

**TOWN OF HOLDERNESS
Zoning Board of Adjustment**

Regular Meeting Minutes June 11, 2019

Members Present: Robert Maloney, Chairman; Bill Zurhellen, Member; Kristen Fuller, Member

Members Not Present: Jude Ruhm, Member; Eric Macleish, Member

Staff Present: Linda Levy, Land Use Boards Assistant

Others Present: Don Smith, Peter Howard, Ward D'Elia, David Driscoll, Kate Smarz, Alan Metevia

CALL TO ORDER:

The meeting was called to order at 6:17 P.M. A roll call of the members was taken and a quorum was present.

APPROVAL OF MINUTES: May 14, 2019

MOTION: "To approve the minutes of the May 14, 2019 meeting as amended."

Motion: K. Fuller

Second: B. Zurhellen

Discussion: None

Motion Passed: 3 – Yes, 0 – No, 2 – Absent

R. Maloney stated there was a 3-member board present, telling those in attendance that they had the option of delaying their hearing until the board had all 5 members in attendance. All those in attendance acknowledged that they understood.

Case #434-05-15: Application submitted by Ames Associates as agent for Donald M. Smith, Trustee of the Eleanor W. Smith Trust No. 11 for the property located at 40 Asquam Rd. identified as Tax Map #241-104-000 in the General Residential District, Town of Holderness, for Variances to the degree necessary from Article 400.8.1.1 and 400.8.2 (Minimum Side Setback and Well Setback) and the installation of an upgraded septic system.

R. Maloney opened the public hearing at 6:20.

D. Smith shared that he is asking for a variance for a septic design that has a side setback of 30ft. and a well setback from the leach field of 106ft. They are replacing a pre-existing system that was approved prior to permitting. He read through each of the 5 variance criteria.

R. Maloney asked if the board had any questions/comments, if the audience had any questions/comments and if the abutters had all been notified.

K. Fuller asked if the system could be placed anywhere else.

D. Smith stated that there is ledge there, it is steep and the lot is only ¼ acre.

R. Maloney closed the public hearing at 6:25.

MOTION: “To approve the request for the variance.”

Motion: K. Fuller

Second: B. Zurhellen

Discussion: None

Motion Passed: 3 – Yes, 0 – No, 2 – Absent

Case #435-05-15: Application submitted by David Driscoll as agent for Rockywold Deephaven Camps for the property located on Bacon Rd. identified as Tax Map #218-009-000 in the General Residential District, Town of Holderness, for Variances to the degree necessary from Article 400.8.2 (Minimum Well Setback). R. Maloney opened the public hearing at 6:26.

D. Driscoll started by saying that the description of the case is not quite correct. The variance is not for a “minimum well setback”, it is for a “minimum setback”, but the number of the ordinances are correct. The purpose of the variance request is to increase efficiency and to upgrade the system, pointing to the site plan.

P. Howard stated that the soil is hydric B, which means that the soil drains poorly and explained what that meant.

R. Maloney asked if the system had failed.

D. Driscoll said that it had not, but the system was built in 1995. The goal is to increase capacity and upgrade it to current standards, and increase parking above the system. They want to relocate some of the loading from another building. There is no room anywhere else to put it. He read through each of the 5 variance criteria.

R. Maloney noted that the property has 100 acres of land, that there are issues related to topography, the engineer provided the best alternative site, and the improvements seemed good. He asked if the board or the public had any comments or questions, and if any abutters had raised questions/comments. None were raised.

The public hearing was closed at 6:35.

MOTION: “To approve the request for the variance.”

Motion: K. Fuller

Second: B. Zurhellen

Discussion: None

Motion Passed: 3 – Yes, 0 – No, 2 – Absent

Case #436-05-28: Application submitted by Ward D’Elia as stockholder and agent for Upwind Corporation for the property located on Old Ledge Rd. identified as Tax Map #239-057-000 in the General Residential District, Town of Holderness, for Variances to the degree necessary from Article 300.4.1.3 (Lot Coverage) and Article 400.8.1.2 (Minimum Shoreland Setback).

W. D’Elia showed an aerial view of the property describing the location of the cabins. He shared that the property is corporation-owned, he owns cabin #4. He described the previous upgrades and cabin egress. He wanted to add another egress. When he realized that he needed a building permit, he learned that there were 2 zoning issues (there is currently 44% coverage and 1 portion of the cabin is not within the

50ft. setback; adding the new deck would increase coverage to 44.2% coverage). He described all of the other setbacks showing a drawing of the new deck construction (38.5 sq ft.). He shared that the new deck will provide a new egress for the cabin.

R. Maloney asked if the deck had already been built.

W. D'Elia said yes, and that he should have known better to have gotten a building permit first.

B. Zurhellen asked for clarification about the decks from the pictures that had been provided.

R. Maloney wanted to know if W. D'Elia was asking for approval to keep what had already been built.

W. D'Elia replied yes.

R. Maloney shared that the board looks for ways to approve requests and not knock it down unless it is in direct violation of ordinances.

B. Zurhellen asked if this increases the nonconformity.

W. D'Elia stated that it increases it less than 1%, but does increase the nonconformity.

R. Maloney stated that if W. D'Elia had come before the board to ask for approval before building, the answer would have been "no".

K. Fuller asked if this egress was the 2nd or the 3rd exit.

W. D'Elia answered that this would add a 2nd exit.

K. Fuller shared that she would have been swayed for approval for safety reasons.

B. Zurhellen wanted to know what part of the building is adding less than 1% more to the nonconformity.

W. D'Elia said the deck would add total square footage stating further that he minimized the size of the deck from the original drawings.

R. Maloney asked L. Levy if E. Mardin had looked at the plans.

L. Levy stated that yes, she had and shared the calculations that R. Mardin had made in 1992 (42.6%), the deck that was previously added increased the nonconformity to 44%. The new deck would add a small percentage to the nonconformity.

B. Zurhellen wanted clarification about the variance requests.

R. Maloney went back to the requests and asked W. D'Elia about the minimum setback request.

W. D'Elia replied that one corner of the cabin is within the 50ft. setback.

B. Zurhellen stated that there is no nonconformity because the deck is not part of that request.

W. D'Elia went on to talk about the other variance request stating that the deck would provide another egress from the cabin.

R. Maloney asked L. Levy if the lot coverage was alright.

L. Levy stated that the deck would increase lot coverage to more than the existing 44%.

W. D'Elia acknowledged the increase in lot coverage.

K. Fuller asked if the deck had to be touching the ground to be considered coverage or because the deck is elevated, would it be considered not coverage?

B. Zurhellen answered that it has to do with the foundation used.

W. D'Elia shared that the deck is sitting on 2 posts that are sitting on ledge.

B. Zurhellen made sure that there was no concrete.

R. Maloney and K. Fuller said that they wouldn't define that as coverage.

B. Zurhellen called it a temporary ground cover.

R. Maloney shared that his opinion is the deck is not treated as coverage. The minimum shore setback is fine. He wished that W. D'Elia had come before the board before building the deck.

W. D'Elia admitted his embarrassment.

B. Zurhellen asked if there were any issues with setbacks from the other cabins relative to encroachment.

R. Maloney asked if the project had been approved at the corporate level.

W. D'Elia said that it had.

R. Maloney asked L. Levy if there were other concerns.

L. Levy replied that E. Mardin brought up the safety issues because of the closeness of the cabins to each other.

R. Maloney noted that he thought a fire truck should still be able to get between the cabins.

W. D'Elia went through 5 variance criteria.

R. Maloney asked for questions/comments from the public. None were raised.

B. Zurhellen wanted the minutes to reflect that there can be no other enlargements to the property without further permit, and the deck cannot be extended.

R. Maloney added that no one else will be allowed to do anything similar without coming to the board first and that the conditions are to be made clear to the stockholders in the corporation.

W. D'Elia agreed saying that the shareholders already said that they were alright with the project but said that the deck could not be any bigger.

R. Maloney closed the public hearing at 6:55.

MOTION: "To approve the request for the variance."

Motion: B. Zurhellen

Second: K. Fuller

Discussion: None

Motion Passed: 3 – Yes, 0 – No, 2 – Absent

ADJOURNMENT:

At 6:35 P.M. the following motion was made:

MOTION: "To adjourn."

Motion: K. Fuller

Second: B. Zurhellen

Discussion: None

Motion Passed: 3 – Yes, 0 – No, 2 – Absent

Respectfully submitted,

Linda Levy
Land Use Boards Assistant