

**TOWN OF HOLDERNESS
Zoning Board of Adjustment
Meeting Minutes June 13, 2023**

Members Present:

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

Members Not Present: Bob Maloney, Jude Ruhm

Staff Present: Lucinda M. Hannus, Land Use Assistant

Others Present: Kent Smith, Ed Shields, Kevin French, Jeremy Bonan, Michael Salmon, abutter

CALL TO ORDER:

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

Vice Chair William Zurhellen led those present in the Pledge of Allegiance

Vice Chair asked for a motion to raise the two alternates, Robin Dorff and Bryan Sweeney to full voting status for this meeting.

Motion made K. Fuller, seconded E. McLeish unanimously approved

APPROVAL OF MINUTES:

Motion: "To approve the minutes of May 9, 2023 as written"

Motion: K. Fuller

Second: E. McLeish

Discussion: None

Motion Passes: 5-Yes 0-No

NEW BUSINESS: Case#480-05-22 Application as submitted by Kevin French as agent for Holderness Harbor LLC, for a variance from Section 300.4.1.1 of the Holderness Zoning Ordinance to construct and operate a seasonal boat storage facility as detailed on the plan entitled "A Site Plan for Holderness Harbor LLC" by French Land Services Inc. Surveyed December 2022, located at 24 NH Route 175, Tax Map 239-041-000.

Kevin French, LLS introduced himself to the members and presented the back story, that the applicant had presented their proposed project to the Planning Board as to the order of procedure at which the planning board advised them to obtain zoning approval first and then return to them for site plan review. Mr. French proceeded to explain that their proposed seasonal boat storage facility is not specifically allowed or defined in the town's zoning

ordinance or in the GR district, however located in close to this property is a marine storage and repair business, that this site is in close proximity to the lake, there is very little residential development in the area that the topography of the site is such that you can't see from one site to another and the town owns the vacant lot adjacent to this property.

Mr. French believes that the proposed project is in the public interest, in a good location and other commercial uses are permitted in the GR district. There exists a limited amount of mixed use, that the area is more commercial than residential and that substantial justice is achieved since there is a need for this use expressed by customers.

E. MacLeish inquired as to the undue hardship criteria of the state law with regards to variances.

K. French stated that it could be used as a residential property but some physical constraints such as steep slopes and ledge limit the only buildable area that is currently developed with a dwelling and two out building, an existing septic system and well. They have obtained demolition permits to raze all the structures currently on the property and will reuse the septic system with modifications. He feels that with the other developed properties in this area this property is more suitable for a commercial use rather than residential.

E. MacLeish inquired as to the age of the dwelling.

K. Smith responded around 200 years old and in very bad condition.

W. Zurhellen inquired as to whether this would be used strictly for storage, there would be no engine maintenance repairs or active work performed on the site.

K. Smith responded that is for boat storage, inside during the winter and yes no work performed on this site.

R. Dorff that he felt that it could be conditionally approved pending planning board site plan review.

B. Sweeney stated he had concerns with the proposed height of the structure.

E. MacLeish reiterated that he is unsure how to apply the undue hardship criteria and whether it needs to meet all five of the criteria for a variance. He would like advice from the town's legal counsel if a hardship needs to be proven.

E. MacLeish made a motion to defer until an opinion is provided from counsel on what criteria to apply.

B. Sweeney seconded the motion. Motion failed 2- Yes 3 – No

R. Dorff reiterated that planning board site plan review is still needed and he believes that this is proposal has a sense of community to it that it isn't a bad idea for the town.

W. Zurhellen stated that they should consider the board submit to the planning board their concerns over the issue of undefined uses for consideration when updating the zoning ordinance.

E. MacLeish stated that he is not against the project but is a stickler for the rules and wants to apply them equally to all applicants.

Michael Salmon, an abutter introduced himself as the owner of the home directly adjacent to this property and the owner of the Inn on Golden Pond. He stated that there is extensive ledge between the properties, a dense tree line, the proposed building is plain jane and the spirit of the town was to embrace the lakes, tourism and that the explosion of the population and boaters creates a need for this use. He would like to see all the shrink-wrapped boats taken off individual properties scattered around town and relocated into a structure that hides them. It would be a quiet peaceful business and he supports the application 100%.

Fire Chief J. Bonan stated that he has yet to see a set of plans for the building but would remind the applicant that he will need to meet all the NH State Fire Codes.

K. French stated they would address those concerns at the planning board site plan review.

There being no other abutters present or discussion from the board

Vice Chair W. Zurhellen closed the public hearing at 6:58 pm

E. MacLeish stated that his concern is not with this application, but legally what criteria do we base this decision on.

K. French stated the hardship is that there are not enough boat storage facilities in town.

W. Zurhellen suggested that the board could grant conditional approval, obtain a clear definition from counsel as to what criteria to apply including hardship.

E. Shields stated that his love for boats is his passion, the reason he picked this property is that it is isolated, the existing buildings are unusable, the 80' of ledge to the rear is perfect to shield from abutters, the town owns the vacant land adjacent, and that the proposed building will blend into the landscape and this would be the highest and best use.

Vice Chair Zurhellen asked for a motion.

Motion: “To conditionally approved the request for a variance to Section 300.4.1.1 of the Holderness Zoning Ordinance in order to construct a seasonal boat storage facility as detailed on the plan entitled “A Site Plan for Holderness Harbor LLC” by French Land Services Inc. Surveyed December 2022, located at 24 NH Route 175, Tax Map 239-041-000 pending the town’s legal counsel’s opinion as to the variance criteria that must be applied including “hardship”. If counsel advises that the board must consider all five elements of the variance criteria then this conditional approval is rescinded and the applicant agrees to return to the Zoning Board to present that defense and the board will reconsider the application. Otherwise, this conditional approval is granted and is conditioned upon receipt of Planning Board Site Plan approval”.

Motion: E. MacLeish

Second: R. Dorff

Discussion: None

Motion Passes: 5-Yes 0-No

OLD BUSINESS: None

Other Business: None

Next meeting: July 11, 2023

ADJOURNMENT:

At 7:05 P.M. the following motion was made:

MOTION: “To adjourn.”

Motion: B. Sweeney

Second: K. Fuller

Discussion: None

Motion Passes: 5-Yes 0-No

Respectfully submitted,

Lucinda M. Hannus
Land Use Assistant