

**MEMORANDUM IN SUPPORT OF 57 HENDEE ROAD, LLC's . (DONNA AND BILL
PHILLIPS) VARIANCE REQUEST FOR PROPERTY AT 57 HENDEE ROAD,
ANDOVER, CONNECTICUT**

I. HISTORY:

Donna, and Bill Phillips, as the members of 57 Hendee Road LLC, are the owners of the residence and unimproved land located at 57 Hendee Road.

The residence was built in 1957, and has been used as a private residence ever since.

Donna and Bill were attracted to this property, by the property's unique natural beauty, and its location on the Skungamaug River.

Donna also recognized the potential that the house offered, even though when they purchased the property, the home was dilapidated and in need of significant repairs.

The home has since been refurbished. Bill's daughter, Megan resides in the home. It is the hope that this variance shall be granted, allowing Megan to construct a single-family home on the site located on the plans presented to this board. Thereafter it is currently Donna's intention to reside at the existing home [special note: Bill Phillips owns the residential lot adjoining the property, known as 67 Hendee Road.]

In pursuit of this goal, Bill, and Donna filed the appropriate wetlands application, and wetlands approval was granted.

They have also engaged in informational conversations with the Town's zoning officer, Jim Hallisey. Those conversations with Jim culminated in an on-site meeting with Mr. Hallisey, and the Town's land use attorney, Mark Branse. At that meeting, Mr. Branse provided an opinion that the land usage as proposed by the Phillips would be an appropriate usage in compliance with the Town's flood and ARD zoning regulations.

57 Hendee Road, LLC by members Donna, and Bill Phillips, filed this request for a variance to pursue their hopes of creating a family compound at the location. The property is in the ARD and flood zone. It contains approximately 8.43 acres. As stated, located on the property is a single-family home and a barn/storage building. [The entire parcel is subject to a lot line modification as referred to herein.]

They intend to construct a single-family raised ranch style home, two feet above the calculated flood elevation essentially on a slab, on the east side of the property, close to the south side of Hendee Road. (The location is clearly marked on the plan submitted with their application, as well as on the color- coded map provided to ZBA members during the on-site part of this meeting). The plan also shows the location of the well and septic with notations that both the well installation and septic construction shall be in excess of the Town's requirements.

The proposed house lot will be approximately 1.3 acres. The remaining 7.1 acres, per a lot modification, shall remain part of the 57 Hendee Road residence.

II. HARDSHIP:

Donna, and Bill Phillips (57 Hendee Road, LLC) believe that a failure to grant this variance would result in an exceptional hardship.

- A. The property is located in the ARD and Flood districts. Both districts allow for the construction of single-family dwellings. The Flood Prone zoning regulation requires a variance per its section 10.8. [It should be noted here that the existing home was constructed prior to the establishment of the Flood Prone zoning regulations.]
- B. The property has unusual topography, especially the topography of the building site, which is a physical characteristic not necessarily shared by adjacent parcels. (see the topography as charted on the plan submitted.)
- C. Furthermore, the property is in an ARD and Flood Prone District per the Town of Andover Zoning Map. The ARD district allows for the construction of a single-family dwelling. The Flood Prone District allows for the same construction with a variance per section 10.8.

The location of the Flood Zone A shown on the map filed with the application is based on the FIS Study and field elevations per section 10.4.2 and varies from both the FEMA Firm Map and Zoning Map.

Section 10 was created to outline what is required to build within the Flood Prone District to "promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas". Therefore, a variance of section 10.5 to construct a single-family dwelling and associated improvements in accordance with section 10.8 is requested.

Section 10.7 (Development Standards) lists the criteria for activity within this zone and mentions new construction and residential construction numerous times. This section contains the standards that must be satisfied for the development to be approved. These criteria were used in the proposed design. The proposed design also meets the specific standards (section 10.7.2.1) for new residential construction (lowest floor elevated above the base flood elevation). The proposed development does not contain any activity in the Floodway which conforms to section 10.7.2.4. It is our opinion that the proposed design meets the criteria outlined in section 10.7.

Section 10.7 (Development Standards) was included to provide standards for activity (including new construction) within the Flood Prone Zone. The proposed design was done based on these requirements. Additionally, no construction takes place within the Floodway. Therefore, it is our opinion that the proposed design meets the requirements of section 10.8 (Variance of Section 10) and that a variance to construct a single-family dwelling and associated activity be granted.

- D. Finally, if the variance is granted, as noted in the plans provided, it shall not result in increased flood heights. Threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public or conflict with existing local laws and regulations.

The plans show that all construction precautions shall be taken. The proposed design meets and exceeds the specific standards set forth in the regulations. Most importantly, there will be no activity in the Floodway.

III. GENERAL CONSIDERATIONS FOR GRANTING A VARIANCE:

Section 10.8 of the Andover Zoning regulations establishes the general considerations for granting a variance. They are:

1. The danger that materials may be swept onto other lands to the injury of others.

NOTE: There shall be no activity in the Floodway and as such, practically speaking, nothing should be swept away. Additionally, all safety precautions shall be taken to keep all materials away from the Floodway.

2. The danger to life and property due to flooding or erosion damage.

NOTE: The plans show that the house shall be raised two (2) feet above the calculated flood elevation. All proper construction methods shall be exercised to prevent erosion both during and after construction as set forth in the plans.

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

NOTE: Please see the NOTE in 2. above.

4. The importance of the services provided by the proposed facility.

NOTE: N/A

5. The necessity of the facility to the waterfront location.

NOTE: N/A

6. The availability of alternative locations not subject to flooding or damage.

NOTE: This entire parcel is located in the Flood Prone Zone. The location selected is the highest spot on the lot. The house shall be constructed on two (2) feet above the calculated flood elevation.

7. The compatibility of the proposed use with existing and anticipated development.

NOTE: The proposed residence is entirely compatible with the existing development and it is also a permitted use in both the ARD and flood zone.

8. The relationship of the proposed use to the Comprehensive Plan of Development and Flood plain management.

NOTE: This is a residence located in zones where such a use is permitted. It is in full compliance with the current plan of development and because of the safeguards and added elevations as set out in the plan there should be no effect on flood plan management.

9. The safety of access to the property in times of flood for ordinary and emergency vehicles.

NOTE: The driveway serving the property shall be constructed above the calculated flood elevation EXCEPT where it meets the Town road. The Town road is approximately 1.25 feet below the flood elevation.

10. The expected heights, velocity, durations, rate and rise and sediment transport of flood waters and the effects of wave action, if applicable, at the site.

NOTE: N/A. There shall be no activity in the Floodway.

11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems and streets and bridges.

NOTE: As shown in the plans, the house shall be constructed two (2) feet above the calculated flood elevation. The septic and well water systems shall be installed in such a fashion so as not to be affected by flood waters.

The electric, cable and other utilities shall be provided by the service providers in compliance with building code safety and in a fashion so as not to be affected by flooding.

12. Potential for pollution of waters or contamination of soils.

NOTE: N/A

IV. MISCELLANEOUS INFORMATION: LOT MODIFICATION:

As shown on the plans provided, the building lot shall be 1.3+ acres and the remaining 7.1+ acres shall remain as part of the lot at 57 Hendee Road.

V. CONCLUSION:

For those reasons set forth herein, Donna and Bill Phillips as members of 57 Hendee Road, LLC respectfully request that the requested variance be granted.

By 

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