



**P L A N N I N G & Z O N I N G**  
D E P A R T M E N T

**ZONING BOARD OF ADJUSTMENT  
PUBLIC HEARING AGENDA  
Wednesday, July 3, 2019 – 6:00PM**

**Lincoln Town Hall, 148 Main Street, Lincoln NH**

**I. CALL TO ORDER** by the Chairman of Zoning Board of Adjustment; announcement of excused absences, if any, and seating of alternates(s), if necessary.

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

- June 19, 2019 (Present: Vice Chair Paul Beaudin, Member Jack Daly, Member Ray D'Amante, Member Delia Sullivan, Alternate Myles Moran and Alternate Susan Chenard)

**III. NEW BUSINESS**

**IV. CONTINUING AND OTHER BUSINESS** (Staff and Zoning Board Member/Alternates).

**A. 6:00 PM. Status Update: Michael and Sonya Hamori** – Var 2018-07 M130 L120 Grant - Variance – build retaining wall within side setback

**VARIANCE** concerning Article VI District and District Regulations, Section B District Regulations, Paragraph 4 (Dimensional Chart) of the zoning ordinance known as the Land Use Plan Ordinance (LUPO) to build a retaining wall that encroaches into the 25-foot side setback areas.

**Appellants & Property Owners:**

Michael and Sonya Hamori  
304 Salem Street  
Andover, MA 01810

**Property:**

11 Beechnut Drive (Tax Map 126, Lot 020) – Mountain Residential (MR) District

**Other Property Owners Directly Impacted by Retaining Wall:**

James Burrows & Reny Burrows  
75 Clairemont Road  
Belmont, MA 02478

**Property:**

5 Beechnut Drive (Tax Map 130, Lot 119) – Mountain Residential (MR) District

**Surveyor:**

Stephen B. Tower, NH LLS, NH Designer  
Sabourn & Tower Surveying and Septic Design, PLLC  
1022 Daniel Webster Highway  
North Woodstock, NH 03262

Appellants requested a variance concerning Article VI (District and District Regulations), Section B (District Regulations), Paragraph 2 (Land Use Schedule), Paragraph 4 (Dimensional Chart) of the Land Use Plan Ordinance (LUPO). The home and original driveway were built in 1978. The lot is steep and narrow. Hamoris' driveway runs along the northern boundary of the lot within the 25' side setback area. Appellant

proposes to substantially expand and extend a retaining wall substantially greater than four feet (4') in height that will extend almost all of the way to the back of the lot. The purpose of the extended retaining wall is to support the driveway and the house and to mitigate run off from the Hamori lot onto the neighbor's lot.

Hamoris already built most of the proposed retaining wall without a Land Use Authorization Permit. The home is located in the "Beechnut I" development, however the Beechnut I Homeowners Association is not active. The home is located at 11 Beechnut Drive (Map 130, Lot 120) in the Mountain Residential (MR) District where the front, side and rear minimum setbacks are 25 feet. Almost the entire retaining wall as proposed will be located within the 25-foot front setback area.

The proposed retaining wall needs a **variance** as specified in the Land Use Plan Ordinance, Article VI Article VI District and District Regulations, Section B District Regulations, Paragraph 4 (Dimensional Chart) to encroach into the twenty-five foot (25') front setback area.

During the Public Hearing held on November 7, 2018, upon reading through the five criteria, the Board found everything was addressed satisfactorily except Criteria 2.

- **Criteria 2 says: If the variance were granted, the spirit of the ordinance would be observed. The variance will in no way violate the spirit of the ordinance.**

The Board agreed that the Hamoris need a completed survey for this lot. If it turns out that the retaining wall is located entirely on Hamori's property, they can proceed as planned. If the retaining wall is not located entirely on Hamori's property, Hamori will need to secure an easement from James & Reny Burroughs.

On May 15, 2019, the ZBA reviewed email letter from Hamori updating the ZBA on the status of survey. ZBA requested that Hamori come in to update them on the status of the retaining wall.

#### **V. OTHER BUSINESS – ZBA members/alternates, Zoning Board Staff**

**VI. PUBLIC PARTICIPATION AND OTHER BUSINESS:** Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the ZBA will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

#### **VII. ADJOURNMENT**