



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

Minutes of September 26, 2019

Meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Brian Major at 7:00 pm.

MEMBERS OF ZONING BOARD OF ADJUSTMENT: Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Members –Rick MacMillan and Susan Durham; Alternate Members –Drew Mason, Meredith West and Stan Swerchesky.

Belanger lead the Pledge of Allegiance.

Major explained policies and procedures.

Major said he would be participating during the discussions on the cases this evening. However, he would not be voting.

Major said the voting members for both cases this evening are as follows; Belanger, MacMillan, Durham, Mason, and Swerchesky.

Belanger said there may be some questions on his participation during ZBA 2019-009. Jill Patronagio (Dr. Jill) purchased the business from Belanger's son and Belanger's daughter worked for Dr. Jill. Belanger said he contacted Dr. Jill regarding this issue and asked if she had any concerns with him participating in the case. Dr. Jill responded that she did not have any concerns with his participation. Belanger does not see any conflict; and therefore, would not be recusing himself from the case. Major asked if any board member had any issues with Belanger participating and voting on the case, and none of the board members had any issues. Major felt there was no grounds for conflict since Belanger has no ownership of the building and no interest with the practice, and Belanger stated he could be objective.

West recused herself from Case ZBA 2019-009.

Determination of Regional Impact

Mason moves that the ZBA find that Case ZBA 2019-008 has no regional impact. .

Belanger seconded.

Motion unanimously approved.

Case ZBA 2019-008

The application of Cook Custom Homes for a Special Exception to Section XI, General Provisions, Section K, Accessory Dwelling Unit to permit the construction of a 771 square foot Accessory Dwelling Unit., property is owned by Cutter Place Properties and located at 19 Cutter Place, Map 014, Lot 037-016 in the Residential & Agricultural Zone.

Tom Cook, of Cook Custom Homes, presented Case 2019-008 on behalf of the property owners. The potential buyers of the lot located at 19 Cutter Place are requesting approval to construct a 771 square foot Accessory Dwelling Unit (ADU) above the garage for their parents to live in. The ADU would be accessed through the mud

room of the principal structure into a heated finished stairway leading to the second floor. The ADU will not be visible from the exterior of the home and thus it will appear to be a single family home... The ADU square footage totals 771 square feet, which is under the maximum 800 square foot requirement. The square footage calculations were reviewed and approved by William Condra, Building Inspector. The home's septic design was approved by the town and state, and is capable of handling the waste of the principal dwelling and the ADU.

Major asked if the project was new construction. Cook replied yes. Major asked how the proposed design of the primary dwelling could reincorporate the ADU if the ADU were no longer needed. Cook replied the area could be used as a bonus room. Major said the proposed design seems to make achieving the reincorporation requirement very difficult since the second floor area where the units share a common heated wall has a master bathroom on one side and a kitchen and bath on the other.

Cook said the ZBA had previously approved an ADU for a property he constructed at 106 Depot Rd; which has the same configuration, except that it has a door from the mudroom leading directly up to the ADU. Belanger asked which wall is being considered the common heated wall to meet the ordinance requirement. Cook replied the second floor wall between the master bathroom and the kitchen for the ADU. Belanger asked if it would be possible to remove the walk in shower located in the master bathroom, renovate the kitchen into a room and install a door between the two units to meet the requirements of the ADU ordinance if at any time the ADU was removed. Cook replied yes.

Major asked Condra if he was satisfied with the dimensional requirement of the ordinance. Condra replied yes.

No Further Questions from the Board and none from the floor – hearing portion of the case closed.

Determination of Regional Impact

Mason moves that the ZBA find that Case ZBA 2019-009 has no regional impact.

Belanger seconded.

Motion unanimously approved.

Case ZBA 2019-009

The application of Jill Patronagio, property owner, for a Special Exception to Section XII Nonconforming Uses, Structures and Lots, Section B.4, Nonconforming Lot to permit the construction of a 10' x 12' front addition with a front yard setback of 29.16 feet, (required 50 feet) located at 11 Silver Lake Rd., Map 052, Lot 026 in the Agricultural Business Zone.

Chris Guida from Fieldstone Land Consultants, presented Case ZBA 2019-009 on behalf of the property owner. The property owner is a veterinarian, and her clinic is located in the building on the property. The proposal is to construct a 10' x 12' addition to expand the waiting room located in the front of the existing structure. Currently, the existing structure does not meet the 50' setback requirement. The addition would be 3.9 feet closer to the front property line than the existing structure. Once completed, the addition will be 29.16 feet from the front property line. The Historic District Commission (HDC) has already granted approval for the project subject to ZBA and Planning Board approvals.

The expansion is needed because the property owner's business has grown significantly and the existing waiting room is too small for the expanded business. The expansion would enhance the safety of the animals and caretakers, and improve the flow of the business. Major asked when the building was constructed. Jill Patronagio replied 1969.

Major asked Setaro why the application was not submitted as a variance request. Setaro replied the ZBA may grant a special exception to setback requirements for non-conforming lots of less than two acres within the Historic District. (section XII.B.4).

105 Swerchesky asked if clients currently enter the waiting room from the existing porch. . Patronagio replied there is a
106 vestibule area prior to entering the waiting room. Swerchesky asked if the expansion would create a new waiting
107 room. Patronagio replied no, that the addition will expand the current waiting room.
108

109 Major said the current building is non-conforming with a front setback of 33 feet and asked what would be the front
110 setback measurement be once the addition is completed. Guida replied 29.16 feet. Patronagio said some of the
111 surrounding properties are far closer to the road than the proposed addition. Major and several ZBA members
112 agreed.
113

114 Durham asked would the existing porch remain. Patronagio replied yes and proposed addition will bump out from
115 the existing porch. Major asked was the design for the addition approved by the HDC. Patronagio replied yes.
116

117 **No Further Questions from the Board and none from the floor – hearing portion of the case closed.**
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119 ZBA recessed at 7:30 pm

120 ZBA reconvened at 7:35 pm
121

122 **DELIBERATIONS**

123 **Case ZBA 2019-008**

124 The discussion of the application of Cook Custom Homes, for a Special Exception to Section XI, General Provisions,
125 Section K, Accessory Dwelling Unit to permit the construction of a 771 square foot Accessory Dwelling Unit to the
126 property owned by Cutter Place Properties, located at 19 Cutter Place., Map 014, Lot 037-016 in the Residential &
127 Agricultural Zone.
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129 MacMillan said that another way to reincorporate the ADU, if it's no longer needed, would be to frame the entire
130 landing area shown on page two of the plans within the garage and relocate one of the doors. Major agreed the unit
131 could be renovated into a master suite or some other room. Belanger asked Setaro if all abutters were notified and
132 whether any feedback was received. Setaro replied yes they were notified, and no feedback either way was received.
133
134

135 **No further discussion.**
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137 **Questions/Special Exception**

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139 Question #1 Is the Exception specified in the Ordinance?

140 Question #2 Are the specified conditions under which the Exception may be granted present?

141 Question #3 Should the Exception be granted with the specified conditions and restrictions?
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Board Member	Question #1	Question #2	Question #3	Total-Yes	Total-No
Belanger	Yes	Yes	Yes	3	0
MacMillan	Yes	Yes	Yes	3	0
Durham	Yes	Yes	Yes	3	0
Mason	Yes	Yes	Yes	3	0
Swerchesky	Yes	Yes	Yes	3	0

143
144 **THEREFORE, THE SPECIAL EXCEPTION WAS GRANTED.**
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146 **Case ZBA 2019-009**

147 The discussion of the application of Jill Patronagio, property owner, for a Special Exception to Section XII
148 Nonconforming Uses, Structures and Lots, Section B.4, Nonconforming Lot to permit the construction of a 10' x 12'
149 front addition with a front yard setback of 29.16 feet (required 50 feet) located at 11 Silver Lake Rd., Map 052, Lot
150 026 in the Agricultural Business Zone.

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The ZBA discussed the case briefly and had no issues with the application since they determined that the further intrusion into the front setback was insignificant and in keeping with the surrounding properties.

Belanger moves for the following finding of fact:

1. The Board finds the proposed further intrusion into the front yard setback is nominal and is in keeping with the structures in the area.

Mason stated his concern on the word “nominal”. The proposal is an encroachment of 10% more than the current situation. Belanger asked if changing the word from “nominal” to “minimal” would be agreeable, and the Board agreed.

Belanger moves for the following amended finding of fact:

1. The Board finds the proposed further intrusion into the front yard setback is minimal and is in keeping with the structures in the area.

Belanger moves for the following finding of fact:

2. The Board recognizes the approval granted by the Historic District Commission.

MacMillan seconded

Motion unanimously approved.

No further discussion.

Questions/Special Exception

- Question #1 Is the Exception specified in the Ordinance?
- Question #2 Are the specified conditions under which the Exception may be granted present?
- Question #3 Should the Exception be granted with the specified conditions and restrictions?

Board Member	Question #1	Question #2	Question #3	Total-Yes	Total-No
Belanger	Yes	Yes	Yes	3	0
MacMillan	Yes	Yes	Yes	3	0
Durham	Yes	Yes	Yes	3	0
Mason	Yes	Yes	Yes	3	0
Swerchesky	Yes	Yes	Yes	3	0

THEREFORE, THE SPECIAL EXCEPTION WAS GRANTED WITH THE FOLLOWING FINDINGS OF FACT:

- 1. The Board finds the proposed further intrusion into the front yard setback is minimal and is in keeping with the structures in the area.**
- 2. The Board recognizes the approval granted by the Historic District Commission.**

Other Business

Proposed zoning changes

Discussion on the 100 foot Scenic Road Setback

Belanger said that, in the past, the town would receive matching DAR funds if the town enforced a scenic road setback of 100 feet, but that the state does not give those funds anymore. MacMillan said the idea behind the setback requirements was to preserve the scenic views along these roads, and even without the state funds, we should still preserve the beauty of these roads. Major asked if it was fair to those who have built on a scenic road and

197 complied with the 100' setback to now change the requirement for future projects. The ZBA has been liberal in the
198 past with to granting variances from the 100 foot setback on scenic roads. MacMillan is not in favor of removing the
199 scenic setback requirement.

200
201 Belanger noted the proposed change would not remove the 100' setback. Belanger would like the ZBA to entertain
202 changing the application process from a variance to a special exception when requesting relief from the 100' setback.
203 Major stated that if the request is changed to a special exception and the application meets the special exception
204 criteria, then the ZBA is obligated to grant the special exception. If the ZBA sends the proposed change to the
205 Planning Board, the ZBA would need to present different criteria which would need to be met.

206
207 Belanger suggested removing some of the roads which are not scenic, but are designated as scenic roads from the
208 list. The setback requirements would still be in place for the remaining roads designated as scenic roads.

209
210 West said developers seeking to maximize the value of their property would be likely to pursue this type of special
211 exception if it allowed them to increase their ability to develop the property. The ZBA ultimately decided not the
212 change the scenic road setback requirements at this time.

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214 **Setback Definition**

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216 The ZBA discussed adding a definition for "setback" to the zoning ordinance. After a brief discussion, the ZBA
217 voted unanimously to submit the following definition to the Planning Board for review and approval.

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219 **SECTION VIII: DEFINITIONS**

220 ADD:

221 **SETBACK**- The minimum distance between the nearest portion of a building or structure and a lot line, a right-of-
222 way line, or a terrain feature such as shoreline or wetlands area. Setbacks are required in this ordinance to support the
223 purposes of Zoning Ordinances as specified in state law.

224 Reason: A definition should be added to define the purpose for setbacks. The word "setback" appears 56 times in the
225 Hollis Zoning Ordinance, but is not currently defined.

226
227 **Review of Minutes**

228 *Mason moved to approve the minutes of August 22, 2019.*

229 *Seconded by Belanger.*

230 *Motion unanimously approved with MacMillan abstaining.*

231
232 The ZBA meeting adjourned at 8:10 pm.

233
234 Donna Lee Setaro, Building and Land Use Coordinator
235 Hollis Zoning Board of Adjustment

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