

**TOWN OF HOLDERNESS  
Zoning Board of Adjustment**

**Regular Meeting Minutes May 8, 2018**

**nt:** Robert Maloney, Chairman, Wendell Broom, Vice Chairman, Bill Zurhellen, Member, Kristen Fuller, Member, Eric Macleish, Member

**nt:** Jude Ruhm -excused

**Staff Present:** Michael Capone, Town Administrator

**Others Present:** John March, Rob Haskell, Bob Snelling, Rebecca Hanson, E.B. James, Dave Martin, Tom Daigneault, Sally Daigneault

**CALL TO ORDER:**

The meeting was called to order at 6:15 P.M. A roll call of the members was taken and a quorum was present. Mr. Maloney welcomed Mr. Macleish to the Board.

**NEW APPLICATIONS: Case #426-05-18: Application submitted by John March as Agent for Curry Place Cottages LLC for their property located at 854 US Route 3 identified as Tax Map #102-004-000 in the Commercial District, Town of Holderness, for Variances to the degree necessary from Section 700.2 et seq. to permit alterations to an existing non-conforming structure and/or Section 400.8.1.2 (50' water setback) in the amount of up to 4 feet to permit construction of the proposed North Dormer, up to 2 feet for the construction of the proposed South Dormer, up to 17 feet for construction of the proposed patio and/or screen porch and up to 23 feet for the construction of the proposed privacy fence from the reference line of the lake.**

B. Maloney noted for the record that the Board had received a letter received on May 7, 2018 from the Squam Lakes Association notifying the Board of the conservation easement in place on the property. He mentioned that the ZBA would act on the application only as it relates to the Zoning Ordinance.

B. Maloney asked the Town Administrator if the application was complete. It was noted for the record that it was.

B. Maloney asked if the application was of regional impact. It was noted that it was not.

B. Maloney asked if any of the Board members has a conflict. K. Fuller indicated that she would recuse herself because she was an abutter to the property. Ms. Fuller left the front table and took a seat in the audience.

B. Maloney advised the applicant that he had the option of having a hearing before the full Board. (At this point Wendell Broom joined the meeting) but given that members of the Board would need to recuse themselves you would never be able to get a hearing by the full Board.

Mr. Haskell informed the Board that he would like to move forward with the hearing with four voting members.

B. Maloney opened the hearing at 6:20 and asked the applicant to begin his presentation. Mr. Haskell provided some additional materials for the Board. Mr. Haskell informed the Board that he would present the information for the Board's consideration. He provided some history on his company and the property.

He acquired the property and wished to make improvements. He has a building permit for some initial improvements. Converting the property to seasonal rentals with winter rentals as well. Mr. Haskell noted the vacancy rate at the property presented a hardship. He also noted that it was a unique historical property as well. He has a three-phase plan for the property. The first phase is to convert the office space to rental space. Phase two would be to expand the middle building that currently houses the businesses that occupied the Curry House in order to accommodate Peabody-Smith Realty. Phase Three would be the conversion of the Peabody-Smith building to a residential rental. There would be three rental properties.

The Post Office property would remain unchanged.

The historical nature of the building and the fact that it is located in the center of Holderness present a hardship. The height and pitch of the roof pose problems. The addition of dormers would help with egress.

W. Broom asked what Mr. Haskell meant by egress. Egress from the property or egress from the building. Mr. Haskell answered egress from the building.

M. Haskell wanted to have larger windows for better egress and suggested that having an enclosed porch would allow better egress down to the ground by going from the windows to the roof of the porch and then onto the ground.

Mr. Haskell also felt that the porch would provide a better option because it could be fitted with a gutter system that would catch runoff from the roof and direct it away from the channel.

The privacy fence is for shielding from the roadway. It would not be needed if there was a screen porch.

No living space increase with the dormers. He called the Boards attention to the building plans.

B. Maloney asked if the applicant wanted to do away with the knee wall and replace it with a dormer.

B. Maloney asked how that would not increase living space and the cubic footage.

W. Broom and B. Zurhellen questioned this as well.

Mr. Haskell replied that there would be no increase in living space.

B. Zurhellen noted that the plan ceiling height and the changes would increase the living space.

Mr. Haskell responded that no habitable area would be increased.

B. Zurhellen asked if Mr. Haskell could define habitable, Mr. Haskell asked for some clarification. B. Maloney explained how the changes would impact the living space and W. Broom commented that it would increase the living space by almost two hundred cubic feet.

Mr. Haskell commented that the attic space would be closed off.

B. Maloney commented that the memo from the architect was contradictory in that it said there was no increase in living space, but there is an increase in volume for the space. That is additional living space.

W. Broom commented that cubic space needs to be considered living space.

Mr. Haskell commented that he was not sure how the Board would react to this so he was going to give up the attic space.

B. Maloney suggested that they now turn the discussion to the variance.

W. Broom asked if he could ask one other question about the attic. Was it ever living space?

Mr. Haskell responded no.

W. Broom replied if it was never living space before then you are not giving up living space.

B. Maloney commented that the Board has a challenge in that they must uphold the language as it is in the Zoning Ordinance.

The issue here is that it appears you are increasing the living space and thereby increasing the non-conformity.

Mr. Haskell asked if the age of the building had any bearing on the consideration given by the Board.

B. Maloney commented that the issue was you could not increase space within the setback.

Having an egress window would enhance the safety of the building.

B. Zurhellen commented that the dormer windows appear to be smaller than the windows on the back of the building.

Mr. Haskell commented that they are wider.

B. Maloney asked that we move on to the variances. He asked specifically what the Mr. Haskell was looking for.

Mr. Haskell mentioned the dormers, the privacy fence and the screen porch.

B. Zurhellen noted that there was mention of a patio.

Mr. Haskell noted that the screen porch would better address the concern noted by the SLA with regard to the patio.

B. Zurhellen asked about the construction of the patio, if there were to be one instead of the screen porch.

Mr. Haskell noted that the patio would be a permeable surface.

B. Zurhellen asked about the porch construction.

Mr. Haskell commented that it would have footings.

B. Zurhellen noted that the screen porch could be converted to living space.

Mr. Haskell noted that he would need a building permit to do that.

B. Maloney commented that the Board comes into these meetings with the expectation that they will do whatever they can to assist the applicant. They must rely on the wording in the Zoning Ordinance.

Speaking for himself, B. Maloney noted that the dormers were of concern. The patio is of concern. A fence can go in the setback as long as it is no more than six feet tall.

B. Zurhellen asked about the jog in the setback line.

Mr. Haskell noted that it was a provision of the 1984 easement.

B. Zurhellen noted that the dormers were non-conforming because they are within the fifty-foot setback as defined in our Zoning Ordinance.

E. Macleish asked the applicant if he could state what he feels are the special conditions existing at the site that would make the application of the existing ordinance unfair thereby creating the hardship.

Mr. Haskell feels that it a unique property. A number of septic systems are tied into the property, the historical society moved their building there.

B. Maloney commented that the property was purchased with full knowledge of its unique character.

Mr. Haskell concurred.

E. Macleish posed the question to the applicant again.

Mr. Haskell commented that the parcel would have been larger prior to dredging the channel.

E. Macleish commented that he was having difficulty seeing how this provision would be a hardship.

Mr. Haskell asked Mr. March if he had anything to add.

Mr. March had nothing else to add to the applicant's presentation other than to comment on the dredging of the channel.

Mr. Maloney asked Mr. Haskell if he had anything to add at this time.

Mr. Haskell did not.

B. Maloney asked if any abutters or others present wanted to ask a question or comment.

There was no further public comment.

B. Maloney closed the public meeting at 6:42

The Board began their deliberation.

B. Maloney began the deliberation by commenting that he was not in favor of approving the application, but strictly due to the wording of the ordinance. It is an increase in the volume of living space. He does not see the hardship.

E. Macleish asked about the variance filed. B. Maloney commented that he had filed for two variances, expansion into the setback and relief from the fifty-foot setback.

W. Broom concurred with the previous comments. It seems that the variance they are seeking is an expansion into the setback in both cases.

E. Macleish concurred.

B. Zurhellen concurred on the dormers. He had concerns with the screen porch as well. He had less of a concern with patio.

B. Maloney asked the Town Administrator if the Board had missed anything.

The Town Administrator commented that if the Board was going to vote, they should specify the criteria individually.

B. Maloney suggested that they vote on the variances together.

The Town Administrator commented that they would need a motion and a second from the Board with regard to what action they wish to take with regard to the variance requested under 700.2 and the variances requested under section 400.8.1.2.

The Board reviewed and voted on the five criteria. They were in agreement that all of the five criteria were not met.

Prior to a formal motion being made, there was discussion with regard to the height of the privacy fence. A fence of six feet or less in height would not require a variance.

B. Zurhellen commented that, at its proposed height, if the fence were to remain part of the variance request it should not be allowed.

The Town Administrator reviewed the specific relief sought in the application.

There was discussion with regard to whether the applicant wished to withdraw the fence from consideration.

Mr. Haskell asked that the variance request for the eight-foot fence be withdrawn.

W. Broom made a motion to deny the variances requested from Section 700.2 et seq. to permit alterations to an existing non-conforming structure and Section 400.8.1.2 (50" water setback) in the amount of up to 4 feet to

permit construction of the proposed North dormer, up to 2 feet for the construction of the proposed South dormer, up to 17 feet for the construction of the proposed patio and or screen porch from the reference line of the lake.

B. Zurhellen provided a second.

The Town Administrator clarified the motion.

There was no further discussion.

The Board voted 4-0 in favor of the motion to deny the variances requested.

The Town Administrator advised the applicant that he has thirty days from the date of the decision to appeal. The thirty day period begins on Wednesday, May 9, 2018.

**OTHER BUSINESS:**

K. Fuller rejoined the Board for this portion of the meeting.

**APPROVAL OF MINUTES: April 10, 2018**

B. Zurhellen made a motion to approve the minutes as written. W. Broom provided a second. There was no discussion. The Board voted 4-0-1 in favor of the motion with E. Macleish abstaining.

M. Capone noted that no new applications had been received to date. He will update the Board next week after the application deadline.

W. Broom advised the Board that this would be his last meeting. The members thanked him for his service to the community.

**ADJOURNMENT:**

At 7:22P.M. the following motion was made:

MOTION: "To adjourn."

Motion: B. Zurhellen

Second: K. Fuller

Discussion: None

Motion Passed: 5 – Yes, 0 – No

Respectfully submitted,

Michael Capone  
Town Administrator