



BOARD of ADJUSTMENT

Town of Hollis

Seven Monument Square
Hollis, New Hampshire 03049
Tel. 465-2209 FAX 465-3701

Minutes of June 10, 2020

Meeting was held via zoom and was called to order by Chairman Brian Major at 7:10 pm.

Due to the Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Zoning Board of Adjustments is using the Zoom platform to conduct this meeting electronically. The public is encouraged to listen and/or participate via Zoom.

DELIBERATIVE SESSION ONLY

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

Major opened deliberations on the 3 variance requests: Case ZBA 2020-003, Case ZBA 2020-004 and 2020-005. The deliberative sessions for the 3 cases were tabled at 11:30 pm on May 28, 2020 until June 10, 2020 due to the time limitation of the Hollis Live Stream. The discussion will encompass all 3 variance requests however, each case would be voted on individually. If approved, the findings-of-fact and conditions would be imposed on all 3 cases.

DELIBERATIONS AND DECISION

Case ZBA 2020-003

The deliberative session was recessed during the May 28, 2020 meeting- The application of Raymond Lorden, property owner, for a Variance to Section XII Nonconforming Uses, Structures and Lots, Paragraph A.3, Nonconforming Uses, Alterations of the Zoning Ordinance to permit the expansion of a non-conforming use of 5 single family dwelling units on a single lot to six single family dwelling units. (1 single or 1 two family dwelling is permitted), located at 11 Federal Hill Rd., Map 059, Lot 024 in the Recreational Zone.

Major said during the last meeting (May 28, 2020) the consensus of the board was to grant the variance. The board started working on conditions and findings-of-fact but had to recess due to the lateness of the meeting. Prior to closing the May 28, 2020 meeting, Major asked the members to circulate the proposed conditions and findings-of-fact so they could be discussed this evening.

Major said once the findings-of-fact and conditions are determined and voted on they would be imposed to all 3 variance requests. The members agreed.

Major said he agrees with the proposal however, the ZBA needs to determine findings-of-fact which are relevant to the hardship criteria such as the fair and substantial relationship to the ordinance and the reasonable use of the property. McGhee said the uniqueness of the property, the historical uses of the property and the amount of setbacks requirements of the lot could be considered a hardship. Belanger said the hardship is the land and the condition of the property. Belanger proposed the following finding-of-fact *"the current condition and use of the property is no longer viable. Restoring the use would not comply with current zoning. In order to save this property and the surrounding neighborhood as well as the water quality at Silver Lake State park, this parcel needs to be reconfigured. The applicant's proposal will do this with the requested variances."* McGhee said the finding may want to be changed to reflect more of the hardship to the property. West proposed the following finding-of-fact *"The board finds that the dilapidated buildings are located on the edge of the bank; and if not removed, they could potentially cause additional contamination to Silver Lake."* Tsao agreed. Mason agreed with Belanger the hardship is that the property is untenable as is. This is a reasonable proposal to alleviate the untenable situation.

Belanger said if a resident disagrees with the findings for a hardship, the decision could be appealed. West said the hardship is not just one item, the hardship is layered on the parcel such as; waterfront property, historic uses, lakeshore setbacks, scenic road setbacks and wetland setbacks. All of these combined on one parcel make the parcel unique in itself. Majors suggested a finding-of-fact *"The board finds that the parcel is unique due to a combination of factors including the significant size of the parcel the significant setbacks which impact the parcel and the physical structures and layout of the parcel."* Mason said the ZBA might want to consider added a finding which includes the condition of the physical structures on the parcel. Belanger said without the proposal the current septic system would not be environmentally safe for the lake.

West moves for the following findings-of-fact:

- 1. The board finds that the property is a large, 4.9 acre waterfront lot on Silver Lake, and is located in an area with several significantly undersized, non-conforming waterfront properties.*
- 2. The board finds that the property contains six dilapidated buildings whose historic use no longer conforms with the existing ordinances.*
- 3. The board finds that Silver Lake has been closed repeatedly for several years due to contamination.*
- 4. The board finds that the dilapidated buildings are located on the edge of the bank; and if they are not removed, they could potentially cause additional contamination to Silver Lake.*
- 5. The board finds that the combination of the above findings 1 through 4 constitutes the hardship of the property.*
- 6. The board finds that the proposed addition of a 1 bedroom dwelling unit does not significantly impact the present or the historic density of use on the current parcel.*

Tsao seconded.

Motion unanimously approved.

Belanger moves for the following finding-of-fact:

- 7. In order to save this property and the surrounding neighborhood as well as the water quality at Silver Lake State Park, this parcel needs to be reconfigured and the applicant's proposal will do this with the requested variances.*

Mason seconded.

Motion unanimously approved.

The ZBA discussed the proposed conditions of approval. The main concerns the board discussed were that the total amount of bedrooms should be limited, fertilizer use, the remaining septic systems need to be inspected and compliant with the current regulations, and the new construction should meet the current shorefront setback of the lake and should not be constructed in the same location of the pavilion.

McGhee moves for the following conditions of approval;

- 1. The pavilion and 6 structures along the waterfront shall be removed prior to commencing the construction of the new unit.*
- 2. The total number of bedrooms may not exceed 11 on the property*
- 3. No additional asphalt shall be installed on the property.*
- 4. The new structure must comply with all federal, state and local setback requirements for wetland and/or lake shore property*
- 5. No fertilizer use allowed on the 4.9 acre parcel*
- 6. The parcel is limited to residential use.*
- 7. No stipulations in design presented in the application can be changed unless the change is needed to comply with all legal requirements.*
- 8. The applicant shall have all existing septic systems on the property inspected to insure they meet all State and Local regulations.*

Discussion condition #8

Major asked if the applicant would be required to replace the septic system in kind or replace with a new system. Belanger said complying with the current regulations means bring the septic system up to code. Certifying the systems as working, a dry well would be considered working, it does not mean the systems are up to code. West said her interpretation of the condition was, if the septic systems are working after they are inspected they could stay, if the systems fail the inspection they would need to be replaced. Most members agreed. Belanger said his envision was to upgrade the old systems. McGhee said her intent was not to add more costs to the project or more construction within the parcel. The intent was only to make sure the septic systems are functional and working properly. The members agreed.

Tsao seconded.

Motion unanimously approved.

Case ZBA 2020-004

The deliberative session was recessed during the May 28, 2020 meeting -The application of Raymond Lorden, property owner, for a Variance to Section XF Recreational Zone, Paragraph 3a Minimum Lot Area, of the Zoning Ordinance to allow a lot area of .82 per dwelling unit where .98 per dwelling unit exists and 2 acres per dwelling unit is required, located at 11 Federal Hill Rd., Map 059, Lot 024 in the Recreational Zone.

Deliberation occurred during case 2020-003, see above.

Case ZBA 2020-005

The deliberative session was recessed during the May 28, 2020 meeting - The application of Raymond Lorden, property owner, for a Variance to Section IX General Provisions, Paragraph J, Number of Residential Units which may be constructed on a lot, of the Zoning Ordinance to construct a single family home on a lot where 5 dwelling units currently exist, located at 11 Federal Hill Rd., Map 059, Lot 024 in the Recreational Zone.

Deliberation occurred during case 2020-003, see above.

DECISION CASE 2020-003, (voting results)

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	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Mason	Yes	Yes	Yes	Yes	Yes	Yes	5	0
McGhee	Yes	Yes	Yes	Yes	Yes	Yes	5	0

THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITIONS AND FINDINGS-OF-FACT:

Conditions:

1. The pavilion and 6 structures along the waterfront shall be removed prior to commencing the construction of the new unit.
2. The total number of bedrooms may not exceed 11 on the property
3. No additional asphalt shall be installed on the property.
4. The new structure must comply with all federal, state and local setback requirements for wetland and/or lake shore property
5. No fertilizer use allowed on the 4.9 acre parcel
6. The parcel is limited to residential use.
7. No stipulations in design presented in the application can be changed unless the change is needed to comply with all legal requirements.
8. The applicant shall have all existing septic systems on the property inspected to insure they meet all State and Local regulations.

Findings-of-Fact:

1. The board finds that the property is a large, 4.9 acre waterfront lot on Silver Lake, and is located in an area with several significantly undersized, non-conforming waterfront properties.
2. The board finds that the property contains six dilapidated buildings whose historic use no longer conforms with the existing ordinances.
3. The board finds that Silver Lake has been closed repeatedly for several years due to contamination.
4. The board finds that the dilapidated buildings are located on the edge of the bank; and if they are not removed, they could potentially cause additional contamination to Silver Lake.
5. The board finds that the combination of the above findings 1 through 4 constitutes the hardship of the property.
6. The board finds that the proposed addition of a 1 bedroom dwelling unit does not significantly impact the present or the historic density of use on the current parcel.
7. In order to save this property and the surrounding neighborhood as well as the water quality at Silver Lake State Park, this parcel needs to be reconfigured and the applicant's proposal will do this with the requested variances.

DECISION CASE 2020-004, (voting results)

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	5	0
Mason	No	No	No	No	No	No	5	0
McGhee	No	No	No	No	No	No	5	0

THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITIONS AND FINDINGS-OF-FACT:

Conditions:

1. The pavilion and 6 structures along the waterfront shall be removed prior to commencing the construction of the new unit.
2. The total number of bedrooms may not exceed 11 on the property
3. No additional asphalt shall be installed on the property.
4. The new structure must comply with all federal, state and local setback requirements for wetland and/or lake shore property
5. No fertilizer use allowed on the 4.9 acre parcel
6. The parcel is limited to residential use.
7. No stipulations in design presented in the application can be changed unless the change is needed to comply with all legal requirements.
8. The applicant shall have all existing septic systems on the property inspected to insure they meet all State and Local regulations.

Findings-of-Fact:

1. The board finds that the property is a large, 4.9 acre waterfront lot on Silver Lake, and is located in an area with several significantly undersized, non-conforming waterfront properties.
2. The board finds that the property contains six dilapidated buildings whose historic use no longer conforms with the existing ordinances.
3. The board finds that Silver Lake has been closed repeatedly for several years due to contamination.
4. The board finds that the dilapidated buildings are located on the edge of the bank; and if they are not removed, they could potentially cause additional contamination to Silver Lake.
5. The board finds that the combination of the above findings 1 through 4 constitutes the hardship of the property.
6. The board finds that the proposed addition of a 1 bedroom dwelling unit does not significantly impact the present or the historic density of use on the current parcel.
7. In order to save this property and the surrounding neighborhood as well as the water quality at Silver Lake State Park, this parcel needs to be reconfigured and the applicant's proposal will do this with the requested variances.

DECISION CASE 2020-005 (voting results)

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	5	0
Mason	No	No	No	No	No	No	5	0
McGhee	No	No	No	No	No	No	5	0

THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITIONS AND

FINDINGS-OF-FACT:

Conditions:

1. The pavilion and 6 structures along the waterfront shall be removed prior to commencing the construction of the new unit.
2. The total number of bedrooms may not exceed 11 on the property
3. No additional asphalt shall be installed on the property.
4. The new structure must comply with all federal, state and local setback requirements for wetland and/or lake shore property
5. No fertilizer use allowed on the 4.9 acre parcel
6. The parcel is limited to residential use.
7. No stipulations in design presented in the application can be changed unless the change is needed to comply with legal requirements.
8. The applicant shall have all existing septic systems on the property inspected to insure they meet all State and Local regulations.

Findings-of-Fact:

1. The board finds that the property is a large, 4.9 acre waterfront lot on Silver Lake, and is located in an area with several significantly undersized, non-conforming waterfront properties.
2. The board finds that the property contains six dilapidated buildings whose historic use no longer conforms with the existing ordinances.
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5. The board finds that the combination of the above findings 1 through 4 constitutes the hardship of the property.
6. The board finds that the proposed addition of a 1 bedroom dwelling unit does not significantly impact the present or the historic density of use on the current parcel.
7. In order to save this property and the surrounding neighborhood as well as the water quality at Silver Lake State Park, this parcel needs to be reconfigured and the applicant's proposal will do this with the requested variances.

Other Business

Major said he hopes there would not be another confrontation like occurred during the May 28, 2020 meeting. For the record, a recusal is acted on by the individual member, it usually is not asked for by an applicant. Major felt the board has a lot of integrity and Major does not think there was an insinuation that the board did not. Major apologized that he did not control the situation better. Major believes holding meetings via zoom makes people react differently then they normally would. Major said a person should not be somewhat forced to recuse themselves. The evidence is received prior to the meeting and Major felt opinions are formulated prior to the meeting however, once the case is presented and discussed views can change. The ZBA members should view the cases to prepare for the meeting. Major congratulated Mason for finding the building box discrepancy with the Broad St. case.

Belanger moves to have the ZBA officers remain in office until the election of April 2021.

Mason seconded.

Motion unanimously approved.

Mason asked if the ZBA continues to run meetings via zoom we need to be more aggressive with muting participants. It is very distracting when there are repeated interruptions when people are participating.

Meeting Adjourned

The meeting adjourned at 8:00 pm.

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