



APPROVED

**TOWN OF WELLS, MAINE
ZONING BOARD OF APPEALS
FINDINGS OF FACT AND CONCLUSIONS**

BACKGROUND OF APPEAL:

The Zoning Board of Appeals (“ZBA”) held a public hearing of a request for a Variation in Nonconformance by Kristen and Vikram Mansharamani (“the Mansharamanis”) on October 26, 2015, pursuant to its authority under § 145-67(A)(2) of the Code of the Town of Wells (the “Town Code”).

The Mansharamanis own 11 Cable Street in Wells, which Property consists of two nonconforming lots and a home that straddles them. The Mansharamanis came before this Board in August 2015, requesting either a variance pursuant to § 145-67(A)(3) of the Town Code, or, a variation in nonconformance pursuant to §§ 145-67(A)(2), which would allow them to move the existing home to one lot, thereby allowing them to build another home on the second lot. On September 21, 2015, the ZBA denied the Mansharamanis’ variance request but granted their request for a variation in nonconformance.

On October 6, 2015, the Mansharamanis filed their current request for variation of nonconformance, which we consider here. The current application would allow the existing home to remain in place, as opposed to the first request, which would require that it be physically moved. Under the Mansharamanis’ proposal now before us, the lot line which bisects the two lots would be reconfigured from its current horizontal orientation to a vertical one. In this way, the home would not need to be moved.

After closing the public hearing, the Board deliberated and unanimously approved the Mansharamanis’ request for a variation of nonconformance. The Chair instructed the Town Attorney to prepare draft findings for the Board’s consideration at its November 9, 2015 meeting. After review and revision of said draft, the Board adopted them, as amended.

BOARD MEMBERS (AND OTHERS) PRESENT:

Board members Wilber Gosbee, Robert Lavoie, John Ardini, Jason Heft, and Dr. Louis Cohen were present at the October 26, 2015 public hearing. Town Attorney, Leah Rachin was also present.

Jodine Adams and James Genereux appeared on behalf of the Code Enforcement Office.

Ms. Kristen Mansharamani appeared on behalf of the Mansharamanis.

FINDINGS OF FACT:

1. The Property is located at 11 Cable Street, Wells, Maine, in the RA zone (the "Property"). It is further identified as Lots 23 and 24 on a 1950's plan of subdivision entitled, "the Bourne Pines Subdivision."
2. When the Mansharamanis purchased the Property in 2003, the approximately 2,000 square feet house traversed Lots 23 and 24. A detached garage also straddles the two lots.
3. The Mansharamanis propose to reconfigure the existing lot line between Lots 23 and 24 from a horizontal orientation to a vertical one so that the existing home need not be moved and the second lot could then accommodate another residential structure.¹
4. The reconfiguration would be consistent with the neighborhood as there are residential structures located on nonconforming lots of sizes similar to Lot 23 and also Lot 24.
5. The proposed reconfiguration would make both lots more conforming than they are currently as to frontage and to various setbacks.
6. The Mansharamanis' first request for variation in nonconformance, granted on September 21, 2015, involved physically moving the existing home so that it would be situated entirely on Lot 24. This first proposal, however, resulted in certain setbacks being less than what the Town Code currently requires in the RA District.
7. While the nonconforming setbacks under the Mansharamanis' first proposal were permissible under § 145-13(E) of the Town Code, the proposal currently before us would mean that *overall*, nonconformities would be reduced (both from existing circumstances and from what would have been permitted under the first approved request for variation in nonconformance). Setbacks on at least two sides of the structure will become less nonconforming.

CONCLUSIONS

1. This Board has jurisdiction pursuant to § 145-67(A)(2) of the Town Code, which provides that "The Zoning Board of Appeals shall have the following powers and duties: To permit variations in nonconformance as prescribed in Article III [of the Town Code]."
2. While the Mansharamanis have been before us within the past year requesting both a variance appeal and a variation of nonconformance with respect to the Property, we find that we may hear the current proposal because it is of a different nature than the prior application. New evidence (a plan showing a different lot configuration) has been

¹ As a result of suggestions by abutter Frank Emery and the Board, the Mansharamanis amended their proposal such that the proposed reconfigured lot line, as show at Tab 5 of their materials, would be moved to a location no less than 15 feet from the back of the existing house.

brought forward that would allow us to consider the current request pursuant to § 145-69(H) of the Town Code.

3. In sum, we find that the proposal currently before us would result in an overall reduction in nonconformities both from what currently exists on the face of the earth, and, from what was approved by this Board on September 21, 2015 under the Mansharamanis' first proposal.
4. Based on our authority under § 145-68 of the Town Code, which allows this Board to impose such reasonable conditions as it deems necessary to fulfill the intent and purpose of the Town Code, all of the following conditions shall apply:
 - (a) The new reconfigured lot line must be situated so that it is located at least 15 feet from the closest point of the existing house.
 - (b) The existing garage must be brought into compliance with all applicable provisions of the Town Code.
 - (c) The Mansharamanis must submit an amended plan to the Code Enforcement Officer by no later than December 31, 2015, evidencing the new location of the reconfigured lot line, the location/setbacks of the existing house in relation to lot lines, and the new location or removal of the existing garage.

DECISION

Based on the above Findings of Fact and Conclusions, the Wells Zoning Board of Appeals voted (5 to 0) to GRANT the Mansharamanis' request for a variation for nonconformance contingent upon them meeting all of the conditions set forth in paragraph 4 above.

NOTICE OF APPEAL RIGHTS

Pursuant to § 145-69(J) of the Town Code, any decision of the Zoning Board of Appeals may be appealed to Superior Court within 45 days after the decision is rendered according to the Maine Rules of Civil Procedure, Rule 80B.

Sincerely,



Wilber L. Gosbee, Chairman