

TOWN OF HOLDERNESS
Zoning Board of Adjustment
Meeting Minutes September 13, 2022

Members Present:

Bob Maloney, Chair, Bill Zurhellen, Eric Macleish, Kristen Fuller

Members Not Present: Judith Ruhm, Bryan Sweeney, Robin Dorff

Staff Present: Land Use Assistant, Lucinda M. Hannus

Others Present: Tristan Solomon, Christopher Boldt, Julian and Susan Flannery, Matt Barnard, Ron Huntoon and numerous abutters. Meeting sign in sheet available in file.

CALL TO ORDER:

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

Mr. Maloney advised the applicants that there were only four members available tonight to review and vote on their proposal and asked if they would like to continue the hearing with only the members present. All applicants responded in the affirmative.

APPROVAL OF MINUTES:

Motion: "To approve the minutes of August 9, 2022 as written"

Motion: Bill Zurhellen

Second: Eric Macleish

Discussion: None

Motion Passes: 4-Yes 0-No

New Applications: **Case #472-08-10:** Application submitted by Christopher Boldt, Esq., agent for the Julian and Suzanne Flannery Trust for a variance(s) to Article 400 Section 8.1.2 and 8.2 and Article 700 Section 2.1.2 of the Holderness Zoning Ordinance to tear down, relocate and rebuild a non-conforming dwelling at 110 US Route 3, Tax Map 244 Lot 10 within the shoreland and wetlands setback areas in the General Residential District.

Attorney Christopher Boldt introduced himself as representing the Flannery Trust on this proposal. Attorney Boldt explained to the board that the structure was built sometime in the 1950s at a location less than 10 feet from the water. There are two overlapping wetland buffers on the property which consists of approximately 4.5 acres. The existing structure is completely non-conforming. There is also an existing garage on the property which is staying and no changes are proposed for that structure. The existing septic system pump chamber will be relocated further away from the lake which NH DES will approve.

Attorney Boldt continued his presentation making references and displaying multiple exhibits that had been submitted with the application and noted in articular Exhibit D indicating that the new construction will be contained within the existing disturbed area of the wetland buffer corridors. Exhibit H shows the extensive amount of structural issues with the existing dwelling, that the house has no real foundation, not a full basement with no living space. Attorney Boldt indicated that the structure could be rebuilt on the existing footprint but the applicant would like to move it back away from the water and also increase the square

footage from 1341 sq. ft. to 1693 sq. ft. by expanding the porch. There is also a volumetric increase by expanding the headroom on the second floor. The new structure will be built to be a four-season dwelling, has an existing well and working septic system. Exhibit E & F show that it is not a major expansion / difference between the before and after and that the height will increase approximately 5 feet. Exhibit G shows the height and volumetric increase. Attorney Boldt stated that they could not build a foundation on this existing footprint without blasting.

E. Macleish stated that he felt it was a really good design, that he wants to be helpful to the applicant but felt there was nothing in front of him that was a true hardship that the board could consider to be fair and consistent. What are the special conditions of this lot that differentiate it from surrounding lots in the area.

Attorney Boldt referred to the narrative submitted with the application and would be willing to walk through each criterion.

B. Maloney asked if the structure could be moved back away from the water further.

Attorney Boldt responded that it would then block off the garage, disturb other areas of the wetland buffers, there are significant grade restraints, the property is heavily treed and they had pushed it back as far as possible in their analysis.

B. Maloney was pleased to see that it was a reduction of structure within the shoreland setback.

E. Macleish stated under caselaw as long as there is a use, economics in not part of the criteria to support a hardship.

C. Boldt countered that a consideration of the project as being reasonable would be. Each application is unique and it does not mean that any case presented hereafter has carte blanche approval because you approved this application. The applicant thought that they could rehab the building when they bought it but it became evident after further investigation that that approach was not a possibility, especially for the foundation. The narrative gave findings of fact, how we meet the five criteria for approval of the necessary variances. We have submitted letters of support from abutters and a copy of the approved shoreland permit from NH DES. The current septic system works fine and can support a five-bedroom dwelling.

The contractor for the applicant stated that the existing structure has a mishmash of framing, some balloon, some totally wrong and comprehensively flawed, there had been at least five additions made to the structure and the ridge board had been moved.

B. Maloney asked if there were any comments or questions of the public in attendance.

Several neighborhoods spoke up in support.

No other discussion, the chairman closed the public hearing at 6:55 PM

The Chairman then presented the five criteria for consideration with there being no concerns or comments on the first four.

The fifth goes to the hardship question.

E. Macleish stated that the narrative supplied by the applicant in B2 was clearly not applicable or meeting the requirements. B1 would be supportive due to topographic conditions, the fact that rehabbing the structure would be onerous and prohibitive due to cost and blasting near the lake.

B. Maloney stated that he felt there was enough of a hardship, that they reduced the amount within the setback, and with the existing structural problems he was surprised it was still standing.

K. Fuller agreed with those statements as did B. Zurhellen.

The chairman called for a motion to Approve.

MOTION: “To approve the variances requested for Case #472-08-10 as submitted” by Christopher Boldt, Esq., agent for the Julian and Suzanne Flannery Trust for a variance(s) to Article 400 Section 8.1.2 and 8.2 and Article 700 Section 2.1.2 of the Holderness Zoning Ordinance to tear down, relocate and rebuild a non-conforming dwelling at 110 US Route 3, Tax Map 244 Lot 10 within the shoreland and wetlands setback areas in the General Residential District.

Motion: E. Macleish

Second: K. Fuller

Motion Passed: 4 – Yes 0 – No

Case #473-08-16: Application submitted by B.A. Barnard as agent for Donald Smith ET AL for a 25-foot variance from Article 400 Section 8.2 of the Holderness Zoning Ordinance to permit the replacement of a failed leach field within a water supply well 125’ setback in the General Residential District.

Matt Barnard, Septic Designer introduced himself to the board and gave them the history of the project. The original system was designed in the mid 1990’s and has since failed. There are two separate houses and systems currently on the property, one is fine the other failed. The application is to replace the failed leach field. The applicant had gone through the NH DES application process, they were approved for construction in an area outside of the required setback but during construction found ledge precluding them from installing the field in the new location. Decided to re-use the existing field area to put in new leach field however this is within the 125’ town setback but outside of the state’s 100’ setback to a private well.

B. Maloney inquired as to how large of a lot, in which Mr. Barnard responded approximately 55 acres.

Mr. Barnard continued by stating that there won’t be any real change to the property, except that the existing house will have internal renovations increasing the bedrooms from three to five necessitating a new permit from NHDES.

B. Maloney asked the audience if there were any questions or comments, one abutter spoke in support of the project.

The chairman closed the public hearing at 7:10.

The chairman called for a motion to Approve.

MOTION: “To approve the variance requested for Case #473-08-16: Application submitted by B.A. Barnard as agent for Donald Smith ET AL for a 25-foot variance from Article 400 Section 8.2 of the Holderness Zoning Ordinance to permit the replacement of a failed leach field within a water supply well 125’ setback in the General Residential District.

Motion: B. Zurhellen

Second: K. Fuller

Motion Passed: 4 – Yes 0 – No

K. Fuller stated that she will abstain from the discussion on the next case as she was not in attendance for the original hearing or able to attend the site visit.

Chairman B. Maloney reopened the Case 470-06-30: Application submitted by Tristan Solomon on behalf of Deborah Mardin for property identified as Tax Map 237-026-000 located at 230 NH RT 175 in the General Residential District for a Variance from Section 400.8.1.1 to build a structure within the 35’ side property line set back that was continued from the August meeting.

Mr. Solomon addressed the board and explained that the hardship he is facing is the amount of ledge that would need to be removed if the structure were not to be built as proposed. He can’t build around or blast due to the proximity to his well and foundation and other houses in close proximity. He had spoken to the abutter about a property line adjustment but they were not interested in doing so.

E. Macleish expressed his concerns with approving this variance and creating precedence.

MOTION: “To approve the variance requested for Case 470-06-30”: Application submitted by Tristan Solomon on behalf of Deborah Mardin for property identified as Tax Map 237-026-000 located at 230 NH RT 175 in the General Residential District for a Variance from Section 400.8.1.1 to build a structure within the 35’ side property line set back.

Motion: B. Zurhellen

Second: E. Macleish

Motion Passed: 3 – Yes 0 – No 1 - Abstention

Landuse Assistant Lucinda Hannus advised the board that the final application on the agenda this evening, **Case #471-07-13:** Application submitted by John Reese Jr. and Wendy Lepore for property identified as Tax Map 236-13-000 located at 69 Mount Fayal Road in the Rural Residential District for a Variance from Section 400.8.1.1 to build a structure within the 35’ side property line set back had been formally withdrawn by the applicant since they scaled back their design and are now outside the side setback and no longer need a variance.

OTHER BUSINESS: Election of Officers

B. Maloney indicated that since not all the members were present this evening that they should delay the election of officers until October when all board members could be present.

MEETINGS:

The Landuse assistant reminded members of the scheduled meeting with the planning board on September 20, 2022.

Next meeting: October 11, 2022 will be held at the **Public Safety Building** due to a conflict with a Select Board meeting at Town Hall.

ADJOURNMENT:

At 7:15 P.M. the following motion was made:

MOTION: "To adjourn."

Motion: E. Macleish

Second: B. Zurhellen

Discussion: None

Motion Passes: 4-Yes 0-No

Respectfully submitted,

Lucinda M. Hannus
Land Use Assistant