addressing the spirit of the ordinance as one. He explained that any variance is technically  
111 contrary to the public interest in some sense, and so the ZBA's job is to determine if granting the  
112 application unduly and to a marked degree conflicts with the ordinance. There are two tests to  
113 determine if that standard is met:

- 114 1) If the variance alters the essential character of the neighborhoods  
115 2) If the variance effects the health, safety, and welfare of the public  
116

117 1) Tom Quinn, Esq., explained that he does not believe this request for a variance alters  
118 the essential character of the neighborhood. He explained that the property is located in  
119 the Residential/Rural district, where single-family homes are permitted and the minimum  
120 lot size is two acres. This property has approximately 10 acres and the request is to build  
121 one single-family residence. There is an apartment complex that abuts this lot, and some  
122 of the nearby lots are smaller than two acres. It is not uncommon in Town to have access  
123 to a lot via an access easement. There is nothing in this application that alters the  
124 essential character of the neighborhood.  
125

126 2) Tom Quinn, Esq., stated that he does not believe this request for a variance effects the  
127 health, safety, and welfare of the public. This request is for a single-family residence on a  
128 10 acre lot, simply because the lot lacks frontage. This residence will meet all other  
129 requirements, including: septic, setbacks, stormwater, etc. There will be no significant  
130 impact on traffic and there are good sight distances at the end of the driveway onto the t.

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131 3) Substantial justice will be done because without this variance nothing can be done on  
132 the property. Any permitted use would require frontage, which this property lacks. There  
133 is little gain to the public in denying this variance. There is no corresponding benefit to  
134 the public that offsets the total lack of use of the property that denying this variance  
135 would result in for his client.

136  
137 4) The values of the surrounding properties will not be diminished. Tom Quinn, Esq.,  
138 explained that this will be a nice house located in a residential neighborhood, within the  
139 permitted uses of the zone. It will not diminish the values of the surrounding properties.

140  
141 5) Literal enforcement of the provisions of the Ordinance would result in an unnecessary  
142 hardship because this is unlike any other property in the area, as it is a separate and  
143 distinct lot. This lot has been around forever and has always been accessed by the  
144 existing easement right of way. This grants legal access to the property. This access point  
145 predates the current zoning and zoning provisions. The current zoning is to prohibit the  
146 proliferation of back lots, excessive density, and curb cuts – but none of these items are at  
147 issue here. This variance does not interfere with the ordinance because it is the only back  
148 lot in the area. The land is adequate to handle this request without an adverse impact to  
149 the neighbors or Town. Shared driveways are also not uncommon in Town.

150  
151 Tom Quinn, Esq., stated that the proposed use is reasonable (a single-family residence on  
152 10 acres), in a zone that allows it, and which the lot has legal access to. It would be a  
153 hardship if the variance was denied, as there would be no reasonable use of the property  
154 at all.

155  
156 In response to a question from Doug Kirkwood, Tom Quinn, Esq., explained that he is unsure of  
157 the exact sight distance at the end of the shared driveway.

158  
159 Charlie Vars noted that he had a client who was also interested in this property. He does not  
160 believe this should lead him to recuse himself from this case.

161  
162 Public Comment:

163 Brenda Lockwood, 112A Amherst Street, stated that she is the abutter whose driveway the right  
164 of way passes over. She has grave concerns about this request. She believes it will be a hardship  
165 to her and overburden the land. She explained that she has records from when the land was  
166 purchased from John Dunn that shows a map of the wetland permit plan, dated December 31,  
167 2004. In the notes section of the map, it states that the proposed minor subdivision is accessed  
168 via an existing “cart path.” She is nervous that the owner will eventually sell the property and  
169 another variance will be sought to place another home on the property. The property is full of  
170 wetlands and wildlife. She also has concerns with the supposed sight line at the end of the shared  
171 driveway. Her tenant, who also lives on the property, cannot easily see when exiting the  
172 driveway, and Amherst Street has a 40mph speed limit to enter onto. She doesn’t believe that all  
173 of the abutters received proper notification for this hearing. She believes that her property will  
174 lose value because the easement runs so close to her house. She questioned who would purchase

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175 a piece of land that lacks frontage, knowing what the Town regulations are. She is surprised that  
176 the builder would still purchase this lot and put the burden on the other abutting homeowners.  
177 She requested that the ZBA not approve the variance and, if they do, to restrict the property to  
178 one single-family home forever. She also requested that the ZBA come out and look at the  
179 property and the wetlands on the property.

180  
181 Tom Quinn, Esq., stated that the map referenced by Brenda Lockwood correctly calls the right of  
182 way a “cart path.” However, in the easement plan from 2010 the location of the driveway is  
183 shown as a 35’ wide easement. This hugs the southern boundary of the property and goes straight  
184 back. This is referenced in the easement document and deed. In regard to restricting the property  
185 to one, single-family house, Tom Quinn, Esq., explained that that is all that is being applied for  
186 in this case. He has no objections to that condition.

187  
188 Deborah Duranceau, 112B Amherst Street, stated that she is the tenant of Brenda Lockwood. She  
189 believes that the 35’ easement will probably take away all of the woods and trees planted. This is  
190 also in an area where local children play. She stated that she has almost been side-swiped by  
191 construction trucks in the area. She disagreed that there is a good line of sight at the end of the  
192 shared driveway.

193  
194 Tom Quinn, Esq., noted that the potential buyer is responsible and will not be running  
195 construction trucks at an excessive speed. He understands some of the abutters concerns, but  
196 stated that the speed requirement could always be a condition of the approval.

197  
198 Sri Kalyan, 2 Founder’s Way, stated that he built his property within the last year with builder,  
199 Ben Chandler. When he bought his property, he was told that the land behind it was non-  
200 constructible. He purchased the land in part because he didn’t want to lose the back half of the  
201 view. This variance would impact his view, and the value of his property.

202  
203 Tom Quinn, Esq., stated that Map 5, Lot 47 abuts this property to the back, and Map 5, Lot 46 is  
204 a back lot to the property. Access to both of these lots is not over any frontage, but over the  
205 apartment complex property.

206  
207 David Hall, 8 Elizabeth Lane, Mont Vernon, the listing agent for the property questioned when  
208 Brenda Lockwood received approval for the rental apartment on her property. He also questioned  
209 if Brenda Lockwood went through the driveway permit approval process through the Town.

210  
211 In response to a question from Jamie Ramsay, Tom Quinn, Esq., stated that there are quite a few  
212 properties fronting on Founder’s Way that share lot lines with the property in question.

213  
214 Brenda Lockwood noted that these properties are within the Historic District and that there will a  
215 certain image that the community has about this area. She also explained that the apartment on  
216 her property has been there since John Dunn owned the land.

217

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218 In response to a question from Danielle Pray regarding the amount of land within the 10 acres  
219 that is buildable versus wetlands, Tom Quinn, Esq., stated that the engineering on the property  
220 isn't yet complete. He explained that Rough Diamond originally planned a two lot subdivision  
221 on the property and went to the State for two wetland crossing permits and to the Planning Board  
222 for a stormwater management plan. He is not sure if those wetland crossings were installed, but  
223 the permits were obtained.

224  
225 Jamie Ramsay stated that, subject to verification, the stormwater management plan and the  
226 wetland crossing permits were both executed before the sunset dates of the permits. He believes  
227 the crossings were installed and that there is legal access into the rear of the property.

228  
229 Brenda Lockwood stated that she has seen those permits/maps and that the proposal will ruin the  
230 view of this part of the property. She also explained that one would need to drive through all of  
231 the wetlands on the property to get to the two-acre section being proposed to build on.

232  
233 In response to a question from Charlie Vars, Tom Quinn stated that once an easement is granted  
234 on a property, there is legal access to the property and no way to stop that access.

235  
236 Charlie Vars noted that the only issue on this property is the frontage. The owner purchased the  
237 property with knowledge of the easement.

238  
239 Tom Quinn stated that the property owner should not be stopped simply because the granting of  
240 the variance will not enhance someone else's view. He stated that the owner has a right to build  
241 on his property. The only way to ensure that a property is not built on, is to buy it.

242  
243 Bennett Chandler, 6 Wildwood Drive, Brookline, NH, stated that he is the builder and  
244 representative for Sri Kalyan. He stated that this variance will diminish the value of Sri Kalyan's  
245 property. He noted that the proposed property was purchased for \$22,000 with the price  
246 reflecting an unusable back lot. If this variance is granted, this becomes a \$250,000-300,000 lot.  
247 He questioned if this property is being taxed as a buildable lot or open space. He believes that  
248 this will be similar to winning the lottery for the owner, if the variance is granted, as the property  
249 is essentially useless without it and will be turned into a high value piece of property with it.

250  
251 Brenda Lockwood again asked the ZBA to come view the property before voting. Even though  
252 this is a legal easement, she believes the variance will allow for overcrowding on the land.

253  
254 Doug Kirkwood noted that the ZBA does not usually do site walks unless absolutely necessary  
255 but will take the request into consideration.

256  
257 *Robert Rowe left the meeting.*

258  
259 **2. CASE #: PZ12860-070820 – VARIANCE**  
260 **Linda L. Robinson, Trustee (Owner & Applicant) 312 Boston Post Road, PIN #:**  
261 **004-011-000 – Request for relief from Article IV, Section 4.3, Paragraph D 2&3 to**

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262           **construct a detached two-car garage a distance of more than 50' from the edge of**  
263           **Boston Post Road and a distance of 31.1' from the edge of North Meadow Road and**  
264           **with a maximum height of 23 feet. Zoned Residential Rural.**  
265

266 Tom Quinn, Esq., representing Linda L. Robinson, Trustee, stated that the applicant owns  
267 approximately 4.78 acres with an existing residence and barn at 312 Boston Post Road. The  
268 existing structures meet all of the current requirements. The property is a corner lot. The ZBA  
269 previously ruled that additional structures on the property must maintain a setback of 50' from  
270 Boston Post Road and North Meadow Road, and a maximum structure height of 22'.  
271

272 Tom Quinn, Esq., explained that the property lacks a garage. The proposal is to construct a  
273 28'x32' garage in the location shown on the plan, in the northeast corner of the property. The  
274 proposed garage would be 31.1' from North Meadow Road, with a proposed height of 22'9". He  
275 has rounded this number up to 23', as Bill Coco, builder, is content with that margin of error.  
276 The requested variance is for the less than 50' setback and the extended height of the structure.  
277

278 Tom Quinn, Esq., explained that he will, again, be addressing the first two tests together, as he  
279 did with the previous case.  
280

281           1&2) Tom Quinn, Esq., explained that the property is located in the Residential/Rural  
282 zone. Being proposed is a two bay garage for residential use. He believes that the fact that  
283 the proposed garage meets 30' setbacks should be satisfactory in this case. The proposed  
284 garage sits on an open woodland part of the property. In general, the property is very  
285 wooded and the owners take great care of the property. He explained that the proposed  
286 garage location has been marked for quite a while and that it should be of no surprise to  
287 the neighbors as to where it will be located.  
288

289 Tom Quinn, Esq., explained that, as one travels down Boston Post Road, the properties  
290 on the east are at a higher elevation than those on the west. This should be a significant  
291 factor in the proposed height of the property, as, even at 23', the garage will still sit  
292 below the height of buildings on the other side of the street. Thus, the garage will not  
293 visually be noticed significantly. This proposal will not change the essential character of  
294 the neighborhood. The existing property is beautiful and is beautifully maintained. The  
295 addition of a garage will enhance the property and the neighborhood. Reducing the  
296 setback will cause no danger to the health, safety, or welfare of the public. There is a stop  
297 sign at the intersection where the property is located, and about 50-60' between the  
298 proposed location of the garage and the stop sign. The proposed garage will not interfere  
299 with the sight line at this intersection.  
300

301           3) Tom Quinn, Esq., explained that substantial justice will be done because the proposed  
302 position of the garage on the property causes the least undermining of existing trees.  
303 Every garage also needs a turning radius, and this location offers a place for a small  
304 apron in front. Linda Robinson's husband also has a chronic health condition, and they  
305 would like to be able to enter the house easily from the garage, instead of it being far

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306 away. He also explained that there is no benefit to the public in denying the variance that  
307 outweighs the loss to the applicant to be able to build the proposed garage in a feasible  
308 location.

309  
310 4) Tom Quinn, Esq., stated that the proposed garage will not diminish nearby property  
311 values. The neighborhood is fairly uniform in terms of quality and value of the houses,  
312 with the exception of the property in question, which is exceptionally nice.

313  
314 5) Tom Quinn, Esq., explained that a hardship to the applicant is the house's orientation.  
315 The house's driveway is on the east side of the property, so the garage could logically be  
316 placed there. The west side of the property experiences a significant drop in terrain, and  
317 also holds the leach field. The proposed garage sitting approximately 20' closer to the  
318 road than required is not inconsistent with the spirit of the ordinance. The garage is  
319 otherwise a reasonable use of the land and allows for substantial compliance.

320  
321 Charlie Vars noted that if the garage roof was pitched 10/12, instead of 11/12, the total height  
322 would be about 21'6" and no variance would be necessary. Tom Quinn, Esq., explained that a  
323 lower pitch would mean that the windows above the doors would need to be eliminated. The  
324 currently proposed windows match the barn windows and help to integrate the garage with the  
325 property.

326  
327 In response to a question from Charlie Vars, regarding proving hardship when the pitch of the  
328 roof could be adjusted to meet the height requirements, Tom Quinn, Esq., explained that his  
329 client prefers the proposed pitch and style of the garage.

330  
331 In response to a question from Jamie Ramsay, Tom Quinn, Esq., stated that the proposed garage  
332 has a footprint of 28'x32'. The 28' end is the gable end and runs north-to-south, and the 32' end  
333 runs in an east-to-west direction.

334  
335 Public Comment:  
336 Shane Humphreys, 5 North Meadow Road, stated that he lives directly across from the property  
337 in question. He gives his full support towards granting the variance. He stated that the Robinsons  
338 do an incredible job with their yard and their house is impeccable. Anything the Robinsons do to  
339 their property, he believes will increase the value of his property. He explained that the area is  
340 very wooded and doesn't believe most will even know the garage is there. He stated that the  
341 plans go well with the rest of the property and that it will be in the best interest of the community  
342 and the neighborhood to grant the variance.

343  
344 **3. CASE #: PZ12864-071020 – VARIANCE**  
345 **Keith and Barbara Allen (Owners & Applicants) 5 Milford Street, PIN #: 025-083-**  
346 **000, & Stacey B. McMahon (Owner) 9 Milford Street, PIN #: 025-081-000 - Request**  
347 **for relief from Article IV, Section 4.3, Paragraph C 1&2, D 1,2,3&4 to enter into a**  
348 **lot line adjustment whereby 765 square feet of land will be removed from Lot 25-81**  
349 **and added to Lot 25-83. Zoned Residential Rural.**

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350 The Board confirmed that this application has been withdrawn at this time.

351

352 **4. CASE #: PZ12945-072920 – VARIANCE**

353 **Sara Melone (Owner) & The Tree of Life Interfaith Temple, Inc. (Applicant) 5**  
354 **Northern Blvd. Unit #8, PIN #: 002-504-008 – Request for relief from Article V,**  
355 **Section 4.9, Paragraph A to lease with the intent to purchase to use for religious**  
356 **services and support of members. Zoned Industrial.**

357

358 May Balsama, of Berkshire Hathaway, Karen Manchester Administrator for the Tree of Life  
359 Interfaith Temple, and Linda Goodman, presiding Minister for The Tree of Life Interfaith  
360 Temple, joined the meeting.

361

362 May Balsama explained that this condo came on the market and was attractive to the temple, as  
363 the group used to use it as a meeting space on a regular basis, up until about two year ago. The  
364 condo has the proper number of rooms and space that meets the temple's need for offering  
365 counseling to its membership.

366

367 May Balsama read through the applicant's explanations of the five tests:

368

369 1) Granting this variance to The Tree of Life Interfaith Temple, Inc., to use the condo at 5  
370 Northern Blvd. Unit #8 as offices and gathering space for our church and seminary is not  
371 contrary to public interest, and may even be considered beneficial to public interest. Our  
372 use of the space for public Worship Services, Client Services such as spiritual mentoring,  
373 spiritual counseling, pastoral services and the like, as well as Education and Seminary  
374 Classes, will serve to benefit and enhance the public interest. Most classes and gatherings  
375 happen in the evening hours or during weekend hours when many of the neighboring  
376 units are closed for normal business. We pose no threat to public health, safety, or  
377 welfare.

378

379 2) The spirit of the ordinance is preserved by our many offerings falling within the  
380 guidelines of the ordinance itself:

381 Section 4.9 Industrial Zone: A. PERMITTED USES: 8. Corporate and business offices  
382 compatible with other permitted uses in the zone and/or professional offices for  
383 individual or group practice, including doctors and dentists (including medical and dental  
384 clinics), counseling services, engineers, architects, planners, insurance, and accountants  
385 (3014078, 3-10-87).

386 Our Corporate/Business office, Client Services, and Educational offerings all fall within  
387 the scope of this section of the ordinance. Only our offering of public Worship Services is  
388 not explicitly permitted.

389

390 3) As most of our activities do fall within the Permitted Uses of the Industrial Zoning,  
391 and the only activity that does not would take place when most neighboring businesses  
392 are closed, there is no danger or harm, real or perceived, to any individual or to the public  
393 interest, there is nothing to weigh the benefit to The Tree of Life Interfaith Temple

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394 against/ Congregation Betenu, a Jewish Community, occupies the unit at 5 Northern  
395 Blvd. Unit #1.

396

397 4) Most of our gathering activities, such as Classes and Worship Services, take place in  
398 the evening and on weekends when other neighbors are closed for business. There is very  
399 little chance that our activities will adversely affect our neighbors or the condominium  
400 complex.

401

402 5) Because of the Industrial Zone restriction, when all other activities and services  
403 provided to our members and to members of the public are permitted, it is an undue  
404 burden that we would not also be able to meet for Worship Services within the confines  
405 of this space. This additional use, for gathering and worship, is both reasonable and will  
406 not alter the essential character of the neighborhood or place an undue burden on our  
407 neighbors.

408

409 May Balsama explained that she spoke with the Fire Chief during a walk-through of the  
410 property, regarding any life safety codes or building needs. She explained that they are currently  
411 looking into the possibility of a chair lift for the building. The first floor is handicap accessible  
412 though.

413

414 In response to a question from Charlie Vars, May Balsama explained that the unit in question is a  
415 center unit. Karen Manchester explained that the other offices in the building are an antique  
416 seller, a chiropractor, and a consulting business. The condo docs prohibit manufacturing on site.

417

418 In response to a question from Danielle Pray, Karen Manchester stated that the Temple holds  
419 hours at 10am on Sundays, and occasionally has Saturday classes or workshops from around  
420 9am-1pm/4pm. On Monday through Friday, the Temple holds office hours and the presiding  
421 minister holds counseling hours. Evening hours are generally held on Tuesdays and Thursdays.  
422 The Temple does not have a fall schedule set yet.

423

424 In response to a question from Charlie Vars, Karen Manchester stated that the unit is a two-story  
425 building and that it can accommodate about 33 people in the sanctuary space.

426

427 Cycling back to the second application, *CASE # PZ12947-073020 – Rehearing of CASE #:*  
428 *PZ12445-032320 - Linda L. Robinson, Trustee of the Linda L. Robinson 2000 Trust (Owner &*  
429 *Applicant) – 312 Boston Post Road, PIN 004-011-000 – Request for rehearing of the Board’s*  
430 *decision denying the Appeal of an Administrative Decision of the Town Building Official. Zoned*  
431 *Residential Rural.*, in response to a question from Charlie Vars, Tom Quinn, Esq., explained that  
432 he would withdraw the request for rehearing, if the ZBA grants a variance on this case. He would  
433 be willing to withdraw this after the 30 day appeal period for the variance is up.

434

435 In response to a question from Jamie Ramsay, Tom Quinn, Esq., stated that he would also be  
436 okay with tabling the rehearing, if the variance is granted tonight.

437

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438 *Tim Kachmar sat for Robert Rowe.*

439

440 **Charlie Vars moved to enter deliberations. Tim Kachmar seconded.**

441 **Roll call vote: Danielle Pray – aye; Jamie Ramsay – aye; Tim Kachmar– aye;**

442 **Charlie Vars – aye; and Doug Kirkwood – aye. Motion carried unanimously.**

443

444 **CASE #: PZ12820–070220:**

445 **Jamie Ramsay moved no regional impact. Danielle Pray seconded.**

446 **Roll call vote: Danielle Pray – aye; Jamie Ramsay – aye; Tim Kachmar– aye;**

447 **Charlie Vars – aye; and Doug Kirkwood – aye. Motion carried unanimously.**

448

449 **Discussion:**

450

451 Jamie Ramsay explained that any issue with the sight line or access onto Amherst Street,

452 would ultimately be decided by the Community Development Office/Building

453 Official/Police Department. This is not a ZBA item to focus on.

454

455 The group discussed that the easement is legal and grants access to the site.

456

457 In response to a question from Danielle Pray, Jamie Ramsay stated that he believes the  
458 wetland crossings were put in on site and that the area is basically high and dry walkable  
459 from Amherst Street to the back of the lot. If the wetland crossings are not in place, the  
460 applicant will need to go through that permitting process again.

461

462 1. The Variance will not be contrary to the public interest.

463 • C. Vars – true, this will be a single-family residence and the owner has a right to  
464 build on the lot.

465 • J. Ramsay – true, this appears to be a small, practical build, the envelope of which  
466 will not endanger the health, safety, or welfare of the public.

467 • T. Kachmar– true, this proposal will not be contrary to the public interest. There is no  
468 access except through the easement, making it hard for the property to require  
469 frontage in order to build.

470 • D. Pray– true, this proposal is not contrary to the public interest and does not alter the  
471 essential character of the neighborhood.

472 • D. Kirkwood – true, the lot size is 10 acres and if the build is placed toward the back  
473 of the lot, it will not disturb the wetlands.

474 **5 True**

475

476 2. The Variance is consistent with the spirit and the intent of the Ordinance

477 • T. Kachmar – true, there is a legal easement in place. This ordinance applied but  
478 cannot be enforced on this lot due to existing conditions.

479 • D. Pray – true, she doesn't believe that a single-family home will crowd the land. She  
480 also doesn't believe it will create traffic issues.

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- 481 • C. Vars – true, the proposal will not alter the neighborhood. If the proposed residence  
482 is built well back on the lot it may not even be seen by the front two abutters.  
483 • J. Ramsay – true, he believes the proposed residence will be well back on the  
484 property and thus the spirit of the ordinance is observed.  
485 • D. Kirkwood – true.  
486 **5 True**  
487  
488 3. Substantial justice is done.  
489 • D. Pray – true, she believes that denying the owner’s their right to build on the land  
490 would give no corresponding benefit to the public.  
491 • C. Vars – true.  
492 • J. Ramsay – true, granting the variance permits the enjoyment of the property to the  
493 owner.  
494 • T. Kachmar – true.  
495 • D. Kirkwood – true.  
496 **5 True**  
497  
498 4. The values of the surrounding properties will not be diminished.  
499 • C. Vars – true, the addition of a single-family residence on one lot does not diminish  
500 the values of surrounding properties, even if the abutters don’t like the proposal.  
501 • J. Ramsay – true, he does not believe granting the variance will lead to a substantial  
502 difference than the surrounding residential developments.  
503 • T. Kachmar – true, he doesn’t believe that being able to see a new residence from  
504 abutting properties diminishes their values. He also believes this proposed residence  
505 may be set far enough back to not notice it.  
506 • D. Pray – true.  
507 • D. Kirkwood – true.  
508 **5 True**  
509  
510 5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary  
511 hardship.  
512 • J. Ramsay – true, if the variance is denied, this land cannot be built on, and that will  
513 render the land useless, which is a hardship for the owner.  
514 • C. Vars– true, the proposed use is a reasonable one and the only issue with this lot is  
515 lack of frontage. It will be a hardship to the owner if the variance is not granted.  
516 • D. Pray – true, strict conformance to the ordinance will result in a hardship to the  
517 owner of the property. This will allow for no use of the property. The lot has been  
518 landlocked since at least the 1950’s, and has never had frontage. These items were not  
519 caused by the applicant.  
520 • T. Kachmar– true.  
521 • D. Kirkwood – true, the necessary access to this land is granted through the easement  
522 across the abutters’ land in front. This is a unique situation and speaks to a problem  
523 with applying the ordinance.

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524 **5 True**

525

526 In response to a question from Danielle Pray, Doug Kirkwood explained that, if the access road  
527 was to be rerouted, the easement would need to be rewritten as well as the deed. He also doesn't  
528 believe that the access road can be moved much closer to the property line than it already is.

529 Jamie Ramsay noted that, with an access easement, the owner has the right to use the access way  
530 as needed to get from point A to B.

531

532 Charlie Vars suggested that a condition could be that the entrance off Amherst Street needs to be  
533 in the same location as the current driveway. This will push the access road slightly to the left,  
534 and make sure that a second driveway isn't created.

535

536 **The Chair stated that the application, as it passed all of the tests, is granted with the**  
537 **following conditions:**

538 **1. That the property is to be kept to one single-family dwelling.**

539 **2. That the entrance to the property and easement coincide with the current curb cut**  
540 **off Amherst Street.**

541

542 **CASE #: PZ12860-070820:**

543 **Jamie Ramsay moved no regional impact. Danielle Pray seconded.**

544 **Roll call vote: Danielle Pray – aye; Jamie Ramsay – aye; Tim Kachmar– aye;**  
545 **Charlie Vars – aye; and Doug Kirkwood – aye. Motion carried unanimously.**

546

547 **Discussion:**

548

549 Jamie Ramsay noted that, in this rural setting, an additional foot of height on the  
550 proposed garage will not be noticed. The other two existing buildings on the site are also  
551 taller than the proposed garage.

552

553 1. The Variance will not be contrary to the public interest.

554 • D. Pray – true, this will not be contrary. Many or most of the houses in the area have  
555 garages. The incursion into the setbacks and the extra height of the proposed garage  
556 will not affect the health, safety, and welfare of the public.

557 • C. Vars – true, the size, as stated, will not dominate the site. The proposed garage will  
558 be tucked in the trees and is located in the right spot on the site.

559 • T. Kachmar– true.

560 • J. Ramsay – true.

561 • D. Kirkwood – true.

562 **5 True**

563

564 2. The Variance is consistent with the spirit and the intent of the Ordinance

565 • T. Kachmar – true, the purpose of this ordinance is to prevent encroachment to  
566 neighbors and the road; due to the nature of this lot, these are not issues. The  
567 neighbors also spoke about being okay with the proposal.

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- 568           • C. Vars – true.  
569           • J. Ramsay – true.  
570           • D. Pray – true, she stated that the extra foot of height on the proposed structure does  
571           not overcrowd the site.  
572           • D. Kirkwood – true.  
573           **5 True**  
574  
575           3. Substantial justice is done.  
576           • C. Vars – true, the proposed garage is suggested in the best location on the site.  
577           • J. Ramsay– true, a garage is also semi-essential to modern living.  
578           • T. Kachmar – true.  
579           • D. Pray – true, she doesn't see a gain to the public for denying the variance to the  
580           applicant. The applicant also mentioned health issues that speak to the need for a  
581           variance.  
582           • D. Kirkwood – true.  
583           **5 True**  
584  
585           4. The values of the surrounding properties will not be diminished.  
586           • D. Pray – true, she stated that she heard testimony from the neighbors that they  
587           believe their home value will be increased. The ZBA also received three similar  
588           letters.  
589           • C. Vars – true, the proposed garage will be in a forested area and the height will not  
590           be close to that of the existing house. The neighbors are also okay with this garage.  
591           • J. Ramsay – true, this is a good sized lot and there are no other practical places on the  
592           property to place the garage.  
593           • T. Kachmar – true, the neighbors are in favor of the plan.  
594           • D. Kirkwood – true.  
595           **5 True**  
596  
597           5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary  
598           hardship.  
599           • C. Vars – true, there are special conditions on the site. If the house had been built to  
600           the west, this would not be an issue. The proposed area for the garage will save trees  
601           on site.  
602           • J. Ramsay– true, denying the variance would deny the applicant a reasonable use of  
603           the property.  
604           • T. Kachmar– true, to deny the variance would be a hardship to the owner.  
605           • D. Pray – true, there are special conditions on the property, such as that the leach field  
606           is located on the west of the property and the driveway and main entrance to the  
607           house are located on the east of the property.  
608           • D. Kirkwood – true.  
609           **5 True**  
610

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611 **The Chair stated that the application, as it passed all of the tests, is granted.**

612

613 **CASE #: PZ12945-072920:**

614 **Jamie Ramsay moved no regional impact. Tim Kachmar seconded.**

615 **Roll call vote: Danielle Pray – aye; Jamie Ramsay – aye; Tim Kachmar – aye;**

616 **Charlie Vars – aye; and Doug Kirkwood – aye. Motion carried unanimously.**

617

618 **Discussion:**

619

620 Jamie Ramsay explained that this variance is necessary because the zoning ordinance  
621 never contemplated the use of this property as a place of religious education and practice.  
622 He would like to open a discussion about allowing the alternate use in this zone.

623

624 Doug Kirkwood noted that, although the desired use is not listed as permitted, it is also  
625 not listed as not permitted.

626

627 Charlie Vars stated that he believed when he was on the Planning Board, this was  
628 supposed to be approved as a permitted use in all zones. This appears to be an oversight.  
629 Jamie Ramsay thought this might be a suggestion for a proposed amendment this year.  
630 He noted that if the use was being proposed in a "classical" industrial building with  
631 overhead doors and steel walls, it might be a different discussion, but this building was  
632 basically an office building.

633

634 **Although the Board had already voted on regional impact, Tim Kachmar moved no**  
635 **regional impact. Jamie Ramsay seconded.**

636 **Roll call vote: Danielle Pray – aye; Jamie Ramsay – aye; Tim Kachmar – aye;**

637 **Charlie Vars – aye; and Doug Kirkwood – aye. Motion carried unanimously.**

638

639 1. The Variance will not be contrary to the public interest.

640

- J. Ramsay – true.
- C. Vars – true, the proposed use will not pose a threat to the public health, safety, or welfare.
- D. Pray – true, a public worship service will not alter the neighborhood. The use of the unit will be limited during weekends and is consistent with the other units. The Fire Department has also been out to the site to look at a reasonable limit for the number of people in the space.
- T. Kachmar – true, there is another House of Worship in the same area.
- D. Kirkwood – true.

649

**5 True**

650

651 2. The Variance is consistent with the spirit and the intent of the Ordinance

652

- D. Pray – true, there are other professional services offered in the area, and the proposed use is consistent with other uses.
- T. Kachmar – true.

653

654

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- 655           • J. Ramsay – true, there are rights of tenancy. Also the proposed use is not flagrant to  
656           the other units.  
657           • C. Vars – true, the number of people in the building will be kept to a minimum.  
658           • D. Kirkwood – true.  
659           **5 True**  
660  
661           3. Substantial justice is done.  
662           • J. Ramsay – true, granting the variance is to the enjoyment of the property – whether  
663           the owner or tenant.  
664           • C. Vars– true.  
665           • D. Pray– true, there is no loss to the public that outweighs the rights of the applicant  
666           to use the property as a place of public worship. The proposed use goes hand-in-hand  
667           with other services provided in the area.  
668           • T. Kachmar – true.  
669           • D. Kirkwood – true.  
670           **5 True**  
671  
672           4. The values of the surrounding properties will not be diminished.  
673           • J. Ramsay – true, the proposed use will have no impact on the surrounding properties.  
674           • T. Kachmar – true.  
675           • D. Pray – true, she believes the applicant has met the tests and presented evidence  
676           that there will be no diminished property values.  
677           • C. Vars – true, the proposed use is consistent with all units in the area.  
678           • D. Kirkwood – true.  
679           **5 True**  
680  
681           5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary  
682           hardship.  
683           • D. Pray – true, the only aspect of the business not allowed is the public worship one.  
684           The industrial zone is perfect for this type of use. Not allowing the proposed use  
685           would be a hardship.  
686           • C. Vars– true, this is a reasonable use that will not affect the character of the  
687           industrial park.  
688           • J. Ramsay – true.  
689           • T. Kachmar – true, the proposed use is not listed as prohibited; it just doesn't happen  
690           to be listed as allowed.  
691           • D. Kirkwood – true, there is already a religious use in the same building. The  
692           proposed fellowship will be a minimal use of the property and thus is not in danger of  
693           changing the overall use of the industrial park.  
694           **5 True**  
695

**The Chair stated that the application, as it passed all of the tests, is granted.**

696  
697

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698 **MOTION FOR REHEARING:**

699

700

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702

703

704

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706

**4. CASE # PZ12947-073020 – Rehearing of CASE #: PZ12445–032320 -  
Linda L. Robinson, Trustee of the Linda L. Robinson 2000 Trust (Owner &  
Applicant) – 312 Boston Post Road, PIN 004-011-000 – Request for rehearing of the  
Board’s decision denying the Appeal of an Administrative Decision of the Town  
Building Official. *Zoned Residential Rural.***

707

708

709

**Discussion:**

Tim Kachmar stated that that variance could have been approved, but the applicant would have had to come back anyway for the height issue.

710

711

712

713

Doug Kirkwood stated that this is a setback corner lot. He believes the ZBA should grant the rehearing and if Tom Quinn, Esq., then wants to pull the request once the 30 day appeal window lapses for the variance that was just granted, that will be okay.

714

715

716

717

**Danielle Pray moved to grant the request for rehearing. Jamie Ramsay seconded.  
Roll call vote: Danielle Pray – aye; Jamie Ramsay – aye; Tim Kachmar – aye;  
Charlie Vars – aye; and Doug Kirkwood – aye. Motion carried unanimously.**

718

719

720

721

**Charlie Vars moved to exit deliberations. Jamie Ramsay seconded.  
Roll call vote: Danielle Pray – aye; Jamie Ramsay – aye; Tim Kachmar– aye;  
Charlie Vars – aye; and Doug Kirkwood – aye. Motion carried unanimously.**

722

**OTHER BUSINESS:**

723

724

725

726

Doug Kirkwood stated that he will address the size of the meeting package with Community Development.

727

728

729

730

731

Tim Kachmar noted that Town Hall might be trying to save money by sending the package electronically. But the ZBA members are all volunteers, and it isn’t fair to ask them to print all of the materials at home. He would prefer the electronic copy, but feels that it should be an option to receive a hard copy.

732

733

734

735

736

Charlie Vars stated that there was the option to get the paper packet, in the email that was sent to the members with the electronic version. He mentioned that he contacted Deb Butcher, who had a hard copy printed for Bob Rowe but wasn’t able to get a hold of him, and so Charlie Vars was able to obtain that copy.

737

738

739

740

Tim Kachmar stated that he hadn't read the whole email so didn't see the offer of the paper packet. He suggested that each ZBA member let it be known what his/her preference is ahead of time.

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741 Doug Kirkwood stated that he will sit with Nic Strong to discuss not being told what the  
742 ordinances/RSAs say. He would also like for the packet information to be made more concise.  
743 It's a lot of work to put these packets together, but they do not serve the ZBA well.  
744

745 In response to a question from Danielle Pray, Doug Kirkwood stated that he will also look into if  
746 the ZBA can meet in-person.  
747

**Tim Kachmar moved to adjourn at 10:57 pm. Charlie Vars seconded.**

**Roll call vote: Danielle Pray – aye; Jamie Ramsay – aye; Tim Kachmar – aye;  
Charlie Vars – aye; and Doug Kirkwood – aye. Motion carried unanimously.**

751

752

753

754

755 Respectfully submitted,

756 Kristan Patenaude  
757

758

759

Minutes approved: November 17, 2020

760

761