

**TOWN OF HOLDERNESS
Zoning Board of Adjustment
Meeting Minutes April 11, 2023**

Members Present:

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

Members Not Present:

Staff Present: Michael Capone, Town Administrator

Others Present: Richard & Jenny Hodges and Steve Danielovich

CALL TO ORDER:

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

Chairman Maloney led those present in the Pledge of Allegiance

APPROVAL OF MINUTES:

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

Motion: B. Zurhellen

Second: K. Fuller

Discussion: None

Motion Passes: 5-Yes 0-No

NEW BUSINESS: None

OLD BUSINESS: Continuation of 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.

Mr. Maloney asked Mr. Hodges to provide a brief overview of the application to refresh everyone's memory regarding their request. Mr. Hodges did so noting that in addition to what had previously been stated, there was also a need to make the house wheelchair accessible for an aging relative. He wanted to address the matter of the variance and bring more information in that regard.

Mr. Maloney noted that the variance should relate to the uniqueness of the property and not the family. The Board needs something to rely upon in order to make a decision on the request.

Mr. Hodges introduced Steve Danielovich, a land use consultant, who had prepared a wetlands and buildable area table comparing the Hodges parcel to that of surrounding lots to demonstrate the unique character of their lot. The chart indicated that, although the Hodges lot was larger in acreage than the surrounding lots, it had the lowest percentage of buildable area due to wetlands. Only 1.5% of buildable area.

Mr. Maloney asked if the septic will be replaced.

Mr. Hodges replied that a variance had been approved at a previous meeting.

Mr. Danielovich commented that the lot is unique in that it has limits to where you can build.

Mr. McLeish commented that there is already an existing house on the lot. This is a question of expanding that house. You do not just have to show uniqueness, you also need to show there is no reasonable alternative to what has been proposed.

Mr. Danielovich noted that to expand by going up would be a better alternative for the lot than expanding the footprint given the potential impact to the lot.

Mr. Hodges made reference to the Town Wetlands map and potential impacts.

Mr. McLeish asked how much could you expand within the setback as a matter of right.

Mr. Hodges though it would be 33' X24' without a variance. They were considering what would cause the least amount of impact.

Mr. Danielovich noted that they were going to increase the overall square footage by just 89 sq. ft. by going up instead of out. There is virtually no impact.

Mr. McLeish noted that the Board has to consider other properties and it looks like a reasonable alternative exists on the property and there is already a house there as well.

There was a discussion regarding what would be considered a reasonable alternative.

Mrs. Hodges suggested that perhaps a site visit might help better explain things.

Mr. Hodges noted that the alternative would have more of a negative impact on the lot creating situations where folks have to do things they do not want to do. The ordinance appears to be working against its own intent.

Mr. McLeish commented that the Board still has to abide by the ordinance.

Mr. Hodges felt that in this instance it would call the spirit of the ordinance into question.

Ms. Ruhm commented that she felt the property is unique based on the facts presented.

Ms. Fuller asked if any part of the house is in the buildable area.

Mr. Danielovich replied that 89 sq. ft. of the house is not in the buildable area.

Ms. Fuller noted the point regarding the spirit of the ordinance, but feels the intent of the Planning Board amendments to the zoning ordinance are to not allow any expansion within the setback and this plan proposes to essentially double the area.

Mr. Hodges mentioned that he had looked at ordinances in other towns and none of them address volume at all. If the variance were not to be granted, he would seek to have consideration given to changing that section of the ordinance that speaks to expansion within the setback.

Mr. Maloney read section 700.2 and 700.2.1. and asked how much of the house is within the setback.

Mr. Danielovich replied 89 sq. ft.

Mrs. Hodges noted that it is a very small house and again suggested a site visit would be very illuminating.

Mr. Hodges referred to the larger wetlands map as a reference to the alternative they are considering.

Mr. McLeish repeated his earlier statement that you could expand the property and still be in compliance with the ordinance.

Mr. Hodges commented that he did not feel the ordinance was working as intended. The net result of building as suggested would have a negative impact on the property and the environment. The ordinance is not working as intended and should be looked at. He would be interested in having it changed.

Mr. Maloney suggested that he propose language for consideration by the Planning Board.

Mrs. Hodges suggested that a site visit would have value.

Mr. Maloney would not object to a site visit. It would continue the hearing to the next month.

Mr. McLeish noted that the law is a little ambiguous. The only case law of which he is aware is for a commercial case. This is a residential case.

Mrs. Hodges cited case 472-08-10 as one that might be relevant. It was heard in September of 2022.

Mr. Maloney suggested that the hearing be continued and a site visit scheduled for a mutually date and time.

Motion: “To continue the public hearing to the May 9th meeting by agreement of the Board and the applicant to allow for a site visit on the property at a mutually arranged time.

Motion: B. Zurhellen

Second: J. Ruhm

Discussion: None

Motion Passes: 5-Yes 0-No

Other Business: None

Next meeting: May 9, 2023

ADJOURNMENT:

At 7:04 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,

Michael Capone
Town Administrator