

TOWN OF AMHERST
Zoning Board of Adjustment

November 17, 2020

APPROVED-Amended

1 In attendance: Robert Rowe – Vice Chair, Charlie Vars, Danielle Pray, and Tim Kachmar
2 (Alternate).

3 Staff present: Nic Strong – Community Development Director, Natasha Kypfer, Town Planner,
4 and Kristan Patenaude, Minute Taker.

5

6 Bob Rowe called the meeting to order at 7:02 pm., with the following statement. As Chair of
7 the Amherst Zoning Board of Adjustment, I find that due to the State of Emergency declared
8 by the Governor as a result of the COVID-19 pandemic and in accordance with the
9 Governor’s Emergency Order #12 pursuant to Executive Order 2020-04, this public body is
10 authorized to meet electronically.

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

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

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

16 We are utilizing Zoom for this electronic meeting.

17

18 All members of the Board have the ability to communicate contemporaneously during this
19 meeting through this platform, and the public has access to contemporaneously listen and, if
20 necessary, participate in this meeting through dialing the following phone #312-626-6799
21 and password 897 9967 1333, or by clicking on the following website address:
22 <https://zoom.us/j/89799671333> that was included in the public notice of this meeting.

23

24 Providing public notice of the necessary information for accessing the meeting:

25 We previously gave notice to the public of the necessary information for accessing the
26 meeting, including how to access the meeting using Zoom or telephonically. Instructions
27 have also been provided on the website of the Zoning Board of Adjustment at:

28 www.amherstnh.gov.

29

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

32

33 Adjourning the meeting if the public is unable to access the meeting:

34 In the event the public is unable to access the meeting, the meeting will be adjourned and
35 rescheduled.

36

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

38

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

42

43 **Roll call attendance: Danielle Pray, Charlie Vars, Robert Rowe, and Tim Kachmar**
44 **– all present and alone.**

November 17, 2020

APPROVED-Amended

45 Bob Rowe explained that each case will be opened and then the applicant will have a chance to
46 speak to it. The ZBA will then carry out its business for each case, including asking questions,
47 hearing from the public and abutters, going into private deliberations, and potentially voting. He
48 stated that the Board will first enter Executive Session to review meeting minutes.

49
50 *Danielle Pray sat for Jamie Ramsay as Secretary.*
51 *Tim Kachmar sat for Doug Kirkwood.*

52
53 OTHER BUSINESS:

54
55 **5. Minutes: February 18, 2020; June 16, 2020; August 18, 2020**

56
57 **Charlie Vars moved to approve the meeting minutes of February 18, 2020, as**
58 **written. Danielle Pray seconded.**

59 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
60 **Kachmar – aye. Motion carried unanimously.**

61
62 **Tim Kachmar moved to approve the meeting minutes of June 16, 2020, as written.**
63 **Danielle Pray seconded.**

64 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
65 **Kachmar – aye. Motion carried unanimously.**

66
67 **Danielle Pray moved to approve the meeting minutes of August 18, 2020, as written.**
68 **Charlie Vars seconded.**

69 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
70 **Kachmar – aye. Motion carried unanimously.**

71
72 **4. Zoning Board of Adjustment – Reorganization**

73 Bob Rowe explained that the Board is about six months behind in reorganizing. He requested
74 that the Board be able to meet in-person to have this discussion. Natasha Kypfer noted that
75 Board/Commission meetings are only being held via Zoom at this time. Bob Rowe requested that
76 this item be brought to Town Administrator Shankle and the Board of Selectmen for
77 consideration. Nic Strong stated that she would ask the question.

78
79 Bob Rowe stated that the Board would now move from Executive Session to hearing cases.

80
81 NEW BUSINESS:

82
83 **3. CASE #: PZ13294-102820 –SPECIAL EXCEPTION Keith E. Healey, as Trustee**
84 **of the Keith E. Healey Revocable Trust of 2014 (Owner & Applicant), 307 Route**
85 **101, PIN #: 008-074-000 –Request for relief from Article IV, Section 4.3,**
86 **Paragraph A to continue to use the property for residential purposes and for the**
87 **purpose of operating his tree service/cordwood business. Zoned Residential Ru-**
88 **ral.**

TOWN OF AMHERST
Zoning Board of Adjustment

November 17, 2020

APPROVED-Amended

89 Danielle Pray read and opened the case.

90

91 Tom Quinn, Esq., attorney for the case, explained that the notices had captioned this as a Special
92 Exception when it was in fact a variance and requested that the case be tabled so that proper
93 notification can be sent.

94

95 **Danielle Pray moved to continue CASE #: PZ13294-102820 to December 15, 2020, at**
96 **7pm via Zoom.**

97

98 **Danielle Pray amended her motion to *table* CASE #: PZ13294-102820 to December**
99 **15, 2020, at 7pm via Zoom. Tim Kachmar seconded.**

100 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
101 **Kachmar – aye. Motion carried unanimously.**

102

103 **1. CASE #: PZ13256-101620 –VARIANCE Obadiah Dart (Owner & Applicant),**
104 **318 Route 101 & 320 Route 101, PIN #: 008-047-000 & 008-048-003–Request for**
105 **relief from Article IV, Section 4,4, Paragraph C. 1&2 to increase the size of**
106 **existing Lot 008-047-000 from 1.09 acres to approximately 1.9 acres by**
107 **adding approximately .8 acres from Lot 008-048-003 and build a residential**
108 **structure on the resulting Lot 008-047-000, *Zoned Northern Transitional*.**

109

110 Danielle Pray read and opened the case.

111

112 Tom Quinn, Esq., explained that he is representing Obadiah Dart in this case, noting that Mr.
113 Dart was present in his office to join the hearing.

114

115 In response to a question from Bob Rowe, Tom Quinn, Esq., explained that the applicant will
116 also need State approval for the septic system and a waiver from RSA 674:41 from the Board of
117 Selectmen. Tom Quinn, Esq., explained that there were two variance applications for the same
118 property and owner at this evening's meeting, one for the acreage and frontage and the other for
119 setback issues, and that the background for the two would be the same. He asked if the ZBA
120 wanted to hear them separately or together. Bob Rowe stated that he preferred to hear them
121 separately.

122

123 Tom Quinn, Esq., stated that the application involves two lots on Route 101, Lot 8-47 comprised
124 of 1.09 acres with access via a 15' right of way over Lot 48-3. Lot 48-3 is also owned by the
125 applicant; it is comprised of 7.08 acres, with about 245' of non-continuous frontage, which is
126 broken up by Lot 48-2. Both lots are located in the Northern Transitional Zone. The lots date
127 back to the parent tract of land in 1921. Around 1931 Lot 8-47 was created, with a right of way
128 included in the deed in order to access the house on the lot. The house was built in between
129 1920-1930. Lot 8-47 exists as it did in 1931, with no changes to the lot lines or access. In 2007,
130 the owners razed the house on the property, although some of the foundation remains. This
131 location is the proposed build site for the new residence.

132

TOWN OF AMHERST
Zoning Board of Adjustment

November 17, 2020

APPROVED-Amended

133 Tom Quinn, Esq., explained that the prior owners conveyed out parcels 8-48-1, 8-46, and 8-48-2
134 in 1976. Subsequently, the rest of the land was conveyed to the developer of the Saddle Hill
135 subdivision. This request for a lot line adjustment looks to take approximately $\frac{3}{4}$ of an acre from
136 Lot 8-48-3 to add to Lot 8-47, bringing that Lot up to 1.9 acres. Lot 8-47 is not consistent with a
137 lot of record under the Zoning ordinance because it is not shown on a recorded plan. However,
138 this lot predates the adoption of current zoning ordinances, so a variance will be needed for
139 frontage as well as a lot line adjustment.

140

141 In response to a question from Bob Rowe, Tom Quinn, Esq., explained that Lot 8-47 is a
142 separate tax lot. Even though this variance looks to increase the lot in size, it will still not comply
143 with the 3.5-acre zoning requirement, or the 300' frontage requirement. The lot does, however,
144 exist exactly as it was in 1931, without the previous residence. Lot 8-43 will continue to meet
145 zoning requirements, even with the small piece taken out of it.

146

147 Tom Quinn, Esq., reviewed the variance criteria:

148

149 1&2) Granting the variance will not change the essential character of the neighborhood.
150 Lot 8-47 has existed for approximately 90 years, and Lot 8-48-3 has existed for over 40
151 years. Lot 8-46 and Lot 8-48-2 are abutting lots, and neither meet the frontage
152 requirements of the current ordinance. Lot 8-48-1, while not technically an abutting lot, is
153 within 100' of Lot 8-47 and also does not meet the size and frontage requirements of the
154 ordinance. There are other lots in the neighborhood that do not meet the current zoning
155 requirements, Lots 8-46 & 8-48-2. There was also a house on Lot 8-47 for at least 70
156 years, before it was razed in 2007.

157

158 Nor would granting the variance threaten the public health, safety, or welfare. The lot is
159 consistent with its surroundings. Again, the proposed use of Lot 8-47 is for a single-
160 family residence to replace the residence razed in 2007. The residence will be constructed
161 in accord with all applicable building codes and will be served by a duly approved septic
162 system. The proposed residence will have no significant impact on traffic in the
163 neighborhood.

164

165 3) The property is situated in the Northern Transitional Zone, which permits residential
166 use. The property has existed as a separate lot since 1931 and its access has always been
167 over the existing 15' right of way. Changes to the Zoning Ordinance to enact the current
168 acreage and frontage requirements took place decades after the lot was created. The
169 property was improved with a single-family residence until 2007. Granting the variance
170 would allow for residential use of the property. Denial of the variance would deprive the
171 Applicant any reasonable use of the property. Denial of the variance would result in
172 substantial loss to the Applicant that is not outweighed by any benefit to the public.

173

174 4) Granting the variance will allow construction of one single family residence on the
175 property. This neighborhood is characterized by residential uses of various types and
176 value. The existing Lot 8-47 is being increased in size, even though it will still not be

November 17, 2020

APPROVED-Amended

177 compliant. That lot will be smaller than currently required, and the access will be via a
178 right of way that will not diminish the value of surrounding properties.

179
180 5a) The Applicant's property is unlike undeveloped properties in the area, in that it is a
181 separate and distinct lot that has been in existence since 1931. The property has always
182 been accessed via a right of way which dates back to the creation of the property. The
183 property lacks frontage but has a legal access. The existence of the property as a separate
184 lot and the right of way pre-date the adoption of zoning in Amherst.

185
186 There is no fair and substantial relationship between the general public purpose of the
187 ordinance provisions and the specific application of those provisions to the Applicant's
188 property. The general purpose of the frontage requirement for lots in the Northern
189 Transitional Zone is to prevent the proliferation of back lots and other lots without
190 frontage, thereby leading to increased residential density, and the number of curb cuts
191 and driveways which could cause safety concerns. Granting the variance will not
192 interfere with the general purpose of the ordinance because the property is the only
193 existing back lot lacking frontage in the area. Shared driveways are permitted in this
194 Zone. The shared driveway can be utilized without endangering public or private safety.

195
196 The proposed use of the property for one single-family residence is a reasonable use of
197 the property. Single-family residential use is a permitted use in the Zone. Shared
198 driveways are permitted in the Zone. The need for a variance arises solely from the fact
199 that the lot existed prior to zoning and lacks frontage and that the lot does not comply
200 with current zoning regulations.

201
202 5b) Article IV, Section 4.4 B. sets forth the permitted uses in the Northern Transitional
203 Zone, none of which are practical or even possible without a variance. The requirement,
204 that a lot have frontage, is not applicable to any specific use permitted in the Zone. The
205 requirement is applicable to all uses in the Zone. Without the variance, the Applicant will
206 not have reasonable use of the property.

207
208 In response to a question from Bob Rowe regarding non-conforming uses, Tom Quinn, Esq.,
209 stated that the general language of Section 3.2 states that, if the use of the property has been
210 abandoned for 18 months, then its non-conforming status lapses. Tom Quinn, Esq., stated that he
211 doesn't believe this applies to this case, but, even if it did, the Applicant is not approaching this
212 situation as a non-conforming use. He stated that increasing the size of Lot 8-47 is beneficial to
213 the property and the use of the property. Bob Rowe pointed out that Lot 8-48-3 was being re-
214 duced in size. Tom Quinn, Esq., stated that it still remained larger than the current minimum lot
215 size requirement.

216
217 Bob Rowe pointed out that there is a garage onsite that could be used any time the applicant
218 wanted. He then went on to ask if the two lots had to be merged because they were owned by the
219 same person. Tom Quinn, Esq., acknowledged that there is still a garage structure that exists on
220 the site. He then went on to explain that there is no issue of merging lots owned by the same

TOWN OF AMHERST
Zoning Board of Adjustment

November 17, 2020

APPROVED-Amended

221 owner, because of legislation passed in 2010-2011 stating that common ownership does not con-
222 stitute merger. He pointed out that there was legislation that allowed a property owner to ask for
223 lots to be unmerged if the town had done that in the past. He also noted that there was a court
224 case from Hudson, NH, that indicated that if improvements on one lot were required to get ap-
225 provals on another lot, then the two could not be merged.

226
227 In response to a question from Bob Rowe, Tom Quinn, Esq., noted that this client does pay two
228 tax bills for these properties.

229
230 In response to a question from Danielle Pray, Tom Quinn, Esq., explained that the lot line
231 variance is necessary because Lot 8-47 does not comply with zoning requirements, so the
232 variance is necessary to allow the lot to be made larger. If the variance is granted, it will be
233 conditional that the approximately 0.8 acres will be transferred from one lot to the other.

234
235 In response to a question from Danielle Pray, Tom Quinn, Esq., stated that the existing lot lacks
236 frontage and doesn't meet the minimum lot size requirements, thus if the variance is not granted
237 there will be a hardship to the Applicant in that the lot will not be able to be used for any purpose
238 in this zone.

239
240 Tom Quinn, Esq., explained that he understood the purpose of the Northern Transitional Zone
241 but noted that the purpose of variances is to allow for unusual or unique circumstances of a
242 property. The Applicant is trying to legitimize the current use of the current lot that pre-dates the
243 current zoning ordinances.

244
245 Danielle Pray noted that some alternative options for the lot might include farm, agricultural
246 nursery, etc. Tom Quinn, Esq., explained that, without access and the requested variance, this lot
247 does not qualify for these purposes either.

248
249 In response to a question from Bob Rowe, Tom Quinn, Esq., explained that, if the Applicant was
250 creating the lot and had an extra 35' on the property to use for a 35' reduced frontage, it would
251 seek allowance for that access from the Planning Board. However, if the 15' strip of land was
252 expanded, it would likely create the need for another variance due to the setback on Lot 8-48-3.
253 If this variance can be received from the Zoning Board of Adjustment, the Applicant will only
254 need to go to the Planning Board for approval of the lot line adjustment.

255
256 In response to a question from Charlie Vars, Tom Quinn, Esq., explained that the 0.8 acres will
257 be added along the northeasterly corner of Lot 8-47. This area was chosen due to wetlands and
258 the slope of the land along the north and east of the property. Neither Lot 8-47 nor Lot 8-48-3
259 has any further subdivision potential.

260
261 In response to a question from Tim Kachmar, Tom Quinn, Esq., stated that the right of way to
262 these properties is a common driveway with Lot 8-46 and always has been.

263

November 17, 2020

APPROVED-Amended

264 Tom Quinn, Esq., stated again that he understood the concern about the Northern Transitional
265 Zone but that there are areas of town that don't fit modern regulations and the variance process
266 allows to adjust for those. He stated that he is not creating a new lot that doesn't comply.
267

268 **2. CASE #: PZ13292-102820 –VARIANCE Obadiah Dart (Owner & Applicant),**
269 **318 Route 101, PIN #: 008-047-000–Request for relief from Article IV, Section**
270 **4.4, Paragraph D.2.to construct a residential structure at a distance of 19 feet**
271 **from the westerly sideline of the property. Zoned Northern Transitional.**
272

273 Tom Quinn, Esq., noted that the background information for this case is identical to the last case.
274 Please review lines 123-139 in these minutes for this information.
275

276 Tom Quinn, Esq., explained that the intention is to construct the new residential structure is
277 almost the same place that the previous residence was located on the property. The foundation of
278 the previous property has been mostly determined. This is located approximately 19' from the
279 westerly sideline of the property. The proposed residential structure is slightly larger than the
280 previous one was. The proposed structure will continue along the same line of the previous
281 residence, running south-to-north.
282

283 Tom Quinn, Esq., reviewed the variance criteria:
284

285 1&2) Granting the variance will not change the essential character of the neighborhood.
286 The proposed use is a permitted one. The property is setback from Route 101 by
287 approximately 200+' and thus will not be readily visible from Route 101, if at all. The
288 proposed residence will not face the properties along Saddle Hill. If the Applicant were to
289 build the proposed residence in the spot that the existing barn sits, the house would
290 actually be more visible to the abutters' properties. One nearby abutter has stated that he
291 prefers the proposed location for the residence, than where the barn currently sits. The
292 proposed location of the residence does not encroach visibly on anyone and is not readily
293 visible to nearby roads or properties.
294

295 The proposed setback variance also does not threaten the public health, safety, or welfare.
296 Changing the setback from 19' instead of 40' will not lead to the proposed structure
297 being built on top of any other in the area and will not lead to a congested appearance of
298 the area.
299

300 3) Granting the variance will do substantial justice in this case, because the 40' setback
301 requirement is to make sure that undue congestion is not created. This will not be the case
302 for this property because the surrounding properties have already been developed.
303

304 The proposed location of the property will allow for the Applicant to take advantage of
305 some mature trees on the property and leave them in place. There is a white oak, probably
306 about 100 years old, that will be built into the landscaping of the site. If the proposed
307 residence was moved to a different location on site, it might end up oriented towards

November 17, 2020

APPROVED-Amended

308 Route 101 because of how the land naturally lies. There are significant benefits toward
309 putting the house in its proposed location, but there is no corresponding benefit to the
310 town/public in moving it to a different location on site. The nearest abutting neighbor is
311 in favor of the proposed location because it enhances the view from his lot.

312

313 4) It is unclear how granting the variance will affect surrounding property values one way
314 or another, due to the lack of visibility from the proposed residence.

315

316 5a) The Applicant's property is unlike other properties in the area, in that it is a separate
317 and distinct lot that has been in existence since 1931. The property predates the zoning
318 requirements. The proposed location is a natural location for the house to sit on the
319 property. The surrounding properties have already been developed so that there will be
320 minimum encroachments to their views, while still allowing for use of this property. The
321 general purpose of the ordinance is to disallow undue, unsightly, or congested properties
322 being created. The proposed structure will be barely visible from Route 101, Holly Hill,
323 Saddle Hill, and the other surrounding structures. The difference between a 19' and 40'
324 setback will be undetectable from abutters and the roads. The proposed use is a permitted
325 use, with a preferred view, the ability to preserve trees on site, and the best use of the
326 natural land.

327

328 5b) Article IV, Section 4.4 B. sets forth the permitted uses in the Northern Transitional
329 Zone, none of which are practical or even possible without a variance. The requirement,
330 that a lot have frontage, is not applicable to any specific use permitted in the Zone. The
331 requirement is applicable to all uses in the Zone. Without the variance, the Applicant will
332 not have reasonable use of the property.

333

334 Charlie Vars explained that he rode by the proposed location and believes that the proposed
335 structure is located in the best place and will protect the mature trees on site. He believes this is a
336 valid variance request.

337

338 Public Comment:

339 Lionel Blevins stated that he has a concern with the Applicant clearing space on the property and
340 also the size of the proposed residence, noting that he bought his house for privacy and the old
341 house on Lot 8-47 was small and he could hardly see it. He stated that he liked the lot being
342 wooded and that he would appreciate it if the stonewalls could be maintained.

343

344 Obadiah Dart stated that he mostly plans to leave the site alone. He is planning to make a couple
345 of selective tree cuts on the site, but not to disturb the majority of the area. He is planning to
346 build only a single-level house, a little bit larger than the prior residence.

347

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

349 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
350 **Kachmar – aye. Motion carried unanimously.**

351

November 17, 2020

APPROVED-Amended

352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395

CASE #: PZ13256-101620:
Tim Kachmar moved no regional impact. Danielle Pray seconded.
Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim Kachmar – aye. Motion carried unanimously.

Discussion:

Charlie Vars stated that he believes this is a reasonable request under the circumstances. If the variance is denied, it will take away the Applicant’s right to use Lot 8-47.

Tim Kachmar stated that he agrees with Charlie Vars. This request is not contrary to the public interest as it is an isolated lot. If the variance is denied, the Applicant will have no other use for the lot.

Bob Rowe stated that the request does not violate the goal of the Northern Transitional Zone. The request is to renew a previous use of the lot. It will not increase the density or eliminate the unique nature of this part of Town. It is, thus, a reasonable request.

Bob Rowe moved to grant a variance from the requirement of 3.5 acres for Lot 8-47 and 8-48-3 and allow for the lot line adjustment allowing for the size increase of 8-47 from 1.09 acres to approximately 1.9 acres by adding approximately 0.8 acres from Lot 8-48-3 so that Lot 8-47 can be considered a buildable lot, and authorize access to the Lot by a 15’ right of way, thus eliminating the need for the 300’ frontage requirement. Charlie Vars seconded.

1. The Variance will not be contrary to the public interest.
 - C. Vars – true, this will not alter the character of the neighborhood and it will not harm the public health, safety, or welfare. A residence previously sat on this lot.
 - T. Kachmar– true, there will be no harm from the proposal to the public health, safety, or welfare. It will not alter the character of the neighborhood.
 - D. Pray– true, this application has satisfied all of the necessary requirements. The proposal will not alter the character of the neighborhood, as it is proposed to be a single-family home. Having no frontage does not change the character, nor does less acreage. Single family homes in the area are of a similar type. Traffic also does not appear to be an issue.
 - R. Rowe – true, this request will return the lot to what it was once. It is not contrary to the public interest, as it will only add one single-family house to the area. The proposed variance is consistent with the spirit and intent of the ordinance.
- 4 True**
2. The Variance is consistent with the spirit and the intent of the Ordinance
 - C. Vars – true, the proposal is consistent with the spirit of the ordinance. The lot was laid out in this way prior to the current zoning ordinances.
 - T. Kachmar – true.

November 17, 2020

APPROVED-Amended

- 396 • D. Pray – true, she looks at the purposes of the ordinance for lower density
397 development and she doesn't believe that a single-family home will crowd the land.
398 She also doesn't believe it will create traffic issues. The lot already used to contain a
399 unit on it, so the request does not affect the spirit of the ordinance in any way.
- 400 • R. Rowe – true.
401 **4 True**
402
403 3. Substantial justice is done.
- 404 • T. Kachmar – true, not granting the variance will not allow the Applicant the proper
405 use of his property and will also not benefit the public in any way. Allowing for the
406 variance will bring one of the lots closer into compliance with the size requirements.
- 407 • D. Pray – true, this is a balance test and there is no benefit to the Applicant in
408 allowing the variance that outweighs any harm to the public – as there isn't any harm
409 that will come to the public from this request.
- 410 • C. Vars – true, denying this variance would deprive the Applicant any use of his
411 property.
412 • R. Rowe – true.
413 **4 True**
414
- 415 4. The values of the surrounding properties will not be diminished.
- 416 • C. Vars – true, the proposal will not cause any harm to the surrounding properties. In
417 fact, the proposed single-family residence may clean up the lot a bit and add to the
418 value of surrounding properties.
- 419 • T. Kachmar – true, one of the abutters indicated he was in favor of the proposed
420 location of the residence.
- 421 • D. Pray – true, there is no indication that the surrounding property values will be
422 diminished; the land may, in fact, be improved by this proposal.
- 423 • R. Rowe – true, the proposal is a minor change to the area and will hardly be seen by
424 most. This proposal will have no adverse effects to the surrounding properties.
425 **4 True**
426
- 427 5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary
428 hardship.
- 429 • C. Vars– true, the property has existed in this way since 1931. It has always been
430 accessed by the existing right of way. The proposal will not increase the density of
431 the area. Not granting the variance will leave the owner with no reasonable use of his
432 property.
- 433 • T. Kachmar– true.
434 • D. Pray – true, the general purpose of the ordinance is lower density but there are
435 special considerations to this property because of its preexisting conditions status.
436 The right of way is necessary for frontage requirements, and the preexisting
437 conditions of the site are similar to other properties in the area. The proposed
438 residential use is a reasonable one.

November 17, 2020

APPROVED-Amended

- 439 • R. Rowe – true, the 15’ right of way is deeded to the property. There is no reasonable
440 reason not to permit this use of the property.
441 **4 True**

442

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

444

445 Bob Rowe asked if there were any conditions. Charlie Vars stated that having the Lot Line
446 Adjustment approved by the Planning Board was the only condition he could think of but that
447 had to be done anyway so he did not think it necessary.

448

449 **CASE #: PZ13292-102820**

450

451 **Discussion:**

452

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

- 454 • D. Pray – true, this will not be contrary to the public interest. The proposal will not
455 alter the character of the neighborhood and it will not threaten the public health,
456 safety, or wellness. One abutter shared that he would not object to the proposal in its
457 proposed location.
458 • T. Kachmar– true, the proposal plans to take advantage of the existing footprint of the
459 structure that was on site previously.
460 • C. Vars – true, the proposal is not contrary to the public interest. He thought the
461 proposed location for the structure was the proper one. He said that he could see the
462 trailer through the trees but this was further than most houses around and the proposal
463 is consistent with the spirit of the ordinance.
464 • R. Rowe – true, the 40’ setback requirement is necessary in a congested subdivision
465 location, but this residence will hardly be seen by abutters or the general public.

466 **4 True**

467

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

- 469 • C. Vars – true, if this proposal was located in one of the other Zones in Town, the
470 setback requirement would probably only be 20’, leaving it at a 1’ difference from the
471 requirement.
472 • T. Kachmar – true.
473 • D. Pray – true, part of this ordinance is to prevent encroachment, heightened noise,
474 light, etc. The proposed reduced setback will not cause any of these issues.
475 • R. Rowe – true, the proposal will not result in a negative visual impact. There are
476 trees in the area that will be taken advantage of, in terms of the landscaping of the
477 site.

478 **4 True**

479

480 3. Substantial justice is done.

November 17, 2020

APPROVED-Amended

- 481 • D. Pray – true, the benefit to the applicant of approving the variance is use of his land
482 in the only way it could be used. There is no balance against harm to the general
483 public, as there will be no harm to the public from this proposal.
484 • T. Kachmar – true, approving the variance will allow the applicant to use his property
485 as a residential property. There will be no damage to the general public or abutters
486 from this request.
487 • C. Vars – true, there is indication from a direct abutter that this proposal is acceptable.
488 • R. Rowe – true, there will be no harm to the public from this proposal, especially
489 considering that the right of way has existed as it is for a long time.

490 **4 True**

491
492 4. The values of the surrounding properties will not be diminished.

- 493 • C. Vars – true, the proposal actually looks to clean up the property and will thus not
494 diminish the value of surrounding properties.
495 • T. Kachmar – true, the proposal looks to clean up the property and construct a new
496 residence on the lot, which will not diminish the value of surrounding properties.
497 • D. Pray – true, there has been no evidence or testimonials that the surrounding
498 property values will be diminished.
499 • R. Rowe – true.

500 **4 True**

501
502 5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary
503 hardship.

- 504 • C. Vars – true, there are special conditions on the site, in that the existing conditions
505 were created before the current zoning ordinances.
506 • T. Kachmar– true, the proposed use is a reasonable one. Allowing the proposed
507 setback will allow for a good location for the proposed residence. If the variance is
508 denied, it would place undue hardship on the owner.
509 • D. Pray – true, the applicant wants to put the house in the current location which
510 creates an encroachment but moving it to another area would be a hardship. The
511 proposed use is a reasonable one.
512 • R. Rowe – true, the deeded property came with a 15' deeded right of way 80 or 90
513 years ago. The property was never considered abandoned and the proposed use is a
514 reasonable one.

515 **4 True**

516
517 **The Vice Chair stated that the application, as it passed all of the tests, is granted.**

518
519 **Charlie Vars moved to exit deliberations. Tim Kachmar seconded.**

520 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
521 **Kachmar – aye. Motion carried unanimously.**

522

TOWN OF AMHERST
Zoning Board of Adjustment

November 17, 2020

APPROVED-Amended

523 Tom Quinn, Esq., noted that a letter from abutter, Mr. Russell, was erroneously added to the
524 application and referenced earlier. This letter, while it was written by Mr. Russell, was never
525 signed by him and, thus, should not have been included. He requested that the Board's decision
526 be based on the presentation and not this letter.

527

528 Each Board member noted that s/he did not want any mention of the letter to reflect decisions
529 made by her/him.

530

531 **Charlie Vars moved to enter deliberations, for the purpose of taking care of**
532 **unfinished business on the second variance application. Danielle Pray seconded.**

533 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
534 **Kachmar – aye. Motion carried unanimously.**

535

536 **Tim Kachmar moved no regional impact of CASE #: PZ13292-102820. Charlie Vars**
537 **seconded.**

538 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
539 **Kachmar – aye. Motion carried unanimously.**

540

541 **Tim Kachmar moved to come out of deliberations. Charlie Vars seconded.**

542 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
543 **Kachmar – aye. Motion carried unanimously.**

544

545 **Charlie Vars moved to adjourn the meeting at 9:17pm. Tim Kachmar seconded.**

546 **Roll Call: Danielle Pray - aye, Charlie Vars - aye, Robert Rowe - aye, and Tim**
547 **Kachmar – aye. Motion carried unanimously.**

548

549

550

551

552 Respectfully submitted,

553 Kristan Patenaude

554

555

556 Minutes approved as amended – December 15, 2020

557