

# Town of Millbury Board of Appeals

Ken Perro, (Chairman)  
Daniel Mezynski, (Vice Chairman)  
Michael Georges, (Clerk)  
Harold Proodian  
Robert Simmarano  
Adam Kobel (Alternate Member)



MUNICIPAL OFFICE BUILDING  
127 ELM STREET  
MILLBURY, MA 01527

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## Meeting Minutes Wednesday, November 30, 2022 7:00 pm

In accordance with Chapter 40A of the Massachusetts General Laws and the Zoning Ordinances with the Town of Millbury, a public hearing was held on Wednesday, November 30, 2022 at 7:05 p.m. in the Large Conference Room at the Municipal Office Building of 127 Elm Street, Millbury, MA 01527

**Board Members Present:** Ken Perro (Chairman), Daniel Mezynski, Michael Georges (Clerk), Harold Proodian, Robert Simmarano and Adam Kobel (Alternate).

**7:00 PM:** – Meeting Minutes from Wednesday, November 9<sup>th</sup>, 2022

**Ken Perro** entertained a motion for the meeting minutes from Wednesday, November 9<sup>th</sup>, 2022.

**Harold Proodian** made a motion to approve the meeting minutes from Wednesday, November 9<sup>th</sup>, 2022,

**Daniel Mezynski** second the motion **Carried unanimously 5 – 0.**

**7:05 PM:** – **Applicant Jacques Leblanc for the property located at 0 Leblanc Drive., Millbury Ma:**

The applicant: **Jacques Leblanc** of 7 Leblanc Drive for the property located at 0 Leblanc Drive., Millbury, Map# 94, Lot# 31, Suburban – I (AWPOD) Zoning District Duly Recorded with the Worcester County Registry of Deeds in Book# 29475 & Page# 84. The applicant is seeking a Dimensional Variance for the reduction in land area in the amount of 3,932 +/- sf out of the abutting lot known as 0 Leblanc Drive. The proposed division of land will require Legal Variances from the Millbury Zoning Board of Appeals from provisions of **Section 32.9 Conformity of Lots** in order to reduce or change this substandard non-buildable lot any further and under MGL Chapter 40a with the Millbury Zoning Bylaws..

**Byron Adrews representing Joseph & Jacques Leblanc of DiPrete Engineering of 104 Mendon Street, Uxbridge, Ma;**

The lot located on 0 Leblanc Drive, Map# 94 & Lot# 31 is a pre-existing non-conforming unoccupied forested parcel. The requirements for a buildable lot in a Suburban – I District for frontage is 200' and land area is 80,000 – sq. ft., this parcel has 175.2 – feet of frontage (24.98' deficient), and 13,272 – sq. ft. of area (66,728 sq. ft. deficient) this lot is labeled as a non-buildable lot, the parcel is owned by Joseph Leblanc. The applicant, Jacques Leblanc of 7 Leblanc Drive is seeking a Dimensional Variance for the property at 0 Leblanc Drive to allow a reduction in land area of 3,932 – sq. ft. from the existing 13,272 – sq. ft. to 9,340 – sq. ft. (70,660 – sf. ft. deficient). Jacques Leblanc is seeking a variance for the property at 0 Leblanc Drive to reduce the area from 13,272 – sq. ft. to 9,340 – sq. ft. (a variance in an S – 1 area would require 70,660 – sq. ft.) The remaining portion of Map# 94, Lot# 31 (9,340 – sq. ft.) will remain unoccupied in its natural state, a wooded lot, there are no current plans for building any structures on this lot and it is intended to be used as open space and additional access to Ramshorn Pond for 7 Leblanc Drive. The applicant is also seeking a frontage variance of 24.98 – feet (the frontage of the parcel will not change). The reduction portion from 0 Leblanc Drive, 3,932 – sq. ft. will be combined with the applicant's property located at 7 Leblanc Drive, this relief will increase the area of the building lot located at 7 Leblanc Drive and bring the lot closer to the required area for a building lot for the Suburban – I Zoning District at a total of 21,950 – sq. ft., (A variance relief of 58,050 would be needed for the required 80,000 – sq. ft. in a Suburban – I (AWPOD-B) Zoning District).

**Chairman Ken Perro** asked the gallery if anyone would like to speak on behalf of the application.

**Abutters:** **Francis DeSimone of 1 Weldon Drive, Millbury** (Mr. DeSimone is not an abutter to the Leblanc Drive area but he is a resident of Millbury and had questions in regards to the reduction of the property and combining it to another property). He was curious if the owners for the lots of Leblanc Drive were creating a non-conforming lot by reducing and combining and later, on this non-conforming lot, is there going to be an attempt to build something on it which would require by coming in front of the planning board and the ZBA again. (The board showed Mr. DeSimone the plans and that the property that is being reduced and highly doubted that there would be any building on it).

**Chairman Ken Perro** asked again the gallery if anyone would like to speak on behalf of the application.

**7:22 PM Closed the Public Hearing:** With no further input from the gallery Chairman Ken Perro entertained a motion to close the public hearing; Harold Proodian made the motion second by Robert Simmarano, the board voted unanimously 5 – 0.

**7:37 PM:** After further discussion Chairman Ken Perro entertained a motion for the property located at 0 Leblanc drive, Millbury, Ma

**Motion:** A Motion was made by; **Michael Georges**, second by **Harold Proodian** for a **Dimensional Variance** to the applicant **Jacques Leblanc** of 7 Leblanc Drive, Millbury, Ma for the property located at 0 Leblanc Drive, Millbury, Ma Map# 94, Lot# 31, Suburban – I (AWPOD) Zoning District, Duly Recorded with the Worcester County Registry of Deeds in Book# 29475, Page# 84;

On July 26, 2017 the Millbury Board of Appeals **GRANTED** zoning relief for street frontage and land area dimensional variances relief to correct legal pre-existing dimensional deficiencies from the Suburban – I (AWPOD-B) Aquifer Water Protection Overlay Zoning District requirements under **Section 47.9**. The previous Variance granted and recorded was with this property creating a conforming lot. The Dimensional Variances for the reduction in land in the amount of 3,932+/- sq-ft of the abutting lot known as 0 Leblanc Drive, Map# 94, Lot# 3. The proposed division of land requires a legal variance from the Millbury Board of Appeals from the provisions of **Section 32.9 Conformity of Lots** to reduce or change this substandard non-buildable lot pursuant to Massachusetts General Laws Chapter 40a with the Millbury Zoning Bylaws. This motion also finds 9 Leblanc Drive has legal right of way access to Leblanc Drive formerly known as Grove Road in its deed in Plan Book# 351 Plan 119 right of way access easement was shown thru the property in question with bearings and width of the Right of Way through the property known as Map 94 Lot 31. This submitted plan was back on 2017. In order to maintain clarity and insure continued access rights it is legally prudent to show this detail of the actual access information on the proposed plan.

Note: Amend to the address of 9 Leblanc Drive was initially motioned as 1 Leblanc Drive, therefore corrected as 1 Leblanc Drive. (This is an incorrect amend, in Plan Book 351 Plan 119 right of way access easement is shown through the property with bearings and width of the Right of Way through the property known as Map# 94, Lot# 31 the abutting property 9 Leblanc Drive, Map# 94, Lot# 30, Book# 65381 and Page# 376 has the legal right of way access from Leblanc Drive (formerly known as Grove Rd.) in its deed.

**7:40 PM:** – **Chairman Ken Perro** recused himself from the hearing for Roger & Judith Collette for the property located at 133 Park Hill Ave. due to his connection with abutter Francis Mercadante of 129 Park Hill Ave. and handed over the hearing to **Vice Chairman Daniel Mezynski**.

**Continued from Wednesday, November 9<sup>th</sup>, 2022**

**Applicants Roger & Judith Collette for the property located at 133 Park Hill Ave., Millbury Ma:**

The applicants: **Roger & Juliette Collette** of 133 Park Hill Ave., for the property located at 133 Park Hill Ave., Millbury, Map# 20, Lot# 30, Suburban – IV District Duly Recorded with the Worcester County Registry of Deeds in Book# 6158, Page# 285. The applicant recently constructed an 8x12 accessory shed that does not meet the 10-ft side setbacks **Section 23.34** it will be necessary for the applicant to obtain a Special Use Permit in accordance with the Millbury Zoning Bylaws issued by the Millbury Board of Appeals with **Section 13.21** Special Use Permits.

**Attorney Henry A. Nydam, II of EdenRafferty Attorneys at Law;** Spoke on behalf of the applicants Roger & Judith Collette; Atty. Nydam asked if Paul Stringham would be attending this hearing and unfortunately he was unable to attend. Atty. Nydam explained that a lot of the issues concerning this application required Mr. Stringham's presence.

2. Atty. Nydam continued by giving a detailed back ground about this application/case; it was published in a newspaper back on October 22<sup>nd</sup> that the applicant recently constructed an 8x10 shed on his property that does not meet the required side yard setbacks. Atty. Nydam pointed out that the shed was built in 2018 therefore misleading the public.

3. Atty. Nydam had in hand a letter that was from Mr. Stringham to Mr. Collette, he indicates that in the letter Mr. Stringham explains that his office has been extremely busy since 2017 they have been backed up; as Atty. Nydam explains this was his "excuse." In Mr. Stringham's letter Atty. Nydam quoted, "this office has been extremely busy since my arrival in September of 2017 and unknowingly made an error concerning the legal zoning status of the property, when I approved your permit.

4. This is for a garage structure where Mr. Collette keeps his Caterpillar stored and uses it for snow clearing; the shed was built in 2018 and approved in 2018. The notice says it was recently built, I think this is false and deceptive and I believe it does not provide proper notice; my client has been receiving phone calls from neighbors and people asking what's going on up there? What are you doing? His name is put in a news paper acting like he's been doing something to the town, trying to go against the town. What is he trying to do? Put in a retail space in a private residential zone? No, it's been done and it was built in 2018. The Town of Millbury approved it.

5. This situation has been ongoing. There is an issue here from the complaining party as well, Mr. Mercadante. There's history here, Mr. Mercadante lives next door, he has a commercial trucking business, (the board pointed out that the trucking business has nothing to do with what is being presented here), regardless, there's been ongoing issues back & forth. The complaint was made back in 2018 Mr. Mercadante dropped the complaint and everything was fine until recently. There was a fence issue with Mr. Mercadante's girl friend who wanted the fence broken down.

6. Atty. Nydam has several letters from Mr. Stringham; in these letters he sees unfair and bias treatment of Mr. Mercadante vs. his client Mr. Collette. Atty. Nydam has a letter from January 3<sup>rd</sup> from Mr. Stringham to Mr. Mercadante, he points out that in the letter Mr. Stringham acknowledges that he is aware that Mr. Mercadante is violating the variance by parking commercial vehicles at his residential property, in the letter he basically say's that he will turn a blind eye due to the fact that it is taking him so long to get to the complaint on your neighbor (Mr. Collette).

7. Atty. Nydam has an issue with that. To start, Mr. Stringham explains to him that I will turn a blind eye to you and the trucks and he denies the zoning application. (Vice Chairman Daniel Mezynski points out that the truck's in the neighbor's yard has nothing to do with this application). Atty. Nydam acknowledges no they are not but concurs that it is back ground to understand how this occurred and why.

8. Atty. Nydam only mentions all this because of the September 21 letters that went out, however he has another letter to Mr. Mercadante informing him that yes your complaint has been processed.

9. Atty. Nydam read from a paragraph in the letter; as I have stated to the town manager we strongly suggest that you really should consider reapplying for the use variance to legally allow your right to park limited quantities of your oversized dump trucks on your property, it is a one and a half ton weight class from the board of appeals restriction in section 41.

10. He's giving him advice about how he can apply and what he should do, he's being proactive. In January he mentions I'll turn a blind eye in September he's saying, yeah I'm going to issue your complaint against your neighbor but I strongly suggest you apply for this variance.

11. In a letter to Mr. Collette from Mr. Stringham he states that they made a mistake they were very busy, they've been busy since 2017 when he started and that they made a mistake when they approved this permit. The structure is built, it's been built and it's been there and not only has it been built but there has been issues with the neighbor regarding that structure and Mr. Collette had to end up putting a gutter on that structure to prevent the rain flow from going onto his property.

12. Atty. Nydam points out; It's 2022 I don't believe that this issue is with my clients shed. If at all the issue is more of a tit for tat – back and forth. Mr. Mercadante complained about the fence, he couldn't get anywhere with that so now he's going to back and argue about the shed which has been there for five years, the doctrine out lasts this he missed the opportunity, he saw it get built and did nothing.

13. Adam Kobel intervened; does the town not have enforcement capabilities after six years after the permit is granted? Atty. Nydam agrees that they absolutely do and that it is within their right but as fairness I don't think that holds any water when the town admits that they made a mistake because they were busy or over worked, I don't think that a court is going to find that a five year delay and then falsely publishing in the news paper that this is a recently built structure, I think that's misleading and I don't think it's fair. He's had this structure up for a period of time I don't believe that there's any merit to this claim at this time, it's been five years. It's not blocking any view. It's not obstructing the property. Mr. Collette has been working with Mr. Mercadante and accommodating. This is a structure that was built and paid for at \$10,000 dollars approximately over five years ago and then **knock it down** is what he's being ordered to do, to take this structure down which he had legally for five years.

14. Atty. Nydam would argue that there is a severe hardship that there is a time period that has lapsed and makes it unfair. Mr. Collette had to pay \$375.00 just to come here before this board for something the board has approved five years ago. Mr. Collette is a Vietnam Veteran, he's been living in the town of Millbury for 47 years, he was a commander of the VFW, he's still actively involved with the Vietnam Veterans. He's the chaplain for the Vietnam War Veterans here in Massachusetts. He became upset when Atty. Nydam met with him and Atty. Nydam admits he's upset too because he just doesn't think that this is fair and that the facts to this case and the back ground to provide clarity and the truth of the matter is it wasn't recently constructed and it's five years old.

#### **Questions from the Board:**

Adam Kobel asked if Atty. Nydam had a copy of the permit that he could look at; he did and there is a copy of the permit on file with the Town of Millbury.

Daniel Mezynski questioned the permit due to the sheds size, Adam Kobel pointed out that you still have to file for a permit with the town when constructing a shed that is below 10x12.

Adam Kobel would like to know exactly, how big is the shed? He claims it's not listed in the application or on the permit. They believe it's 8x10 but Mr. Collette thinks it might be bigger, he parks his Caterpillar in it and that is about 11' high, 5' wide and 8' to 7' long.

Adam Kobel; Do you know what the property line is? It is close to the property line, it is a nonconforming property.

Adam Kobel; Do you know if the gutter hangs over the property line? Answer: The gutter does but the gutter was put in to correct the rain water from falling on to Mr. Mercadante's property.

Daniel Mezynski; when was the last time the property was surveyed? Answer: Decades, the house was nonconforming and built prior to 1957.

Adam Kobel; Do you think this board can approve an encroachment on to someone else's property?

Atty. Nydam; An encroachment, as far as the gutter hanging over, I would say the gutter was made as an accommodation by my client trying to work with the town, if he has to remove the gutter then that's something we can address and take care of.

Daniel Mezynski; It's not the only structure there that's close to the property line, everything there is right on the property line.

Harold Proodian; Are they attached?

Atty. Nydam; No they're not all attached and this one is right in the middle, it's not like this structure is on the road or close to the road blocking any views or anything it's right in the middle of his property.

Daniel Mezynski; My thinking tonight is that we would be able to get through this one quickly because we heard all the facts from last month, Atty. Nydam has addressed some of the issues in a new way, thank you for that, is there anything else that needs to be said?

Harold Proodian; What would you do to make this right and what can you do?

Atty. Nydam; To make this right? I think they're having neighbor issues, I've been in criminal law before, I've been with the District Atty. Office for five years, I've been a prosecutor for a long time, neighbor disputes happen, it's an unfortunate situation and it happens all too often. At this point I don't know what will be accomplished by taking down his shed anything positive besides retribution and or spite, I don't know if this structure affects them at all.

Daniel Mezynski; I was hoping the neighbors would for the last couple of weeks talk to each other and come to some compromise, shake hands or something but that has not occurred.

Harold Proodian; Is it possible to move that forward five feet?

Atty. Nydam; I don't think it's possible to move it any further, the piece of equipment he keeps in there is a Caterpillar 2014, it cost him \$50,000+ and he's kept it in good condition because of the garage and that's why he's been able to have that out there and keep it on his property.

Robert Simmarano; you said something earlier in your statement about an order being put forward to demo the shed I want to know who put that order? (refer to paragraph 13).

Daniel Mezynski; Typically 10 feet from the property line in that zoning district is where you need to keep out of that area but there's probably no property in the neighborhood that doesn't violate that.

Atty. Nydam; To answer Robert Simmarano's question, In the letter from September 21, You are hereby ordered to cease and desist from violating Millbury zoning bylaws and you must cease all use of the storage accessory shed, and must immediately remove the roof overhang encroachment created without authorization.

Robert Simmarano; He's not asking for the shed to be démodé he's just asking for something to be done with the roof issue.

Atty. Nydam; Yes. – Harold Proodian: Could it be done? – Robert Simmarano; sounds pretty simple to me.

Adam Kobel; If he doesn't get a variance the next letter is going to say, take it down. You had mentioned you wanted Paul here, why?

Atty. Nydam; The history of it, the wording of the notes to the public stating it was recently built.

Michael Georges; Going back to the roof line, how hard would it be to modify it?

Atty. Nydam; I don't know if there is enough room to remove that portion of the roof and I go back to when it was built and approve that they had to make the accommodation to put that gutter, which is over the property line, to over the water. It's a matter of taking something down they were ordered to fix. Atty. Nydam is open to any suggestions to make this work for his client and not having to take down the whole shed to accommodate the town, it's just a matter of the procedural history of the whole thing and trying to accommodate with past orders having to put the gutter on there then having to take it off, we'll do whatever it takes to accommodate the town.

Daniel Mezynski had some concerns for the time constraint due to another hearing and a motion being composed.

Atty. Nydam; I wouldn't be opposed to the council would like more time.

Harold Proodian; If we had more time could you show that a contractor or yourself could show something that creates a plan that shows us a fix that would be acceptable? Instead of just talking we're going to cut two feet off but have a new eaves drop with two feet in, could you have somebody draw that?

Atty. Nydam; I think that would be a good idea.

Daniel Mezynski; I think there would be a problem with another continuance.

Harold Proodian; If they agree in writing for a continuance otherwise they would be in default if they don't act on it. Tonight is the last night unless you request more time in writing. And maybe the building inspector will be here to help clean up some of the back ground of a misunderstanding because we don't want to tarnish the building inspector I think he was trying to prevent the neighbors from an escalation. (Neighbor squabbles).

**8:05 PM:** – After further discussion and agreement in a public hearing Vice Chairman Daniel Mezynski asked Atty. Henry A. Nydam and the applicants, Roger & Judith Collette of 133 Park Hill Ave., Millbury Ma for the property located at 133 Park Hill Ave., Millbury, Ma if he and the Collette's would be in agreement to continue the hearing to Wednesday, January 25<sup>th</sup>, 2023 @ 7:05pm; Atty. Nydam asked and recommended to the applicants Roger & Judith Collette that they publically agreed to continue with the public hearing for Wednesday, January 25<sup>th</sup>, 2023 @ 7:5pm. (Please see the attached written and signed consent created by Atty. Henry Nydam that he and his clients, the applicants Roger & Judith Collette agree to the continued hearing for Wednesday, January 25<sup>th</sup>, 2023 @ 7:05pm).

**8:10 PM:** – Vice Chairman Daniel Mezynski entertained a motion to continue the public hearing for Wednesday, January 25<sup>th</sup>, 2022; Adam Kobel made a motion to continue the public hearing for Wednesday, January 25<sup>th</sup>, 2023 @ 7:05pm for the applicants Roger & Judith Collette for the property at 133 Park Hill Ave. second by Harold Proodian, Carried unanimously 5 – 0.

**Chairman Ken Perro returned to reside over the next hearing for the property located at 29 Park Hill Ave.**

**8:12 PM:** – Applicant Lexington Holdings, LLC of 718 Main St., Acton, Ma for J. Allen & Marilyn Thompson of 29 Park Hill Ave. for the property located at 29-31 Park Hill Ave., Millbury Ma:

Lexington Holdings, LLC of 718 Main St., Acton, Ma, In the Name of the Owners: J. Allen & Marilyn E. Thompson of 29 Park Hill Ave., Millbury for the property located at 29-31 Park Hill Ave., Millbury, Map# 28, Lots# 14 & 15 S – IV District, Duly Recorded with the Worcester County Registry of Deeds in Book# 58993, Page# 52. The applicant is seeking a division of the parcel into 2 lots. Lot 2 will not meet the required street frontage of 150-ft in an Suburban – IV District a Dimensional Variance relief of 50-ft will be required under Section 23.34.

Paul Kirchner of Stamski and McNary, Inc. of 1000 Main St., Acton, Ma 01720 on behalf of, Lexington Holdings, LLC of 718 Main St., Acton, Ma 01720 on behalf of,

J. Allen & Marilyn E. Thompson of 29 Park Hill Ave., Millbury for the property at 29-31 Park Hill Ave., Millbury; Paul Kirchner of Stamski and McNary, Inc., surveyors of the property located at 29-31 Park Hill Ave., Millbury explained to the board; the house is identified as 29 Park Hill Ave. with a 2.4 acre lot with 250 feet of frontage in the Suburban four zoning district and has access to town sewer and water, 20,000 square feet is required and 150 feet minimum frontage. Lexington Holdings purchased the property in 2018 looking to develop the property. They saw a potential to build a subdivision that would require a roadway to accommodate three lots. Construction of a subdivision would be expensive. With everything that comes with a subdivision a road needs to be built and all the infrastructure associated with it, two additional houses and that was not the scale of what the applicant was looking to do. We provided him with another option which requires a variance. Since the lot has only 250 feet of frontage with a 150 feet of minimum frontage they would need a variance for one or both lots. On the way they have to two lots show on the ANR plan that was provided, lot one contains the existing house with the 150 feet of frontage that is provided that meets the zoning requirement. Lot two will only have 100 feet of frontage so a variance is being requested to the lot for a reduction of 50 feet. They feel that the variance is warranted due to the lot shape there's not sufficient frontage to accommodate the two lots as it stands now but they feel it is the better alternative to the construction of the subdivision. They don't feel that this will have a negative impact on the neighborhood as we did provide the concept plan that demonstrates that we could get three lots out of this. The lot we're requesting the variance for is 76,000 square feet which is three times larger than the minimum requirement within the zoning district so they don't feel it's going to create further crowding of the neighborhood.

**8:20 PM Several questions from the Board**

**Chairman Ken Perro** asked the gallery if anyone would like to speak on behalf of the application.

**Abutters:**

**Fran DeSimone of 1 Weldon Drive:** How can you split a lot and make a nonconforming lot and then ask for a variance on said nonconforming lot that you can build on? Adam Kobel explained if you can get a variance. Mr. DeSimone is attempting to do the same thing but was told otherwise that he couldn't. The board had explained to him that he needs to discuss with the Building Inspector what it is that you're trying to do.

**Todd Miles of 40 Park Hill Ave.:** Had sent an email to the Millbury BOA in case he was unable to make the hearing. The email was received and printed out, (please see attached), Mr. Miles read the email to the board.

**Donald Gale of 43 Park Hill Ave.:** "Would like to know if he is going to get the same variance if he gets a variance because I'm an abutter right to that piece of property?" His concern was he going to get special treatment as is the party in question. Ken Perro pointed out that no one is getting any special treatment and continued to explain the same as was told to Mr. DeSimone.

**Fran DeSimone of 1 Weldon Drive:** Again went up to the board with the same argument and the board explained thoroughly how to go about getting a variance and that the lot is still one lot until the applicant gets the Dimensional Variance then is becomes two lots but not until the application for a Dimensional Variance is approved by the board.

**Danielle Miles of 38 Park Hill Ave.:** Ms. Miles explains she lives across the street from 29 Park Hill Ave. in terms of the neighborhood where there has been so many more houses added in terms of the golf course, adding one more house you can apply you can add one more house, however the placement of that driveway is going to make it more susceptible to more car accidents when people try to leave that driveway. The Perez's who live next door to the Thompson's have had issues getting in and out of their driveway. For years on that side of the street they had a driveway that was next to the woods before the Thompson's moved in and since then they had to have a mirror put up. For years they have had difficulties getting in and out of that driveway because of the fact that it on curve and there have always been accidents on that street. A placement of a house on that specific curve would be difficult for those residents getting in and out and making traffic more difficult on the street specifically with the extra houses on the top of the hill as well. Ken Perro pointed out that he was up there that day and he can understand what Ms. Miles is explaining and that it quite possibly be a blind driveway depending on where they plan on placing the driveway.



**Ken Perro** has asked Mr. Kirchner to explain in regards to the placement of the driveway on the lot in question. **Paul Kirchner** pointed out on the plan where it might be but that haven't gotten that far into the plan.

**8:45 PM Closed the Public Hearing:** Chairman Ken Perro entertained a motion to close the public hearing; Michael Georges made the motion second by Robert Simmarano, the board voted unanimously 5 – 0.

**8:55 PM:** After further discussion Chairman Ken Perro entertained a motion for the property located at 29-31 Park Hill Ave, Millbury, Ma

**Motion:** Michael Georges made a motion to act on a petition from: J. Allen & Marilyn E. Thompson for the property located at 29 Park Hill Ave., Millbury, Ma. The motion is for a **Dimensional Variance** to the applicants J. Allen & Marilyn E. Thompson of 29 Park Hill Ave. for the property located at 29 Park Hill Ave., Millbury, Ma. The applicant Lexington Holdings, LLC of 718 Main St., Acton, Ma, acting in the name of said owners: J. Allen & Marilyn E. Thompson of 29 Park Hill Ave., Millbury for the property located at 29-31 Park Hill Ave., Millbury, Map# 28, Lots# 14 & 15 Suburban – IV District, Duly Recorded with the Worcester County Registry of Deeds in Book# 58993, Page# 52. The applicants are seeking a division of the parcel into 2 lots. A Suburban – IV District requires minimum of 150-ft of street frontage. This property located at 29 Park Hill Ave. has 250-ft of legal street frontage. With the division of the property Lot 2 will not meet the required street frontage of 150-ft in a Suburban – IV District a Dimensional Variance relief of 50-ft will be required under **Section 23.34** by the Millbury Zoning Board of Appeals under MGL Chapter 40a with the Millbury Zoning Bylaws.

The Five Member Board Voted 3 Opposed – 2 In Favor.

**Ken Perro** (Chairman) Voted: **Opposed**.

**Daniel Mezynski** (Vice Chairman) Voted: **In Favor**.

**Michael Georges** (Clerk) Voted: **Opposed**.

**Harold Proodian** Voted: **Opposed**.

**Robert Simmarano** Voted: **In Favor**.

With the above stated conditions, feeling that granting this 3 to 2 vote **does** cause substantial harm to the neighborhood and it **does** nullify and substantially derogate the intent or purpose of this bylaw **Section 23.34 Dimensional Variance**.

**9:05 PM:** – Adjournment

With no further New Business **Chairman Ken Perro** entertained a motion to adjourn;

**Adam Kobel** made the motion to adjourn second by **Harold Proodian**, carried unanimously 5 – 0.

**Next Scheduled Meeting:**

**Wednesday, December 28<sup>th</sup>** Cancelled for the Holiday

**Wednesday, January 25<sup>th</sup>, 2023**

**7:05 PM;** Continued from Nov. 9<sup>th</sup> & Nov. 30<sup>th</sup>; Roger & Judith Collette for the property at 133 Park Hill Ave.

Respectfully submitted by Nancy Young Millbury Board of Appeals Administrator



11/30/2022

## Request for Hearing Continuance

I, Henry Nydam, licensed attorney in  
Massachusetts and counsel for Mr. Roger  
Collette of 133 Park Hill Ave, Millbury MA,  
do hereby request this Board allow a  
continuance of this hearing. May this  
writing serve as written evidence of said  
request, which was allowed by the Board  
and continue this hearing to 1/25/2023.

Henry A. Nydam, II  
Attorney



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Fax (508) 795-1811  
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Respectfully submitted,

Attorney Henry A. Nydam II  
Eden Rafferty