

TOWN OF HOLDERNESS
Zoning Board of Adjustment
Regular Meeting Minutes November 10, 2020

Members Present:

Bob Maloney, Chairman	Jude Ruhm, Member	Kristen Fuller, Member
Bill Zurhellen, Member	Eric MacLeish, Member	

Staff Present: Nancy Decoteau, Landuse Board Assistant

Others Present: Nicolas Boyer	Victoria Ivakhno	Ellen Faiella	Kevin Barrett
Roy Tilsley	Matthew Iovanni	Izabell Rossner	Jennifer (ipad)

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.

APPROVAL OF MINUTES: July 14, 2020

Motion: "To approve the minutes of July 14, 2020 as presented."

Motion: B. Zurhellen

Second: K. Fuller

Discussion: None

Motion Passes: 5-YES 0-No

CONTINUED PUBLIC HEARINGS:

B. Maloney introduced the following continued application:

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 at 6:20pm.

R. Tilsley gave a presentation which included the following information:

- He is representing Michael & Ellen Faiella owners of property located at 40 Mount Fayal Road identified as 236-014-000 which is a 1.12-acre parcel with a single-family home and a two-story detached garage with on-site well and septic.
- The single-family home is a 700sq. ft. park model
- Want to add a small accessory dwelling unit to the detached garage
- Property slopes steeply to the east and to the south
- Variance requested from Section 300.4.2.1 and 300.4.2.2 as a detached ADU is not a permitted use in the RR zone.
- Three primary reasons to locate the ADU in the existing detached garage are

1. It makes sense to use the existing structure on the parcel rather than build new
 2. The topography on the parcel is too steep to build an addition on the existing home: south and east sides have steep slopes, north side has the powerline easement, and the home is located on the west side of the building envelope.
 3. The existing home is a 1-bedroom unit and the end result if the Variance is granted will be a total of 2 bedrooms on the parcel (for which there is an existing septic) which is not overusing the 1.12acre parcel
- The purpose of the detached ADU is for guest quarters

R. Tilsley reviewed how the application meets the 5 criteria for a variance.

It is not contrary to the public interest and is consistent with the spirit of the ordinance because

- it does not alter the essential character of the neighborhood nor does not threaten the public health, safety or welfare.
- it is not an overuse to end up with 2 bedrooms on the 1.12ac parcel
- it makes more sense from a planning perspective to use the space in the existing 2-story garage for the ADU rather than try to put an addition on to the existing home

Substantial justice is done because

- there is no gain to the public by denying the variance
- the applicants would be entitled to an ADU if they could meet the Special Exception criteria but it would be a difficult and unnatural addition to the existing home
- the loss to the applicant is great as there is no room for visitors in the existing 1-bedroom home

There will be no diminution of property values because:

- no exterior changes
- sufficient parking already available
- minimal traffic impact
- no health or safety impacts
- 2-bedrooms on the 1.12 parcel is not an intensive use of the property
- existing septic is for a 3-bedroom home

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the following 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 variance:

- very steep slopes on the parcel
- powerline easement restricts development
- existing home is small and makes it reasonable to have a detached ADU
- not seeking to do additional construction but rather use existing space in the 2-story garage
- the use is reasonable and allowed when attached – but the lot and configuration of the existing building do not lend itself to building an addition

B. Maloney confirmed the application is in order, notices were sent and the fees have been paid.

B. Maloney asked if the Faiella's recently purchased the property or if it is for sale.

E. Faiella stated the property is not currently listed for sale.

B. Maloney stated his concern that no topography map was provided to validate the claim the parcel has steep slopes.

R. Tilsley stated the packet included documentation that a variance was granted to Mr. Armstrong in 2002 that was granted due to the slope of the property.

E. Macleish stated the applicant presented nothing that shows the steep slope of the property makes it different from surrounding properties.

B. Maloney asked if expanding the existing home was possible to do while staying within the building envelope.

R. Tilsley stated the area is available but the steep slopes and powerline easement prevent/make it extremely difficult to add on to the existing home.

E. Macleish stated the Board has concerns about setting a precedent with regard to approving a request without evidence that a true hardship exists.

R. Tilsley reviewed the hardship in this application relates to the following four issues of the parcel:

1. It is a steep, difficult parcel
2. The powerline easement prohibits development under the power lines
3. There is an existing space that can be used – in the 2-story garage
4. The existing home is small – and only 2-bedrooms will be the result if granted, which is not an intense use

R. Tilsley stated his opinion that granting this variance will not set a precedent to open the Board up to having to grant a variance to everyone who asks for a detached ADU.

K. Fuller asked what is planned for the space over the garage.

E. Faiella stated a kitchenette/bath/hobbyroom was permitted.

B. Zurhellen asked if other parcels in the area had the same issues with the slope.

E. Faiella stated that their property is more severely sloped than others in the area.

E. Faiella stated the powerlines create a hardship because they make it impossible to build in the one direction that the slope doesn't prohibit them from doing so.

B. Maloney stated there is not enough information to make a decision.

After further discussion, it was determined that the Board members will visit the property prior to making a ruling on the application.

Motion: "To continue Case# 454-10-13 to the December 8, 2020 meeting to allow time for the Board members to visit 40 Mount Fayal Road."

Motion: B. Zurhellen

Second: J. Ruhm

Discussion: It was determined that the Board members can visit the site independently and that no more than two members should visit at the same time.

Motion Passes: 4-YES 1-No (E. Macleish)

B. Maloney opened the Public Hearing for the following application at 7:03pm:

Case 456-11-10: Application submitted by Victoria and Artem Ivakhno for property identified as Tax Map 228-007-000 in the General Residential District located at 433 NH Rt. 175 for a Variance from Article 400.8.2 to the degree necessary to permit a septic system to be within the wetland setback.

V. Ivakhno presented the following information:

- They recently purchased the property
- The existing septic system is a dry-well and deemed to be in failure
- The proposed septic design requires a variance from the wetland setback requirement.
- The proposed plan meets the NH DES requirements.

V. Ivakhno referred to the following plan: Plan of Subsurface Waste Disposal System for Victoria Kostyshena & Artem Ivakhno 433 Route 175 Holderness, NH prepared by Fernstone Associates dated October 15. 2020.

B. Maloney asked if a licensed engineer designed the plan being presented and if it is in his opinion the only viable location for the septic system.

V. Ivakhno stated licensed designer of subsurface disposal systems, Peter Cooperdock, of Fernstone Associates in Castine, ME designed the plan and that it is the only viable location.

B. Maloney asked if any abutters submitted comments.

N. Decoteau no written comments were submitted.

B. Maloney asked if the Board members had questions. No questions were asked.

MOTION: “To approve the variance requested for Case 456-11-10: Application submitted by Victoria and Artem Ivakhno for property identified as Tax Map 228-007-000 in the General Residential District located at 433 NH Rt. 175 for a Variance from Article 400.8.2 to the degree necessary to permit a septic system to be within the wetland setback.”

Motion: B. Maloney

Second: B. Zurhellen

Discussion: Plans/documents referenced: Plan of Subsurface Waste Disposal System for Victoria Kostyshena & Artem Ivakhno 433 Route 175 Holderness, NH prepared by Fernstone Associates dated October 15. 2020.

Motion Passed: 5 – Yes 0 – No

OTHER BUSINESS:

1. Proposed Zoning Amendments 2021

B. Maloney asked Board members if there were any Zoning Amendments they would like to propose for approval at the 2021 annual town meeting.

Board members indicated they did not have any suggestions.

B. Maloney noted there is a Public Hearing on a proposed zoning amendment regarding the lighting of signs on the Agenda for the November 17th meeting.

E. Macleish stated his concern that consideration should be given to what the Ordinance says about political signs.

E. Macleish stated there were political signs posted close to the Holderness Elementary School that had inappropriate language.

E. Macleish asked that the Planning Board consider regulation the time period political sign can be put up, when the signs must be taken down and a limit on the size of the signs.

B. Zurhellen stated that the non-use of foul language on political signs should also be addressed.

2. FY 21/22 Budget Request

The Board agreed the budget request for FY 21/22 should be for the same amount requested for FY 20/21.

MOTION: "To ask that the FY 21/22 budget be funded at the same level as FY20/21."

Motion: J. Ruhm

Second: B. Zurhellen

Discussion: None

Motion Passes: 5 - YES 0 - No

3. Discussion: in person/remote meetings

The Board discussed when/if in person meetings can/should be reinstated.

B. Zurhellen stated that the number of Covid-19 cases is on the rise and it may not be the time to return to in-person meetings.

B. Maloney stated that the December meeting will be a Zoom meeting and that the Board can make a decision regarding the type of meeting month by month.

B. Maloney acknowledged Plymouth Regional High School student Izabell Rossner who joined the meeting as part of a high school civics assignment.

ADJOURNMENT:

At 7:45P.M. the following motion was made:

MOTION: "To adjourn."

Motion: J. Ruhm

Second: K. Fuller

Discussion: None

Motion Passed: 5 – Yes 0 – No

Respectfully submitted,

Nancy Decoteau

Administrative Assistant