

**Present:** Chairman Henry Dellicker, John Love, and Brian Liberis and Associate Members Jay R. Peabody and Mark Bush.

**Call to Order:** The Chairman called the meeting to order at 7:00 p.m. in Room 014 of the Town Hall.

**Approval of Minutes**

The meeting minutes of September 17, 2014 and October 15, 2014 were approved as written on a motion made by Mr. Love and seconded by Mr. Liberis.

**Deliberation: Dimensional Variance – Brian & Kerry Corbett, 0 Bullard Lane**

**Findings of Fact**

The Board reviewed the application materials, minutes and testimony provided by the Applicant's counsel as well as comment letters from Town agencies: Fire Chief (dated September 15, 2014), Water Department (dated August 28, 2014), Police Department (dated September 8, 2014) and Conservation Agent (dated September 11, 2014). Additionally, members reviewed correspondence from Attorney Gerald M. Moody, representing Thomas Roche of 270 Exchange Street, Millis (dated September 17 and October 2, 2014). Throughout its deliberations, the Zoning Board was mindful of the statements of the Applicant's counsel, and the comments of parties of interest, all as made during the public hearing sessions.

The members reviewed the dimensional attributes of the locus in relation to the requirements of Section IV-B for the Agricultural-Residential District B (AR-2). Also reviewed were details on creation and conveyances of the subject parcel and other parcels held in common ownership as documented in correspondence from title examiner Shelley Rainen of Rainen Law Office, P.C. dated October 13, 2014. Reference was made to a recorded Plan of Land prepared by McCarthy & Sullivan Engineering, prepared for John A. Kostick dated October 4, 1977 (Plan number 1163 of 1977) as well as several other plans of the locus marked as exhibits to Atty. Moody's correspondence of October 2, 2014. It was concluded that the 1977 plan was prepared by an engineer under the provisions of MGL, c. 41, s. 81-X and was not endorsed by either the Holliston or Millis Planning Board under the provisions of MGL, c. 41, s. 81-P. They concluded that the plan makes no conclusions about the lot's zoning compliance and buildability. They also concluded that Holliston Board of Assessors classification of the lot as Property Type Classification Code 132 "Undevelopable Land", as well as the purchase price of the lot, are simply facts that were noted for the record (See Property Record Card for FY14.) and were not in and of themselves determinative on the matter.

The members discussed the merits of the Applicant's attorney's reliance on the Hayhurst v. Campbell case [Land Court No. 262031 (2007)]. They concluded that the facts in that case were quite similar. However, they noted a substantive difference from the Hayhurst case and this case inasmuch as the Hayhurst ruling resulted in a grant of no additional lots beyond what would have otherwise been allowed by right, whereas in this case the combined lots never had sufficient frontage to support three lots. In light of this difference, and in light of the fact that there is no body of case law to support the Applicant's conclusions, they cannot rely on the case to substantiate a grant of relief to this applicant. Members discussed the doctrines of merger and self-created hardship, concluding that while not necessarily intentional, the previous owner of the locus held other parcels in common ownership well

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after the adoption of zoning in Holliston (1953) and well after the current dimensional requirements within this zoning district were enacted by the community (1962). They concluded that the land divisions executed by Mr. Strange were choices that resulted in no action to preserve the locus as a building lot and that other manners of subdivision may have been available to him. They also concluded that the town and county boundary locations had no bearing on the status of the locus. They noted that acknowledgement of common ownership and control is demonstrated in the running description of the parcel deed and its reference to "other land of Grantor" (Book 13308, Page 541).

In accordance with the provisions of Town of Holliston Zoning By-Laws Section VI-D and MGL, c. 40A, s. 10, the Board finds that a grant of the desired relief would substantially derogate from the intent and purpose of the by-law and that the Applicant has not demonstrated substantial hardship under the statute.

**Zoning Board Vote**

The Board's vote to deny the Petitioner's Dimensional Variance application for relief under Section IV-B for property described and located at 0 Bullard Lane was as follows on a motion by Mr. Love, seconded by Mr. Liberis:

Chairman Dellicker    Aye

Mr. Love                    Aye

Mr. Liberis                Aye

**Adjournment:** The meeting adjourned at 9:05 p.m. on a motion made and duly seconded with all in favor. The next meeting was scheduled for November 19, 2014.

Respectfully submitted,

Karen Sherman  
Town Planner