

**TOWN OF HOLDERNESS
Zoning Board of Adjustment
Meeting Minutes May 9, 2023**

Members Present:

Bob Maloney, Chair, Bill Zurhellen, Kristen Fuller, Jude Ruhm

Members Not Present: Eric McLeish, Bryan Sweeney, Alternate and Robin Dorff, Alternate.

Staff Present: Lucinda M. Hannus, Land Use Assistant

Others Present: Richard & Jenny Hodges, Attorney Christopher Boldt, Steve Danielovich, Joe Wyatt, Richard Hodges, Julia Hodges and Richard Hodges of Sandwich, NH

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 April 11 and April 25, 2023 as written"

Motion: B. Zurhellen

Second: K. Fuller

Discussion: None

Motion Passes: 4-Yes 0-No

NEW BUSINESS: None

Chairman Maloney inquired if the applicant wanted to proceed with only four members of the ZBA available this evening to continue the scheduled case? Attorney Boldt responded in the affirmative after discussion with his client.

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 read the description of the application details and that several of the board members had conducted a site visit to the property.

C. Boldt representing the Hodges stated that he would not re-hash all the previous minutes but was certain that the board was having difficulty with the unnecessary hardship criteria in order

to approve the variance request. C. Boldt continued by submitting a series of current and historic photographs of the property to the board for examination. The first two photos in the series are of what has been indicated as wetlands on previous subdivision plans adjacent to the existing dwelling. The third picture is of an obvious wet area on the opposite side of the existing driveway. Photos four and five are Wikipedia information relative to the evergreen perennial *Pachysandra* which can be seen growing in exhibit photos one and two. In general all species of this genus prefer a well-drained soil with a high humas content. Not a typical wetlands plant. Photos six, seven and eight are of the structures that were historically on the property. The two-story building was built in 1906 along with the dining hall. The dwelling was removed but the dining hall remains on the property as the second structure adjacent to the one-story dwelling built in 1970 as shown in photo nine. Photos seven and nine also show the well structure that remains but is not used as a water supply due to the proximity of the existing leach field.

C. Boldt continued by explaining what is unique about this property, the as-built location of the existing dwelling is non-conforming as to its setback from the "wetlands". The presence of a second building near the dwelling. The lot and surrounding lots were created by a 2004 subdivision and exhibit ten is a chart indicating the relative buildable areas and wetlands for each of the adjoining lots. As can be seen this lot has the largest total area (3.73 acres) but has the least amount of buildable area (1.5%) and the most area of wetlands (43%). The adjacent building which was the original dining hall has historic significance and the owners do not want to remove it. If the variance to expand upwards is not granted any expansion would be closer to the wetlands, and the lake shore. There is a conservation easement between the dwelling and the lake which cannot be built on.

Attorney Boldt stated that there are no stated purposes in the town's zoning ordinance as to why there is no expansion, square footage or volumetric allowed on a non-conforming structure. In this case expanding upwards would not increase the impacts on the wetlands or shoreline as the footprint remains the same. Expanding upwards would not impair the view of the lake from any abutting property, there exists ample tree cover which will not be altered nor would it impact negatively the property values of adjoining properties. The proposed use is reasonable, is a n allowed use and not a huge increase. There was a two-story building on the lot and they would like to put back a two-story dwelling.

B. Maloney stated he was initially concerned with additional bedrooms which is not the case as demonstrated by the applicants during the site visit. The septic has been approved for three bedrooms, the shoreland permit has been approved for both the structure and the new septic.

K. Fuller inquired if it would be possible to build within the setbacks.

Attorney Boldt responded that the town's fire chief does not want to see any building being closer to the existing adjacent structure.

K. Fuller inquired as to the spirit of the ordinance and how expansion of living space would be detrimental.

C. Boldt responded that the standard is an unduly or marked degree of conflict with the stated purpose which Holderness does not have in their ordinance. That the proposal would be detrimental to the neighborhood and affect the health and safety of others. That merely being in conflict with the ordinance does not hold mustard against the lack of a stated purpose.

W. Zurhellen stated that the Planning Board deals with the black and white administration of the rules and the ZBA looks at the impacts and hardships unique to each application. He does not think that going up in this case will increase any impacts to the sideline or wetlands buffer setbacks.

B. Maloney read an email received from the abutter, Scott & Margaret Whitcomb stating they felt there would be no negative impacts to their property value should they be allowed to expand upward.

Being no further discussions or questions the chair closed the public hearing and asked for a motion.

Motion: "To grant the requested variance to the wetland buffer setback, Article 700.2.1.2 in order to expand on the existing dwelling by adding a second floor utilizing the existing footprint as detailed in the application and supporting documents. Granting the variance in this case will not be contrary to the public interest, that the spirit of the ordinance is observed, that substantial justice is done and the values of surrounding properties will not be diminished. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship due to the special conditions of the property compared to adjacent properties due to wetlands and lack of buildable area, that the general purpose of the ordinance has been observed and the proposed use is a reasonable one in this case.

Motion: B. Zurhellen

Second: J. Ruhm

Discussion: None

Motion Passes: 4-Yes 0-No

Other Business: K. Fuller would like the board to ask the Planning Board to consider the whys and purposes to be stated in the zoning ordinance so that the board has guidance on the intent for a specific regulation or article.

Next meeting: June 13, 2023

ADJOURNMENT:

At 6:45 P.M. the following motion was made:

MOTION: "To adjourn."

Motion: J. Ruhm

Second: K. Fuller

Discussion: None

Motion Passes: 4-Yes 0-No

Respectfully submitted,

Michael Capone
Town Administrator