

**TOWN OF HOLDERNESS
Zoning Board of Adjustment
Meeting Minutes March 14, 2023**

Members Present:

Bob Maloney, Chair, Bill Zurhellen, Kristen Fuller, Bryan Sweeney, Alternate, Eric McLeish and Robin Dorff, Alternate.

Members Not Present: Jude Ruhm

Staff Present: Lucinda Hannus, Land Use Assistant

Others Present: Richard & Jenny Hodges, Jeffrey Eckert

CALL TO ORDER:

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

Chairman Maloney led those present in the Pledge of Allegiance

Chairman Maloney made a motion to move Brian Sweeney up to full membership for this meeting, seconded by B. Zurhellen.

APPROVAL OF MINUTES:

Motion: "To approve the minutes of February 14, 2023 as written"

Motion: B. Zurhellen

Second: K. Fuller

Discussion: None

Motion Passes: 5-Yes 0-No 1-Abstain

NEW BUSINESS:

Case #479-02-08 Application as submitted by Richard Hodges, for a 26-foot variance from a wetland buffer setback Article 700.2.1.2 of the Holderness Zoning Ordinance to expand an existing non-conforming structure by adding a second floor using the existing footprint at 34 Hodges Road, Tax Map 245-007-000.

Richard Hodges introduced himself and his wife Jenny as the owners of the property and stated that the existing house was built in 1970 by his mother and was designed for her to live there alone. It is a one story three-bedroom one bath home which suited her needs. Richard and his wife would like to expand the home, increasing the living space by moving bedrooms upstairs and adding a bathroom to this second-floor addition. Approximately half of the existing house is currently in the wetland setback and nothing they plan to do would increase the structure into more of the setback. By expanding upwards and using the existing footprint they would not be impacting any of the wetlands or increasing building area in the shoreland setback. Alternative to adding a second floor would increase impacts and the only area that could be expanded laterally would decrease the space between this structure and an adjacent summer cottage that also currently exists on the

property. Mr Hodges stated he had spoken to Chief Bowen who had concerns with decreasing the space between the buildings as a safety issue. Mr. Hodges stated that this alternative would also require a variance from NHDES for the increase of impacts in the shoreland setbacks to Squam Lake.

E. McLeish inquired as to the uniqueness of this lot compared to other lots in the area?

R. Hodges responded that he didn't feel there was any particular uniqueness, that the existing structure was grandfathered as to its location, that adding a new foundation would increase the cost of the addition substantially and would not like to see any further encroachment on the space between the two buildings. Mr. Hodges submitted to the board print outs of case law in NH which he believes supports his request for a variance.

Document entitled *"Federal and State Planning and Zoning Case Law for NH Local Officials Updated 01/2023"* placed in the record.

Jenny Hodges spoke to the property having steep slopes, a small amount of space where the house was built.

R. Hodges added that an access road had been built since the wetlands may have been flagged which cutoff and diverted water into what is shown as wetlands on the site plan.

B. Zurhellen asked if it was still considered a wetland, that you might want to go through the process of re-flagging or determining the edges as they exist now maybe not needing a variance.

R. Hodges responded that his consultant had stated that "once a wetlands always a wetland " and that it would be very difficult to change. He has been at this project for a year, would like to change the look of the one story house to be in keeping with the summer cottage, align the roof pitch and re-shingle.

E. McLeish asked if there were wetlands on adjacent properties? It is your burden to show uniqueness.

R. Hodges responded that other lots did not have as much percentage of wetlands on their lots as theirs did, that the percentage of buildable land is far greater on the adjacent lots.

E. McLeish stated that the Malachy case submitted by the applicant as case law was that there was no use of the lot where you may have a reasonable use of your property without a variance and that he would need to read the full case to better understand this application as it compares to the case referenced.

B. Maloney stated that the first four criteria of a variance seem to be supportive but the hardship hurdle is questionable.

K. Fuller stated that a financial burden on the applicant is not a valid hardship to be considered by the board.

B. Maloney suggested that the matter could be tabled tonight so that the applicant could gather more evidence as to the uniqueness of this lot and the wetlands.

J. Hodges stated that they had received a variance for a new septic system because of the steep slopes and limited buildable area on the lot.

B. Sweeney stated that they could go back to the surveyor, get more information and an expert's opinion as to the extent of the existing wetlands and associated buffer.

The applicant agreed to table the case this evening and re-submit with additional information at the regular meeting in April.

Case #478-02-15 Application submitted by Jeffrey & Kelsie Eckert, requesting a 50-foot variance to the setback to Article 400.8.2 of the Holderness Zoning Ordinance to construct a septic leach field 75' from a private well at 95 Seven Pines Road, Tax Map 228-021-000.

Jeffrey Eckert introduced himself as the owner applicant for this variance request. He apologized to the board that his consultant from Septic Designs of NH was unable to attend in person due to the bad weather today and he would like the board to consider his request for a variance for locating the new septic system within the town's 125-foot setback requirement to a private well. He meets the state's 75-foot requirement but because of the topography of the lot, steep slopes, a ravine and unsuitable soils the proposed design is the only viable location to place the leach field, and as is will require additional fill to make it work. He is proposing to build a single family four-bedroom home on this 1.65 acre lot.

E. McLeish stated he would like to see the septic designer put in writing that this is the only viable location on the lot since he is not physically in attendance at this meeting to place it in the record.

B. Maloney stated although item #5 in the application makes this statement it should be directly from the expert.

J. Eckert stated it would be a time problem to delay the application another month as he has contractors arranged to start construction. Is there a way to allow the designer to speak to the board by phone to make that statement for the record?

Board members discussed the options and decided that the designer could speak to the members by phone during the meeting and follow-up with a written statement for the record.

The septic designer **Micah** Denner of Septic System Designs of NH was reached by phone and stated for the record that they had performed quite a few test pits and the design they reached was the best they could achieve based on soils and topo.

E. McLeish asked if it could be located any where else that would not require a variance?

Micah Denner responded that the lot was very sloping, the degree of slope was not conducive to a septic system, the lot is flat in the front then increases too steeply to support a septic system. He would be more than happy to supply a written letter on company letterhead to support these statements for the record.

B. Maloney closed the public hearing at 7:05 pm.

The Board began their deliberation by reviewing the 5 criteria for a variance. Items 1 -4 all members were in favor with the statements included in the application and that item #5 based on statements made by the designer and the forthcoming letter would indicate that special conditions of the property and a literal

enforcement of the provisions of the ordinance would result in an unnecessary hardship to the applicant and the proposed use is a reasonable one.

Motion: to approve the applicants request for a 50-foot variance to the setback from Article 400.8.2 of the Holderness Zoning Ordinance to permit the construction of a new sewage disposal system as per the plans submitted by Septic Designs of NH dated October 19, 2022 and the written statement from the designer as to the limitations of the lot and the proposed location of the Effluent Disposal Area (EDA).

Motion: B. Zurhellen

Second: E. McLeish

Discussion: None

Motion Passes: 5-Yes 0-No

Other Business: None

Next meeting: April 11, 2023

ADJOURNMENT:

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

MOTION: "To adjourn."

Motion: E. McLeish

Second: K. Fuller

Discussion: None

Motion Passes: 5-Yes 0-No

Respectfully submitted,

Lucinda M. Hannus

Land Use Assistant