

**APPROVED**

**ZONING BOARD OF ADJUSTMENT  
PUBLIC HEARING  
Wednesday November 2, 2022 – 6:00PM  
Lincoln Town Hall, 148 Main Street, Lincoln NH**

\*Hybrid meeting available both in person with social distancing & masks & via Zoom Meeting Platform to allow for town wide participation. A quorum of the Planning Board member must be physically present at the meeting. Although there is space in the large conference room for 8-12 guests in addition to the Board members with social distancing, the public is encouraged to participate remotely using ZOOM.

**Join Zoom Meeting**

<https://us02web.zoom.us/j/81700766161?pwd=WUFKR2N1Zk9xSzI1bVFPRWVzbyt4UT09>

**Meeting ID: 817 0076 6161**

**Passcode: 179696**

Find your local number: <https://us02web.zoom.us/u/kblNuPaMIG>

**Or dial by your location 1-929-205-6099 US (New York)**

(See also town website [www.lincolnnh.org](http://www.lincolnnh.org) for same link, meeting ID and passcode.)

**I. CALL TO ORDER** at 6:05PM by Acting Chairperson Jon Ham

**Members Present:** Acting Chairperson Jon Ham, Member Jack Daly, Member Delia Sullivan, Member Ray D'Amante (via Zoom), Member Myles Moran (via Zoom), Alternate Susan Chenard a Voting Member tonight (via Zoom).

**Excused:** Mark Ehrman

**Staff present:** Planner Carole Bont

**Guests:**

- **Jay P. Bartlett**, resident, (**ABUTTER**), resident & co-owner with Florence Bartlett of 77 Pollard Road (Map 117, Lot 010), Lincoln, NH 03251 (via Zoom).
- **Joseph J. ("JJ") Bujeaud**, resident, (**APPELLANT**) & co-owner with Claire Bujeaud (now deceased) of 74 Pollard Road (Map 117, Lot 057), Lincoln, NH 03251.
- **Tamra (Tammy) Ham**, resident, (**APPELLANT**) of 13 Pleasant Street (Map 113, Lot 058) with a mailing address of 98 US Route 3, Lincoln, NH 03251 and
  - Property owner d/b/a Ham Rentals, LLC of the following:
    1. House, commercial garage & land, 205 Pollard Road (Map 113, Lot 058)
    2. House & land Pleasant Street (Map 113, Lot 083)
  - And member of the Board of Selectmen and wife of Alternate Member of the ZBA, sometimes Acting Chair of the ZBA.

- **Jonathan (Jon) Alan Ham**, resident, of 98 US Route 3 (Map 109, Lot 002) and
  - Property owner as Jonathan Ham of the following:
    1. House & land, 98 US Route 3, Lincoln, NH 03251(M109 L002)
    2. Commercial Garage (Arnold's Garage) and land 98 US Route 3, Lincoln, NH 03251 (M109, L002)
  - Property owner as Jonathan Alan Ham of the following:
    1. House & land at 15 Pleasant Street, Lincoln, NH 03251 (M113 L084)
  - Alternate Member of the ZBA, sometimes Acting Chair of the ZBA and husband to Tamra Ham.
- **Stephanie Libby**, resident, of 9 Pleasant Street, Lincoln, NH 03251 (Map 113, Lot 082) tenant of abutting house owned by Barbara L. Vitale, as Trustee of the Barbara L. Vitale Revocable Trust.
- **Barbara L. Vitale**, resident (**ABUTTER**) of 37 Hanson Farm Road, Lincoln, NH 03251 and
  - Property owner as Barbara L. Vitale, Trustee of the Barbara L. Vitale Revocable Trust, 37 Hanson Farm Road, Lincoln, NH 03251 of the following:
    1. House & land, 9 Pleasant Street (Map 113, Lot 082);
    2. House & land, 37 Hanson Farm Road (Map 105, Lot 003); and
    3. Vacant Land, LO Hanson Farm Road (Map 106, Lot 015).

## **II. CONSIDERATION of meeting minutes from:**

- August 17, 2022 (Present: Acting Chair Jon Ham, Member Jack Daly, Member Delia Sullivan, Member Myles Moran, and Alternate Susan Chenard (via Zoom)).

**Motion to nominate Jon Ham as Acting Chairperson by Member Daly**

**Second by Member Sullivan**

**All in favor**

**Motion to approve the minutes of the ZBA August 17, 2022 as distributed by Member Daly**

**Second by Acting Chairperson Ham**

**All in favor**

## **III. NEW BUSINESS (Staff and Zoning Board Member/Alternates).**

**\*\*\*Member Daly, as a member of the Board of Selectmen, has recused himself from the meeting as he has been advised to do so by counsel. \*\*\*\***

### **A. Request for Special Exception (SE).**

**[SE 2022-01 M117 L057 Joseph (JJ) Bujeaud – A Special Exception to put a detached accessory apartment above the garage in the Rural Residential (RR) District where a special exception is required.]**

**1. Appellant Joseph (JJ) Bujeaud**

74 Pollard Road  
Lincoln, NH 03251

**Subject Property:** 74 Pollard Road (Map 117, Lot 057) [0.9 Acres in the Rural Residential (RR) District] co-owned with Claire E. Bujeaud (now deceased)

**Proposal:** Requests a Special Exceptions from the ZBA as required under Land Use Plan Ordinance (LUPO), Article VI (District and District Regulations) Section B. District Regulations, Paragraph 2. Land Use Schedule, titled: "RESIDENTIAL USES" where Detached Accessory Apartments are only allowed in the Rural Residential (RR) District by Special Exception.

Further, Appellant will address adequate parking for his tenants (2 parking spaces for each residential unit for a total of 4 parking spaces) as required in Article V (General Regulations), Section A, (Parking and Off-Street Loading).

**Surveyor:**

Sabourn & Towner Surveying and Septic Design, PLLC  
1022 Daniel Webster Highway  
North Woodstock, NH 03262

**ACTIONS:** Upon a finding by the ZBA that the application meets the submission requirements the ZBA may vote to accept the application for a Special Exceptions and Variances as administratively complete. The ZBA may conduct a public hearing, or schedule a public hearing at some future date established during this meeting. The ZBA will hold a public hearing on the merits. The Zoning Board will vote to approve, approve with conditions or disapprove the application.

**Presentation:**

Mr. Bujeaud is asked by Acting Chairperson Ham to talk about his plan. He explains that he built a garage with approval to built an empty space on the second floor of the garage. It was his plan to eventually turn the second-floor space into an apartment. He is before the ZBA to ask for a special exemption for an attached apartment in the Rural Residential District. He has submitted his paperwork and is asking the ZBA to grant him the special exemption. He has supplied a hand drawn sketch of the plans for the apartment. He has also provided an aerial photo to show where the parking spaces will be. This apartment will be for his mother-in-law to stay in when she comes to visit and may be used as a rental in the future when she isn't using it.

**Discussion:**

Planner Bont describes the process that will follow if a Special Exception is granted. Acting Chairperson Ham asks if anyone has any questions. Member Chenard asks what the issue is and Planner Bont explains that this is not allowed in the Rural Residential District without a Special Exception. Planner Bont cannot issue a permit without the ZBA reviewing the criteria for a Special Exception.

Planner Bont reads from the application the Criteria for Special Exception aloud and Mr. Bujeaud reads his written responses aloud (see attached Application). Member Chenard asks

what type of rental Mr. Bujeaud is planning. Mr. Bujeaud responds that he isn't sure what type of rental it will be as he hasn't thought that far ahead. Ideally, he would like someone who is working in the area as a seasonal employee to rent the apartment in the future.

**Motion to open public participation by Member Sullivan**  
**Second Susan Chenard**  
**All in favor**

Neighbor, Jay Bartlett states that he is NOT opposed to this at all but would like to know what the ruling on this will be as he has a barn that he would like to add a toilet to. He would like to know more about the Zoning rules regarding the proposed apartment over the garage. Planner Bont clarifies and notes that in the Zoning Ordinance in the Rural Residential District an attached accessory apartment is allowed which would mean if Mr. Bujeaud's garage was attached to his house he could have asked for a Land Use Authorization Permit to put in the apartment as long as it was less than one thousand (1,000) square feet. In this case the garage is NOT attached and in the Zoning Ordinance under the Land Use Schedule on Page 29 for Rural Residential it says for a detached accessory apartment a Special Exception from the ZBA is required. Mr. Bartlett is satisfied with the explanation given and is supportive of Mr. Bujeaud's request to build an apartment above his detached garage.

**Motion to close public comment by Member Sullivan**  
**Second Member Moran**  
**All in favor**

**Motion to approve the Special Exception as written by Member Sullivan**  
**Second by Member Moran**  
**All in favor**

**\*\*\*Acting Chairperson Ham has recused himself as he is married to Tamra Ham. The meeting may continue as there were three members present at the start of the meeting and there will be one (1) physically present and three (3) others present via Zoom. \*\*\***

**\*\*\*\*Chairperson D'Amante will now Chair the meeting moving forward. \*\*\***

**B. 6:00 PM. Request for 2 Variances (Var).**

**[Var 2022-06 M113 L083 Tamra Ham d/b/a Ham Rentals, LLC – Two Variances (1) extend a deck onto the back of the house into the side setback area and (2) replace and expand garage in the side and rear setback areas.]**

**1. Appellant Tamra Ham d/b/a Ham Rentals, LLC**

**98 US Route 3**

**Lincoln, NH 03251**

**Subject Property: 13 Pleasant Street (Map 113, Lot 083) [0.15 Acres in the Rural Residential (RR) District]**

**Proposals:** Requests two (2) Variances from the ZBA as required under Land Use Plan Ordinance (LUPO), both in violation of Article VI (District and District Regulations) Section B. District Regulations, Paragraph 4. LOT AND LOT COVERAGE REQUIREMENTS AND STANDARDS, Dimensional Chart where in the General Residential (GR) District the Side Setback is ten feet (10') from the property boundary line, and the Front and Rear Setback is fifteen feet (15') from the property boundary line.

- a. **Request for a variance to extend a deck onto the back of the house.** Pre-existing house was built in 1930 prior to 1986 adoption of zoning. Pre-existing house is approximately three feet six inches (3'6") versus ten feet (10') from the property boundary line, encroaching six inches (6'6") within the ten-foot (10') side setback area. The proposed deck with A/C unit extends off the back of the house along the same line as the pre-existing house. Both existing house and proposed deck/AC Unit are the same distance (3'6") from the northwest property boundary line and seven feet five inches (7'5") from the neighbor's garage. The neighbor's garage is three feet eleven inches (3'11") from their shared property boundary line.
- b. **Request for a variance to replace the pre-existing fabric garage with a regular stick-built garage and expand the new garage an additional two feet towards the house and away from the property boundary line.** The pre-existing fabric garage in the ten-foot side setback area

There was a stick-built garage on a slab built in 1940, prior to the adoption of zoning in 1986. The 1940s garage was still standing as of 1992, and 1993. On the assessment cards for 2006 & 2012 the structure was referred to as a "Utility Shed" and "shed1". A note on the 2012 assessment card says "GARAGE NOT TO BE BUILT PER OWNER" and "sheds removed" which suggests the garage or "shed" was removed by a prior owner. There is no mention on the assessment cards about when the fabric garage was located on the slab for the garage. The fabric shed was present when Appellant purchased the property in 2019.

The 1940 slab, the 1940 former garage and the existing fabric garage are located five feet (5') from the property boundary line (versus the required ten feet (10') from the property boundary line. A new garage in the same spot would not increase the existing encroachment into the southeast side setback area.

**Surveyor:**

Sabourn & Towner Surveying and Septic Design, PLLC  
1022 Daniel Webster Highway  
North Woodstock, NH 03262

**Presentation:**

Ms. Tamra Ham explains her plans for the proposed garage. She would like to built a new garage in the same location of the original garage that was built in 1940 and taken down and replaced by the "tarpet" garage. She would like to have a safe place for storing bikes, a snowblower, a lawnmower and cars. Ms. Ham would like to increase the size of the garage by two (2) feet

towards her home, away from the property line, which would increase the size of the original garage making it fourteen by twenty-four (14 x 24) feet to allow for two cars. The garage will be a simple single-story garage and will have electricity. The space between the home and the proposed garage will be seven and a half (7 1/2) feet. Ms. Ham is also planning to build a deck (see details above).

Chairperson D'Amante asks the members of the public if they have any questions. There are some neighbors present and none have questions.

**Motion to close public comment by Member Sullivan**

**Second by Member Chenard**

**All in favor**

Chairperson D'Amante asks if any of the ZBA members have any questions. Planner Bont explains that there is a completed application and photos provided. Chairperson D'Amante discusses that he feels that variances are suited for this exact purpose; for when people need relief as circumstances and history has put them in position of needing relief. He strongly considers this under the Zoning Ordinance. There are no public comments against this and he feels that the Zoning Ordinance is designed to help improve the inner town areas of the community that have smaller lots. He feels granting the variance will help the owners to improve their property. He is in favor of granting the variance as needed and requested.

The ZBA reviews the checklist from the application (see attached) and Planner Bont reads the Facts in Support of Granting the Variance aloud. Chairperson D'Amante polls the ZBA members after each item to be sure they agree with each answer. The ZBA agrees with all the answers and all of the criteria have been met.

**Motion to accept application for a variance and approve the variances for the garage and the deck by Member Sullivan**

**Second by Member Moran**

**All in favor**

**IV. CONTINUING AND OTHER BUSINESS:**

Planner Bont will email the ZBA when the next meeting is scheduled.

**V. OTHER BUSINESS** *None*

**VI. PUBLIC PARTICIPATION AND OTHER BUSINESS:** *None*

## **VII. ADJOURNMENT**

**Motion to adjourn by Member Sullivan**

**Second by Member Moran**

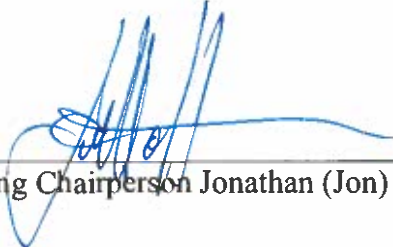
**All in favor**

Respectfully submitted,

*Judy Sherriff*

Recording Secretary

Date Approved: February 15, 2023



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Acting Chairperson Jonathan (Jon) Ham

