

**Pequawhonk Subdivision**                      **Edward Thompson**                      **09/06/83**

**DECISION:** Variance denied to allow the construction of a single family dwelling without meeting frontage requirements on Lot 2, Assessor's Plan 88 on the basis that the petitioner failed to demonstrate a hardship and failed to demonstrate that the requested variance would not derogate from the intent and purpose of the By-Law.

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**48 Perch Rock Road**                      **G. William Miller**                      **07/26/89**

**DECISION:** Variance granted to allow the construction of a single family dwelling on Lots 97 & 102, Assessor's Plan 89 to be erected on a 36,007 square foot combined lot with the height of the proposed structure to be 41 1/2 feet consisting of three stories subject to the following conditions: 1) The petitioner will file a covenant suitable to the Building Inspector combining the two lots into one buildable lot with the provision they will not be re-subdivided; and 2) The structure will be limited in use to a single family dwelling containing a kitchen on the first and third floors.

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**34 Perseverance Lane**                      **Eliot & Caroline Taber**                      **08/06/73**

**DECISION:** Variance granted to allow a second apartment or dwelling unit to be placed upon Lot 26G, Assessor's Plan 84 such dwelling unit to be located over an existing three car garage.  
**DECISION 4/24/87:** Variance denied to allow the conversion of an existing shed into a guest house and to allow two dwellings on one lot without subdividing the land on the basis that the zoning requirements could be met by the petitioners putting in a road to gain the needed frontage without granting a variance and that they failed to demonstrate that a substantial hardship existed and also failed to demonstrate that the requested variance would not derogate from the intent and purpose of the By-Law.

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**127-I Pettey Lane**                      **Kathleen Harrison-Beauregard**                      **05-30-07**

**DECISION:** Application for a variance at 127-I Pettey Lane for the construction of two 40' wind turbines was denied due to the applicant's letter of request for dismissal.

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**127-K Pettey Lane**                      **Rose DeNadal**                      **10/22/87**

**DECISION:** Application withdrawn without prejudice to allow the construction of a single family dwelling without meeting Intensity Regulations on Lots 35 & 36, Assessor's Plan 73.

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**133 Pettey Lane**                      **Brian Tomlinson**                      **05/17/17**

**DECISION:** Approved to allow a garage (16ft wide and whatever depth is allowed by the Conservation Commission), with a maximum height of 20ft; and to grant a variance to have an 8ft side setback on the west side (river side) and to have a side setback of 6ft on the east side. The hardship determined was the size, shape and topography of the lot.

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**149 Pettey Lane**                      **William and Julie Lach**                      **11/07/17**

**DECISION:** the Board finds that the request received not to be substantially more detrimental to the neighborhood.

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**159 Pettey Lane**                      **Henry & Barbara Szaro**                      **03/21/84**

**DECISION:** Variance granted to allow the newly constructed garage building to remain at its current location without meeting set-back requirements on Lot 12, Assessor's Plan 73.

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**162B Pettey Lane**                      **Gilbert Costa**                      **04/04/84**

**DECISION:** Variance granted to allow the construction of a garage to be attached to the existing dwelling house with the closest edge of the garage to be not closer than nineteen (19) feet from the street line on Lot 8, Assessor's Plan 73.

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**DECISION:** After several attempts to inquire of Attorney Brian Corey, the Board had not received the information and documentation it had requested several months ago from the Petitioners. The options for the Board at this time would be to (1) continue this hearing to a date in the future; or (2) to deny the petition due to the lack of response and activity on the part of the Petitioners.

**Motion** made, after continuing several hearings at the Petitioners' attorney's request, to deny the petition on the grounds that: (1) the Board does not have sufficient information to proceed and make a determination in this matter; (2) several meetings have been continued since August 2020 due to the Petitioners' or Petitioners' attorney's failure to provide the information and documentation requested by the Board; and (3) the Zoning Board of Appeals clerk has made several attempts to contact the Petitioners and the Petitioners' lawyer requesting the required documentation as well as identifying potential options without response from either the Petitioner or the Petitioners' lawyer. Chairman Menard seconded the motion, which passed by unanimous vote with each individual member of the Board voting aye in a roll call. The petition can be re-filed after a two-year waiting period.

**Pine Hill Road (east side)****Gerald Laberge, Jr.****07/29/76**

**DECISION:** No action taken for a variance to allow a kennel license for twenty-five dogs on land located on Lot 1, Assessor's Plan 42 due to the fact that the petitioner was not the owner of record and the owner was not present to join in the petition. Mr. Laberge was advised that the record owner could re-petition for the variance.

**200 Pine Hill Road****Victor Fagundes- Westport Fair, Inc.****06/01/82**

**DECISION:** Special permit granted to allow the use of the approximate twelve acres of land of Lot 1, Assessor's Plan 37 substantially as shown on a plan attached to the application on file in the office of the Board of Appeals to be used for a fairground under the following conditions: 1) The fair is to be held once per year for a maximum duration of seven (7) days; 2) Adequate off-street parking shall be provided for all fair patrons; 3) The fairground area shall be enclosed by a six-foot high fence; and 4) An engineer's plan subject to this permit must be submitted to the Appeals Board prior to recording of such plan.

**DECISION 8/11/83:** Petitioners allowed to withdraw without prejudice their application for a variance and/or special permit to allow the parking of vehicles in conjunction with the Annual Westport fair on approximately ten (10) acres of a portion of Lot 1, Assessor's Plan 37.

**DECISION 10/7/83:** Special permit granted to allow the use of the approximate six acres of land substantially as shown on a plan attached to the application on file in the office of the Board of Appeals to be used for parking under the following conditions: 1) Lighting will be installed and maintained during the duration of the Fair; 2) A berm or tree line consisting of permanent evergreen trees will be constructed/planted and maintained along the north and east boundaries of the premises excluding the road frontage; 3) to restrict unauthorized use of the premises when the Fair is not in operation in such a manner that it will not be open for public access.

**DECISION 2/7/85:** Special permit denied for the use of the subject property for modest civic and community functions other than the Westport Fair for no more than 18 additional days during the calendar year with no single event consuming more than two days on the basis that the Board determined that the majority of the proposed uses would be detrimental to the overall character of the neighborhood and would not be in harmony with the general purpose and intent of the By-Law.

**DECISION 05/07/98:** Based upon the findings of fact, an opinion by Town Counsel and attached cases and considering Atty. Lantz's opinion, the Board voted unanimously with the five members present and voting throughout, on Mr. Costello's motion, seconded by Mr. Keith it was

determined that the Board lacks the authority to regulate the proposed use by WHF on the locus. The proposed uses are primarily educational and agricultural.

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**202 Pine Hill Road**

**Victor Fagundes**

**02/07/89**

**DECISION:** The Board determined that there was a prior non-conforming use for soil operations on the original two acres portion of the farm and that the proposed additional acre would constitute an extension of a prior non-conforming use. The Board then made a finding that the extension of the existing prior non-conforming use for soil operations on one acre south of the existing operations would not be substantially more detrimental than the existing operations. The original pit area and the one-acre extension area are shown on the plan entitled "Earth Removal Permit Plan, 202 Pine Hill Road, Westport, Massachusetts, prepared for Victor & Leonard Fagundes, dated January 17, 1989, E.J. Flynn Engineers, Inc." on file with the Board of Appeals, copies of which are to be placed on file with the Soil Conservation Board.

**DECISION 4/20/89:** The Board made a finding that the use of the area shown as Lots 25A, 26A and Parcel E as Shown on a plan of land entitled "Plan of Land in Westport, MA owned by Victor and Leonard Fagundes" dated November 28, 1988 for parking and access uses in connection with the Westport Fair would not be substantially more detrimental than its prior non-conforming use as a stump dump to the neighborhood. The Board approved the use of Lots 25A, 25B and Parcel E and shown on Assessor's Plan 37, Lot 1 as mentioned above for parking purposes during the week of the Annual Westport Fair subject to the following conditions: 1) A berm must be constructed on the north boundary line approximately eight feet high and twenty feet wide made of solid type material; and 2) An access/egress entrance to the north parcel parking area is to be constructed on Pine Hill Road near the brow of the hill with the remaining frontage to the parking area being fenced or barricaded in such a manner that motor vehicles will be entering and exiting Pine Hill Road only from the newly constructed entrance and/or the fifty-foot strip lying between the two parcels.

**DECISION 10/23/91:** Request for a finding to allow the Westport Highway Department to place a stone crusher in the gravel pit for a period of six months on land located on Pine Hill Road as shown on Assessor's Plan 41, Lot 4 was withdrawn without prejudice.

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**244 PINE HILL ROAD**

**DANIEL & NICOLE GARDIKIS**

**10/13/20**

**DECISION:** Petitioners requested a Special Permit to construct a detached accessory apartment and garage, with 2 bathrooms, exceeding the allowed amount of square footage to facilitate access and mobility for disabled individuals as mandated by Zoning Bylaw Article 4, Section 4.0.1.D.13. The subject property is located at 244 Pine Hill Road and is shown on Assessor's Map 41, Lot 5.

Board members agreed that the project would not be detrimental to the neighborhood; and that there was ample reasoning to approve the accessory apartment with 2 bathrooms, one bathroom of which to be utilized by an in-law with medical issues; and the increase in square footage would facilitate handicapped access and mobility for future use.

The Board also stated that the Petitioners must adhere to the requirements under the Bylaw; to be constructed pursuant to the plan submitted to the Board dated August 22, 2020; and the Petitioners must request relief from the Board, should they require further changes to the dimensions of the structure.

Motion made, seconded, and voted unanimously to GRANT the Special Permit for an accessory apartment, with conditions, and that the Petitioners comply with Zoning Bylaw Article 4, Section 4.0.1.D.13.

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**400 Pine Hill Road**

**Barbara Angelini**

**12/12/01**

**DECISION:** Variance granted to allow parcel as buildable lot with 3.55 shortage of required 150-ft. frontage. Lot has only 146.45 feet of frontage. No further subdivision of this property.

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**442 Pine Hill Road****Fernandes & Theresa Yared****09/22/76**

**DECISION:** Variance denied to allow a four apartment house on Lot 1, Assessor's Plan 42 on the basis that the petitioners failed to present sufficient evidence that there were special conditions affecting this particular parcel of land and also failed to demonstrate that a substantial hardship exists.

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**655 Pine Hill Road****Robert Haines****02/09/81**

**DECISION:** Variance granted to allow the use of Lot 3C, Assessor's Plan 38 for a welding, hydraulic machine shop and all work related thereto. The prior non-conforming use established for the construction of the building at its original location is affectively transferred to the present building at its present location and all such prior non-conforming use established for this building are abandoned in so far as they related to their old location or foundation.

**DECISION 2/21/86:** The Board had previously transferred a prior non-conforming use for a welding, hydraulic machine shop and all work related thereto to the existing building in February of 1981. The petitioner has operated the business in conjunction with the prior non-conforming status until the present time. The now desires to expand the prior non-conforming use through construction of an addition to the present building. One major reason for the addition was for the construction of bathroom facilities which were mandated by the Board of Health. The remainder of the addition would be expansion of the office and workshop with no additional increase of employees or business operations. The petitioner is going to demolish the existing office space and incorporate the office in the new addition. The addition will conform with all set-back requirements and all other requirements under zoning and building codes. No one appeared in opposition to the proposal. Based upon the above findings of fact the Board made a determination that the proposed extension of the prior non-conforming use would not be substantially detrimental to the neighborhood than the existing use in that there will not be more trucks, employees, nor substantially more business. This determination was made subject to a fifty (50') foot buffer zone of trees around the perimeter of the property and in accordance with the plan submitted by Advance Engineering of Tiverton, R.I. and Gracia and Potter (sewage) of Westport, MA.

**DECISION 10/28/88:** The Board made the determination that the proposed extension of the prior non-conforming use would not be substantially detrimental to the neighborhood than the existing use in that the addition will be for inside storage purposes and should actually be an improvement. This determination was made subject to the following conditions: 1) A fifty foot (50') buffer zone of trees around the perimeter of the property and in accordance with the previous plan submitted prepared by Advance Engineering of Tiverton, R.I. and Gracia and Potter (sewage) of Westport, MA; 2) The new addition is to be used for storage purposes only; 3) No more than 30 employees at any time; 4) The Board determined that this will be the last expansion at that location for the non-conforming use; 5) Shrubbery/trees are to be planted along Pine Hill Road to beautify the area and obscure the building and grounds; 6) The addition/expansion is to be strictly in conformance with the plans submitted as on file with the Appeals Board.

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**667 Pine Hill Road****William White & Alice Manchester  
& Westport Softball League****11/02/87**

**DECISION:** Special Permit granted to utilize approximately five (5) acres of a parcel shown on Assessor's Plan 43, Lot 2 for a softball field with lights. This permit is granted subject to the following conditions: 1) There shall be a minimum of twenty-foot vegetated buffer zone between the field and Old Pine Hill Road 2) The field shall be located approximately as shown on the plan on file with the Appeals Board leaving a buffer zone of approximately 300 feet to the abutter on the south and 600 feet to the abutter on the north 3) Lighting must be approved by the police to avoid safety problems with traffic on Old Pine Hill Road and/or neighborhood

problems 4) The permit is limited to a ten (10) year period with a review of the use of the premises to be presented to the Board at the end of five (5) years at which time the permit may be revoked or amended at the Board's discretion 5) There shall be no alcoholic beverages consumed or sold on the premises, any violation of which will subject this permit to revocation by the Board of Appeals 6) The field shall not be used after 10:00 p.m. on any night 7) No loudspeakers are to be utilized and 8) The field will be utilized by the Westport Softball League, Inc. or other teams under the auspice of the Westport Softball League, Inc.

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**795 Pine Hill Road** **John & Ruth Charig** **09/03/81**

**DECISION:** Variance granted to allow the subdivision of Lot 11, Assessor's Plan 38 into two parcels, one parcel to contain 150' of frontage and 60,000 square feet of area, such parcel to include the house, the second parcel to contain 100' of frontage and all remaining area believed to be in excess of eleven acres. This variance is granted upon the express condition that the large parcel will be limited to the construction of a single family dwelling with normal accessory buildings and upon the condition that the dwelling be constructed to the rear of the other lot.

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**858 Pine Hill Road** **John & Nancy Ferry** **05/18/04**

**DECISION:** Variance is granted due to the finding of fact: 1) When the Petitioners purchased the property in 1981, the frontage was 312.5 feet. 2) The structure is in a residential area and has always been utilized as a two-family residence. 3) Although the lot contains approximately 2.2 acres, the frontage is insufficient at 192.5 feet. 4) The structure's continued use as a two-family residence would not be a hazard to the health and safety of the neighborhood. 5) The Petitioners have no other access to land that they could purchase to increase the frontage. 6) The Petitioners have always been taxed by the Assessor's Office for a two-family residence. 7) No abutters have expressed an objection and, in fact, the Petitioners contend that they have the support of the neighbors. 8) A substantial hardship, financial or otherwise, was created by a decision of the Planning Board in 1999 to approve division of the lots, thereby, making the subject lot with insufficient frontage for a two-family residence. 9) In 1986, the Board of Appeals granted a variance of the set-back requirement and frontage requirement to an adjoining property (not owned by the Petitioners). 10) The granting of a variance here would not be as extensive as that which was granted in 1986 to the neighboring property, in that the Petitioners are requesting a variance of only 7.5 feet of frontage. 11) The granting of this variance would not affect the zoning district in which it is located; would not nullify or substantially derogate from the intent or purpose of the By-Law; and would be in total harmony with the general purpose and intent of the By-Law, specifically based upon the fact that there is no other way to accomplish the required frontage. Property is located on Assessor's Map-43, Lot 13.

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**878 Pine Hill Road** **Kevin & Jacqueline Hill** **04/16/86**

**DECISION:** Variance granted to allow the conversion of the barn on Lot 14, Assessor's Plan 43 labeled as "remaining land" as shown on a plan of land entitled "Plan of Land, Pine Hill Road, Westport, Massachusetts, owned by Jacqueline and Kevin Hill, dated December 4, 1985" and as recorded in the Registry of Deeds (S.D.) Plan Book 112, Page 117 into a two family dwelling without meeting frontage requirements and/or set-back requirements upon the following conditions: 1) Adequate off-street parking be provided for all vehicles using or visiting the premises; 2) The house as shown on the lot labeled "Lot A2" on the above referred to plan shall remain as a single family dwelling; and 3) No parking to be allowed on the west or south sides of the building.

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**929 Pine Hill Road** **Jeffrey & Sandra Dias Trustees** **01/29/14**  
**929 Pine Hill Road Real Estate Trust**

**DECISION:** The petitioner was allowed to withdraw without prejudice their application for a Finding.

**DECISION of 08-16-14:** The petition for a Finding was approved to allow the expansion of the auto repair business to include a convenience store as indicated in the plans, provided that the vehicle sales license and use be terminated as indicated by the petitioner. Also, to allow signage not to exceed 400 sq.ft. as indicated by the examples of the photographs of the signs that currently exist, but not confining them in the future to the exact signs that currently exist; every effort should be made by the applicant to avoid the backing of vehicles into the public roadway; and there is to be no employee parking across the street because that property is not part of this property and it is not part of the approved parking plan; this proposal is not substantially more detrimental to the neighborhood.

**DECISION OF 01-11-17:** The Board approved of a Finding with following conditions, (1) the hours of operation will be 6:30 AM to 9:00 PM (7 days a week); (2) the owner will make a concerted effort to ensure that all delivery vehicles and customer vehicles will not impede the traffic flow in the area; (3) all prior existing conditions of the ZBA decision dated August 8, 2014 at minimum, be maintained; with the Board finding that the expansion of the pre-existing convenience store/package store will not be substantially more detrimental than the existing non-conforming uses to the neighborhood.

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**20 Pleasant Street                                  Robert & Carol Benetti                                  08/09/89**

**DECISION:** Variance granted to construct an addition to the present single family dwelling on Lot 30, Assessor's Plan 25 without complying with set-back requirements subject to the following conditions: 1) The front line of the 20' X 28" addition would be a continuation of the front line of the present building, excluding the porch, being eleven (11) feet from Pleasant Street; and 2) The roof line of the addition will continue the present roof line of the present house and not exceed the existing height.

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**41 Plymouth Ave      Stephen & Deborah Rock and Stephanie & Drew Proske      7/24/2019**

**DECISION:** Applicant requests a Variance from Zoning Bylaw 4.1.3 to allow the subdivision of their lots for purposes of the Rocks conveying a tract of land containing 3,789 sq. ft. to the Proskes, direct abutters. The subject properties are located at 41 Plymouth Boulevard, Westport, MA (Rock) and 35 Plymouth Boulevard, Westport, MA (Proske) and are shown on Assessor's Map 18, Lots 73-74 and Lots 75-78 and are pre-existing, non-conforming lots.

Motion made, seconded, and voted unanimously that the Board issue a Finding that the petitioners' request would not represent any action that would be substantially more detrimental to the neighborhood, that the Board makes clear that this action does not, in and of itself, create new lots, and that the petitioners understand that there may be legal issues that they will be required to address in the future including approval from the Planning Board.

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**Plymouth Boulevard                                  Raymond N. Robinson                                  09/05/70**

**DECISION:** Building permit granted to construct a single family dwelling on Lot 23, Assessor's Plan 18.

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**Plymouth Boulevard (east side)      James Sharples                                  11/04/82**

**DECISION:** Variance granted to allow the construction of a single family dwelling without meeting area requirements on Lot 49, Assessor's Plan 18.

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**110 Plymouth Boulevard                                  Donald & Suzanne Arsenault                                  04/16/70**

**DECISION:** Variance granted to allow the construction of a single family dwelling and the subdivision of land without meeting area requirements on Lot 42, Assessor's Plan 18A.

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**110 Plymouth Boulevard                                  Vincent A. Onarto                                  06/13/96**

**DECISION:** Variance denied for set-back of existing pool building.

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**113 Plymouth Blvd.**

**McKenzie J. Long**

**9/30/21**

Petition of MacKenzie J. Long for Special Permit to convert the existing cottage into a detached one-bedroom accessory apartment as allowed by Recodified Zoning Bylaw Article 9, Section 9.5.2. The subject property is located at 113 Plymouth Boulevard, Westport, MA and is shown on Assessor's Map 18A, Lot 28.

**DECISION:** A motion was made to **GRANT** the special permit with the following conditions:

1. The apartment shall be constructed in accordance with the plan dated January 13, 2021, as submitted and presented to the Board.

2. The Applicant shall comply with all Building Code regulations and the requirements of Recodified Zoning Bylaw Article 9, Section 9.5.2., including Subsections (a) through (j). The motion was seconded. The Board voted unanimously to grant the special permit.

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**115 Plymouth Boulevard**

**M. Paul & Doreen Tremblay**

**08/09/83**

**DECISION:** Variance granted to vary the side-line requirements for the addition to remain in its present location on Lot 29, Assessor's Plan 18A.

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**130 Plymouth Boulevard**

**Richard Mendes**

**08/09/17**

**DECISION:** The Board found that the addition of a Class II Dealers License will not be substantially more detrimental than the pre-existing non-conforming uses to the neighborhood with the following conditions: Hours of operation will be Monday to Saturday 7AM to 5PM – No Sundays; Not to exceed 15 parking spaces for the business; Lighting is to be in a downward position; Signage – there will be no flashing or steady lighting; no banners or flags, etc.; Class II Auto Sales and Repair signs will be limited to 6 sq.ft. each; A vegetated buffer (possible arborvitaes) on both sides of the entrance on Plymouth Boulevard; This request must go before the Planning Board for site plan approval, at which time lights, signage and buffered area will be properly addressed; Repairs are restricted to the garage closest to Plymouth Boulevard (same garage that houses the lifts); and No continuous, major repairs are to be conducted outside of the garage.

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**4 Pond Drive**

**James A. Burns**

**06/24/89**

**DECISION:** Variance granted to allow the petitioner to maintain the existing foundation a minimum of 9 feet 6 inches from the side line set-back on Lot 121, Assessor's Plan 22.

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**Pond Lane**

**Eileen Sheehan**

**07/30/96**

**DECISION:** Variance granted to construct a single-family dwelling without meeting frontage requirements on Pond Lane as shown on Assessor's Plan 89, Lot 136.

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**44 Pratt Avenue**

**John & Cynthia Reynolds**

**05/24/77**

**DECISION:** Variance denied to allow the construction of a utility building to be used occasionally for the shucking of shellfish on Lot 25-U, Assessor's Plan 53 on the basis that the petitioners failed to present sufficient evidence that a hardship exists.

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**20 Primrose Lane**

**John A. Simoes**

**01/31/77**

**DECISION:** Variance granted to allow the construction of a private garage on Lot 75, Assessor's Plan 33 on the west side of the present dwelling, such building not to be erected closer than two feet from the present Town Layout line.

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**6 Prospect Avenue****Robert L. Jenkins****12/05/90**

**DECISION:** Variance denied to allow the construction of a 10' X 30' addition within nine feet from the rear set-back and/or street set-back on Lot 80, Assessor's Plan 89 on the determination that the petitioner had other alternatives available which would allow the construction of an addition in compliance with the By-Law, that the petitioner had failed to demonstrate a substantial hardship or that the proposed use would not derogate from the intent and purpose of the Zoning By-Law.

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**63 Prospect Avenue****Barbara Xifaras****06/08/81**

**DECISION:** Variance granted to allow the conversion of the existing building known as the Charlton Mansion on Lots 88 & 88L, Assessor's Plan 89 into six single family dwelling units subject to the following conditions: 1) The extension and cul de sac of Prospect Avenue must be fully constructed with the standards under Article 39 of the 1979 Annual Town Meeting prior to the issuance of a building permit; 2) Off-street parking is to be provided for a minimum of two cars for each dwelling unit; 3) The access and egress to the property will be from prospect Avenue; 4) Atlantic Avenue is not to be used for access or egress.

**63 Prospect Avenue****Pond Meadow Condominiums****12/16/15**

**DECISION:** Finding and Variance were approved as presented; included with the application were presented plans, which are part of this decision. The conditions, which are to apply to the subject 18,667.9 sq.ft. parcel to be separated from Lot #88-1 are as follows: There will be no further subdivision of the property; It is only to be used for parking and a driveway for Map- 89, Lot 88-E; All existing easements will remain in effect. The hardship is related to the unusual layout lines of Lot #88-1 in the 1981 subdivision.

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