



BOARD of ADJUSTMENT
Town of Hollis
Seven Monument Square
Hollis, New Hampshire 03049
Tel. 465-2209 FAX 465-3701

Minutes of January 3, 2019

Meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Brian Major at 7:45 pm.

MEMBERS OF ZONING BOARD OF ADJUSTMENT: Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Members –Cindy Robbins-Tsao, Rick MacMillan and Susan Durham; Alternate Members –Drew Mason, Kat McGhee, Bill Moseley and Meredith West.

Major stated that this meeting is a continuation of the December 27, 2018 meeting. Three cases (two matters) are under consideration. There will be no public comment.

DELIBERATIVE SESSION ONLY

Case ZBA 2018-016 The Deliberative Session was tabled on December 27, 2018 for the application of Patricia Panciocco, for a Variance to Section XXI.1, Housing for Older Persons, Paragraph e, Minimum lot area & Section VIII Lot Definition of the Zoning Ordinance to permit the construction of a Housing for Older Persons Development on a noncontiguous 20 acre lot (contiguous lot required), property owned by James Prieto, located at 436, 441, 443, 445 and 447 Silver Lake Rd. (Map 045, Lot 041 and Map 046, Lots 007-010) and property owned by James Seely, located at 449 Silver Lake Rd. (Map 046, Lot 006) in the Agricultural Business Zone and Residential Agricultural Zone.

Major stated that since the last meeting on December 27, 2018 and this meeting, a Board member received information on Case ZBA 2018-016. Belanger said this information might impact the Board's decision. Mason asked if the public would also be allowed to speak since the attorneys will be invited back. Major said that they would, but discussion should be limited to the additional information. Major asked D. Setaro to circulate the necessary information tomorrow.

Recess was called at 7:53 pm so that Setaro could check about an available date for the next meeting. The meeting reconvened at 8:07.

MacMillan moved to table Case ZBA 2018-016 until a ZBA meeting on January 10, 2019 beginning at 7:00 pm, at which time discussion will be limited to the new information.

Tsao seconded the motion.

Motion unanimously approved.

DELIBERATIONS AND DECISION

Major opened deliberations on both variance requests: Case ZBA 2018-025 and Case ZBA 2018-026. The deliberative session for both cases were tabled at the December 27, 2018 meeting.

Case ZBA 2018-025

Discussion of the application of John Halvatzes, Jr., for a Variance to Section XG, Zoning District, Paragraph 4.b, Minimum Frontage on a public road of the Zoning Ordinance to permit the construction of a Single Family Home with 112.01 feet of frontage (required 200 feet) located on Broad Street (Map 014, Lot 048) in the Residential/Agricultural Zone.

Case ZBA 2018-026

Discussion of the application of John Halvatzes, Jr., for a Variance to Section XG, Zoning District, Paragraph 4.a, Minimum Lot Area of the Zoning Ordinance to permit the construction of a Single Family Home on a 1.69 acre lot (required 2 acres) located on Broad Street (Map 014, Lot 048) in the Residential/Agricultural Zone.

Discussion

Belanger said that if this had been built when the lot was first established, there would have been no problem. A few years ago, there was a similar situation on Wood Lane and a variance was granted.

MacMillan stated that this lot was never buildable and has not been taxed as a buildable lot for over 30 years. It was never a lot of record. There are many vacant, undersized lots in Hollis, at least ten or eleven, and granting this variance would set a precedent which could result in the loss of rural, open land. The owner 32 years ago came in for a tax reduction. When the owner came in with a warranted deed, it was nine months after the passage of zoning regulations making the lot unbuildable.

Durham stated that this lot fits in that neighborhood because it is already more dense than others in Hollis. A home there would blend in. Mason stated that when the lot was formed, it did not have enough frontage, because the requirement was 150 feet. It has been taxed as unbuildable for about 30 years. Two variances are needed. Situations must be dealt with on a case-by-case basis.

West said that it will fit in the neighborhood but has never been buildable.

Major said that there are five lots under two acres in that neighborhood. He is less concerned about acreage than about frontage. The purpose of requiring 200 feet of frontage is to avoid crowding and multiple driveways close to one another. He said the owner has a recorded deed; it just has not been officially accepted.

Durham stated that we can decide if a lot fits into an area. MacMillan said that there are eleven unbuildable lots in Hollis. Major stated that the Board cannot create subdivisions now with undersized lots. West said they should look at each case in terms of the existing neighborhood.

Major said that preservation of rural character is important, and also land to support two wells and two septic systems, in case one fails.

McGhee recalled that an abutter at the December 27th meeting was told by a realtor that this was an unbuildable lot.

MacMillan asked about the hardship and the public interest criteria. Mason If there is hardship, it would be that there is no other use for the land. Durham asked if this is confiscatory. MacMillan asked why it is a problem now after 30 years. Tsao said she agreed with Mr. MacMillan. Moseley said that the property was deeded nine months after the zoning ordinance changed so the lot is not grandfathered. The property owners should have dealt with the problem 30 years ago.

McGhee noted that the owner in 1986 apparently was not looking to build because he/she met with the Assessor, not the Planning Board. There are two variances requested and the lot misses on both.

West said that the rural character should be considered.

Durham said that the area is already cluttered. She added that she does appreciate the concern about precedent.

MacMillan stated that this lot is 80 feet short of the minimum frontage requirement and has a right-of-way next to it. Major said the lot was taxed as buildable from 1965 until 1986. Since 1986, taxes have been lower.

Mason said he has no problem with the variance from two acres but is concerned about the lack of frontage. He said that the building box is a 100 X 200 area. Major said the building box is on the plan. West said it is not.

DECISION CASE 2018-025

Major moved for the following findings of fact;

1. *The board finds at the time the lot was created by deed it did not have the required frontage for a buildable lot.*
2. *The board finds the parcel is not a buildable lot of record of was created by deed in 1965, 9 months after the zoning ordinance changed.*

Seconded by Tsao.

Motion unanimously approved.

Questions - Variance

- Question 1. The variance will not be contrary to the public interest.
 Question 2. The spirit of the ordinance is observed.
 Question 3. Substantial justice is done.
 Question 4. The values of surrounding properties are not diminished.
 Question 5a (1). No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.
 Question 5a (2). And, the proposed use is a reasonable one.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question #5a(2)	Total Yes	Total No
Major	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Tsao	No	No	No	No	No	No	0	5
Durham	No	No	No	No	No	No	0	5
McMillian	No	No	No	No	No	No	0	5

THEREFORE THE VARIANCE WAS DENIED WITH THE FOLLOWING FINDINGS OF FACT:

- 1. The board finds at the time the lot was created by deed it did not have the required frontage for a buildable lot.**
- 2. The board finds the parcel is not a buildable lot of record but was created by deed in 1965, 9 months after the zoning ordinance changed.**

DECISION CASE 2018-026

Major moves for the following finding of fact;

1. *The board finds the undersized nature of the lot was exacerbated by the insufficient amount of frontage.*

Seconded by Tsao.

Motion unanimously approved.

Questions - Variance

- Question 1. The variance will not be contrary to the public interest.
 Question 2. The spirit of the ordinance is observed.
 Question 3. Substantial justice is done.
 Question 4. The values of surrounding properties are not diminished.

Question 5a (1) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.

Question 5a (2) And, the proposed use is a reasonable one.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question #5a(2)	Total Yes	Total No
Major	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Tsao	No	No	No	No	No	No	0	5
Durham	No	No	No	No	No	No	0	5
McMillian	No	No	No	No	No	No	0	5

THEREFORE THE VARIANCE WAS DENIED WITH THE FOLLOWING FINDING OF FACT:

- 1. The board finds the undersized nature of the lot was exacerbated by the insufficient amount of frontage.**

Other Business

Belanger said he doesn't like the way they vote. Although if the first question is defeated, the case fails, they should still vote with thought on the other questions, not just vote 'no' on every question.

Belanger reported on pending State legislation (bills) which could affect zoning and planning regarding tiny houses. These are Accessory Dwelling Units (ADU) built on 10,000 square feet. In areas with housing shortages, people are encouraged to live in the city where they have municipal sewer, water, and gas. He said these bills will probably die in the Legislature.

Meeting Adjourned

The meeting adjourned at 9:00 pm.

Respectfully submitted, Donna L. Setaro, Building & Land Use Coordinator