

**TOWN OF HOLDERNESS
Zoning Board of Adjustment
Meeting Minutes July 11, 2023**

Members Present:

Bob Maloney, Chair, Bill Zurhellen, Vice Chair, Kristen Fuller, Eric McLeish, Jude Ruhm, Bryan Sweeney, Alternate and Robin Dorff, Alternate.

Members Not Present: None

Staff Present: Lucinda M. Hannus, Land Use Assistant

Others Present: J. McCormick, Jim & Cynthia Rooney, Joe Wyatt, Pat and David Souter, Nick Byars, Anne Haskell

CALL TO ORDER:

The meeting was called to order at 6:15 P.M.

Chair Bob Maloney led those present in the Pledge of Allegiance and recognized the two alternates in attendance.

APPROVAL OF MINUTES:

Motion: "To approve the minutes of June 13, 2023 as written"

Motion: W. Zurhellen

Second: K. Fuller

Discussion: None

Motion Passes: 6-Yes 0-No 1- Abstention

OLD BUSINESS: Case#480-05-22 Continuation of the application as submitted by Kevin French as agent for Holderness Harbor LLC, for a variance from Section 300.4.1.1 of the Holderness Zoning Ordinance to construct and operate a seasonal boat storage facility as detailed on the plan entitled "A Site Plan for Holderness Harbor LLC" by French Land Services Inc. Surveyed December 2022, located at 24 NH Route 175, Tax Map 239-041-000.

Chair B. Maloney read into the record the email received from Attorney John McCormick as agent for Holderness Harbor, LLC requesting this matter be continued until next month. The board agreed to continue the public hearing on their variance request until August 8, 2023.

Alternate R. Dorff was excused from the meeting.

NEW APPLICATIONS:

Case # 481-06-06 Application as submitted by Joseph Wyatt and Judith Ruhm for a variance from Section 400.8.1.1 for a septic system within the 35' setback, and a variance from Section 400.8.2 for a septic tank within 75' of a domestic water supply and a leach field within 125' of a domestic water supply located at 9 Christian Lane, Tax Map 102-008-000.

Member J. Ruhm recused herself from the board as she is one of the applicants on this variance request. K. Fuller recused herself as she is an abutter to the applicant. B. Maloney acknowledged that he knows the applicant but did not feel that he had a conflict in hearing the application.

As there being only four members of the board still sitting, the chair asked the applicant if they wanted to proceed with the members present. J. Ruhm and J Wyatt responded in the affirmative.

J. Ruhm proceeded to explain to the board that they are requesting the variance in order to replace the failed cesspool that is on the property. The state has approved the design located in the same location as the old tank which according to the septic designer D. Cluff is the best location on this older grandfathered small lot.

B. Maloney asked if this was an existing dwelling and how are they addressing the five variance criteria.

J. Ruhm responded that yes, the dwelling is an existing structure, the failed system needs to be replaced so as to not be a health issue, it is the only place on the property suitable for the new state approved system, a new system is a better environmental situation for the neighborhood, the value of surrounding properties will increase by improving the septic system and that a failed system needs to be replaced in order for the home to be occupied.

E. McLeish emphasized the undersized lot and that he agreed that replacing the system needs to be done.

W. Zurhellen agreed which is also supported by the engineer's letter.

Chair asked if there was any public comment from the audience, as there being none the chair closed the public hearing.

No additional discussion

E. McLeish made a motion to grant the variances requested by the applicant to allow them to replace the failed septic system on this property.

B. Sweeney seconded the motion.

4 – Yes 0 – No Motion approved

J. Ruhm and K. Fuller returned to the table to hear the next case. B. Sweeney was excused from the meeting. A full five-member board was in attendance for the next hearing.

Case # 482-06-12 Application as submitted by John J. McCormack as agent for David & Patricia Souter, for an Equitable Waiver of Dimensional Requirements for a garage that extends approximately 4' 8" into the 35' side setback area located at 44 Pleasant Place Drive, Tax Map 227-011-007.

Attorney J. McCormick introduced David Souter, property owner and Nick Byars, Owl Brook Builders the contractor and explained to the board what happened that caused the construction of the garage to encroach in the side setback. The construction of the building began in the winter, at the time of setting the foundation the builder relied on a ribbon that was in the tree along the side property line to set the location. Evidently, it was later discovered during a survey to re-design the septic system on the lot that this was not the correct flags demarcating the side property line. Neither the owner, the builder or the original surveyor knew where the ribbon came from. The builder found the front property corner pin and sighted down the ribbon which appeared to be the property line but due to the steep gradient of the property from the front to the back the rear corner could not be sighted. He proceeded to construct the garage off this line which actually placed the rear of the garage approximately 5' into the side setback necessitating this request for an equitable waiver of this dimensional requirement.

J. McCormick stated that the cost to remove/relocate the garage would be in the range of \$130,000.00 due to increases in building costs.

E. McLeish stated he feels that this meets the requirements and asked if there was a building permit issued for the original construction.

N. Byars responded yes, and the compliance officer has been to the site on several occasions.

K. Fuller asked why are they not required to ask for a variance

J. McCormick responded that it was a good faith error versus an intent to request a dimensional variance prior to the construction.

E. McLeish responded that there is a different state statute with relaxed criteria for this type of situation.

B. Maloney read into the minutes the four criteria of RSA 674:33a and asked if the applicant felt that they meet all four and if the board members had any issues with these findings.

There being none the chair asked if the audience had any comments or questions.

A. Haskell an abutter wanted to put into the record that she is the most directly affected by this construction and she has absolutely no objection to granting the variance and that she and the property owner have come to an agreement to plant additional trees along the property line.

Hearing no other comments, the chair closed the public hearing.

E. McLeish made a motion to approve the request for an equitable waiver of the side setback dimensional requirement to allow the as-built garage to remain where it was built.

W. Zurhellen seconded the motion

5 – Yes 0 – No Motion approved.

Other Business: None

Next meeting: August 8, 2023

ADJOURNMENT:

The chair asked for a motion to adjourn

Motion: E. MacLeish

Second: J. Ruhm

Discussion: None

Motion Passes: 5-Yes 0-No

Meeting adjourned at 6:40 pm

Respectfully submitted,

Lucinda M. Hannus
Land Use Assistant