

**TOWN OF HOLDERNESS**  
**Zoning Board of Adjustment**  
**Meeting Minutes December 14, 2021**

**Members Present:**

Bob Maloney, Chairman  
Eric Macleish, Member

Bill Zurhellen, Member  
Judith Ruhm, Member

Kristen Fuller, Member  
Bryan Sweeney, Alternate

**Members Not Present:** Robert Dorff

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

**Others Present:** David Driscoll

**CALL TO ORDER:**

The meeting was called to order at 6:17 P.M.

**APPROVAL OF MINUTES:**

**Motion: "To approve the minutes of November 9, 2021 as presented."**

Motion: B. Zurhellen

Second: E. Macleish

Discussion: None

Motion Passes: 5-Yes            0-No

**Continued Hearing Case 466-10-12: Application submitted by David Driscoll of David Driscoll Designs Agent for Pookie Property Holdings LLC for property identified as Tax Map 245-080-000 located at 66 White Oak Pond Road in the General Residential District for a Variance from Section 700.2.1.2 to allow for the enclosure of a three-season porch as conditioned living space.**

B. Maloney reintroduced the case which had been continued from November 9, 2021 and asked David Driscoll if he had any additional information for the Board to consider.

Mr. Driscoll reviewed the five variance criteria and the facts he supplied in support.

B. Maloney asked if the members of the Board had any questions for Mr. Driscoll.

E. Macleish ask what percentage of the year is the space occupied?

D. Driscoll responded it is used in the summer and the shoulder seasons sometimes with a heater, but most likely not in the winter. Mr. Driscoll noted that he viewed the definition of living space differently from what is in the zoning ordinance.

E. Macleish asked if the work would increase living space?

D. Driscoll responded that there would be an increase of 161 sq. feet of conditioned space. The issue is with the definition of living space and is something the Board has to decide.

E. Macleish noted that, in his opinion, the definition of living space in the ordinance was ambiguous and as such the applicant should not be denied based on that fact.

D. Driscoll commented that he had debated the need for a variance with the compliance officer and land use assistant.

E. Macleish noted that the Board needed to determine if a variance was needed.

B. Zurhellen commented that the definition mentioned indoor living and enclosed space and the regulations state that you cannot increase living space.

D. Driscoll commented that the definition of living space contained in RSA 483 B:11 is not a bad definition.

K. Fuller mentioned that it was her understanding that the spirit and intent of the ordinance as proposed and interpreted by the Planning Board was that there be no expansion of any kind within the setbacks.

E. Macleish commented that we are bound by the language of the ordinance and he feels that no variance is necessary.

B. Maloney conducted a straw poll to get a sense of the Board with regard to this question.

E. Macleish felt it did not need a variance.

B. Zurhellen, K. Fuller and J Ruhm were of the opinion that it did.

B. Maloney asked for a formal motion and a vote on the question.

**Motion: is a variance required for this application as presented?**

Motion: B. Maloney

Second: B. Zurhellen

Discussion: None

Motion Passes: 4-Yes            1-No

A variance would be required for this application.

B. Maloney asked Mr. Driscoll if he could explain to the Board what is unique about the property.

D. Driscoll commented that this property was developed prior to the zoning ordinance being in place. Utilization of the small space would create a better thermal envelope and better grading on the site.

B. Maloney noted that there are many properties with similar characteristics.

E. Macleish was not certain this would be a hardship.

B. Zurhellen inquired as to the use of the space,

D. Driscoll responded that it would be open space.

B. Zurhellen asked if you could add the common area somewhere else on the property.

J. Ruhm noted that it would still be living space.

E. Macleish noted that it does not meet the requirements for a variance. The owners purchased the property aware of its limitations. You would not need to enclose the room to raise the grade.

B. Maloney asked if Mr. Driscoll had anything else to add. Mr. Driscoll replied that he did not.

B. Maloney closed the public hearing at 6:51PM and asked for comments and/or questions from the Board.

There were none:

The Board reviewed and voted on the 5 criteria:

1. The variance would not be contrary to the public interest. The Board voted 5-0 in support of that fact.

2. The spirit of the ordinance is observed. The Board voted 5-0 in opposition to this fact noting that the spirit of the ordinance does not allow for expansion of any kind within the setback.

3. Substantial justice is done: The Board voted 5-0 in opposition to this fact.

4. The value of surrounding properties are not diminished. The Board voted 5-0 in support of this fact.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The Board voted 5-0 in opposition to this fact noting there was nothing unique about the property that would be considered a hardship.

**MOTION: To DENY the Variance requested from Section 700.2.1.2 to allow for the enclosure of a three-season porch as conditioned living space. There are no unique features of the property that would support the unnecessary hardship claim. Further, allowing the enclosure of the existing space would result in the addition of conditioned living space to the property which is contrary to the spirit and intent of the ordinance.**

Motion: B. Zurhellen

Second: K. Fuller

Discussion: None

Motion Passed: 4 – Yes, 0 – No, Abstention – 1

#### **OTHER BUSINESS:**

The Board briefly discussed a possible review of the definitions of living space and expansion to perhaps clear up any possible ambiguity that might exist. E. Macleish will prepare a discussion document for distribution to individual Board members for their review. The Board can discuss any possible changes and further action at their next meeting.

#### **MEETINGS:**

Next meeting: January 11, 2022 if necessary. Presently no applications have been received.

#### **ADJOURNMENT:**

At 7:12 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,

Michael R. Capone  
Town Administrator