

TOWN OF HOLDERNESS
Zoning Board of Adjustment
Meeting Minutes April 13, 2021

Members Present:

Bob Maloney, Chairman	Kristen Fuller, Member	Bill Zurhellen, Member
Judith Ruhm, Member	Eric Macleish, Member	
Bryan Sweeney, Alternate	Robert Dorff, Alternate	

Staff Present: Nancy Decoteau, Landuse Board Assistant

Others Present: M. Barnard M. Roman B. Cummings

CALL TO ORDER:

The meeting was held via Zoom.

Those participating in the Zoom meeting were informed the meeting was being recorded for the purpose of producing the meeting minutes.

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

PLEDGE OF ALLEGIANCE:

B. Maloney led the pledge of allegiance.

APPROVAL OF MINUTES:

Motion: "To approve the minutes of March 17, 2021 as presented."

Motion: B. Zurhellen

Second: K. Fuller

Discussion: None

Motion Passes: 5-YES 0-No

CONTINUED PUBLIC HEARINGS:

Case 454-10-13: Application submitted by Brett W. Allard, Esq. as agent for property identified as Tax Map 236-014-000 in the Rural Residential District located at 40 Mount Fayal Road owned by Michael D. Faiella & Ellen M. Smith Faiella for a variance from Article 300.4.2.1 to permit an accessory dwelling unit in the second story of the existing, detached garage on the property.

B. Maloney opened the Public Hearing and stated for the record that Case 454-10-13 has been withdrawn.

NEW APPLICATIONS:

Case 460-04-13: Application submitted by Matthew Barnard of B. A. Barnard Ent. Inc., on behalf of Matthew Roman, owner of property identified as Tax Map 101-036-000 located at 37 Madison Avenue in the Commercial District Village Area for Variances to the degree necessary from Section 400.8.1(right-of-way setback), 400.8.1.1(property line setback) and 400.8.2(water supply setback) to allow the installation of a State approved septic system within setback areas.

B. Maloney opened the Public Hearing for Case 460-04-13 at 6:16pm.

M. Barnard of B. A. Barnard Enterprises Inc. gave a presentation that included the following information:

- The Variances requested as listed on the plan include the following:

	DISTANCE	HOLDERNESS SETBACK	ZONING ARTICLE	VARIANCE REQUESTED
EDA to Drilled Well	53.6'	125'	400.8.2	71.4'
EDA to Lake	75.5'	125'	400.8.2	49.5'
EDA to Boundary Line	10'	35'	400.8.1.1	25'
EDA to Road	10'	35'	400.8.1	25'
Septic Tank to Boundary Line	25.5'	35'	400.8.1.1	9.5'
Septic Tank to Well	74.1'	75'	400.8.2	.9'
Septic Tank to Road	25.5'	35'	400.8.1	9.5'

- Property lines on the plan are shown as apparent because only one boundary corner marker was located and the other boundary lines were drawn from referencing an old survey of the parcel.
- Existing septic is partially located on the abutting parcel.
- The existing septic being replaced failed last summer.
- Town file indicates effort was made to address the issue back in 1992 and in the mid 2000's.
- New owner, M. Roman, wants to rectify the issue of his septic system being on the abutting parcel.
- The parcel is a small, .516-acre lot.
- The lake and parcel size greatly effect the inability to meet all the town setbacks.
- State septic approval has been obtained.
- State granted a wavier on the location on the well due to the fact it has 110 ft. of casing and they calculated the distance to the leach field from the well using the distance from the bottom of the well casing to the leach field.
- A concrete chambered reinforced with rebar was used to allow the owner to drive/park above the system – because of the smallness of the parcel.
- The proposed septic takes into account the abutting parcel, the lake and the small size of the subject property - and the proposed plan is the best plan possible for the subject parcel.

B. Maloney asked what will be done for the old dry well on the abutting parcel.

M. Roman stated that he will take care of removing and filling in the old dry well on the abutting parcel.

B. Cummings, abutter, stated she is agreeable to M. Roman being responsible to address the old dry well.

B. Maloney asked ZBA members if they had any questions.

E. MacLeish asked if M. Roman had an easement for the dry well to located on the abutting parcel.

M. Roman stated he does not have an easement.

B. Cummings stated her concern regarding the proximity to the well, the water line to the cottage and the proximity to the boundary lines.

B. Cummings stated her hope is that everything fits as best it can in the situation.

B. Maloney stated the ZBA relies on the testimony of licensed septic designers when they state the plan being proposed is the best possible plan for the subject parcel.

B. Maloney closed the Public Hearing at 6:30pm and began deliberations.

B. Maloney led the Board in a review of the five criteria for a Variance.

1. It is not contrary to the public interest.
All 5 members of the Board indicated their agreement.
 2. It is consistent with the spirit of the ordinance.
All 5 members of the Board indicated their agreement.
 3. Substantial justice is done.
All 5 members of the Board indicated their agreement.
 4. There will be no diminution of property values.
All 5 members of the Board indicated their agreement.
 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because conditions of the property distinguish it from other properties in the area so that the property can't be reasonably used without the granting of the requested variances.
All 5 members of the Board indicated their agreement.
- B. Maloney stated with consideration being given to the following:
1. the size of the parcel,
 2. the proximity to the lake,
 3. the failed existing septic and
 4. the fact that the old system was located on an abutting parcel
- that the Effluent Disposal System Design being proposed is the best possible solution.

MOTION: "To approve the variances requested as listed on the plan for Case 460-04-13: Application submitted by Matthew Barnard of B. A. Barnard Ent. Inc., on behalf of Matthew Roman, owner of property identified as Tax Map 101-036-000 located at 37 Madison Avenue in the Commercial District Village Area for Variances to the degree necessary from Section 400.8.1(right-of-way setback), 400.8.1.1(property line setback) and 400.8.2(water supply setback) to allow the installation of a State approved septic system within setback areas."

Motion: B. Zurhellen

Second: K. Fuller

Discussion: Plan referenced: Effluent Disposal System Design

Owner: Matthew Roman Tax Map#: 101-036 Dated: January 2021

Location: 37 Madison Ave., Holderness

Motion Passed: 5 – Yes 0 – No

OTHER BUSINESS:

Next meeting: May 11, 2021

ADJOURNMENT:

At 6:40 P.M. the following motion was made:

MOTION: "To adjourn."

Motion: B. Zurhellen

Second: E. MacLeish

Discussion: None

Motion Passes: 5-YES 0-No

Respectfully submitted,
Nancy Decoteau
Administrative Assistant