



**ZONING BOARD of ADJUSTMENT**  
**Town of Hollis**  
Seven Monument Square  
Hollis, New Hampshire 03049  
Tel. (603) 465-2209 FAX (603) 465-3701

**Minutes of April 6, 2021**

The ZBA meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Brian Major at 7:05 pm.

**MEMBERS OF ZONING BOARD OF ADJUSTMENT:** Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Member – Drew Mason; Alternate Members – Bill Moseley, Meredith West and Stan Swerchesky.

**Continuation of the Deliberative Session for cases ZBA 2021-003 and ZBA 2021-004.**

Major reconvened the deliberative session for cases ZBA 2021-003 and ZBA 2021-004.

Major asked the members if they wanted to create findings of fact for each case separately or for both cases together. The Board decided to create findings of fact for each separate case.

It was brought to Major's attention that Question 5b for case ZBA 2021-003 was not called during the March 25, 2021 meeting. Major asked Setaro to call Question 5b.

Setaro called Question 5b: "The property cannot be reasonably used in strict conformance with the ordinance, and a variance is, therefore, necessary to enable a reasonable use of it." Voting results as follows:

Board Member	Question #5b
Major	Yes
Belanger	No
Mason	Yes
West	Yes
Moseley	No

The outcome of case ZBA 2021-003 did not change. The variance was denied.

Major said the members who voted against the application should start creating the findings of fact for the cases. Major suggested the findings of fact should be as succinct as possible and explain the rationale for the decision made for each question of the variance. West agreed stating any long or complicated finding could lead to conflicting opinions about its meaning. The findings should be straightforward, clear and brief. The members agreed.

It was Mason's opinion that ZBA 2021-004 passed at the March 25, 2021 meeting. West agreed. Mason said the email which was sent out directly after the meeting with the vote tallies was correct. The later draft minutes had a typo on the vote for case ZBA 2021-004. The Board reviewed the actual recorded vote from the March 25, 2021 meeting and found ZBA 2021-004 passed.

The Board discussed the requirements for a variance to pass, Questions 1-4 must pass by a majority vote and the Board must find that the applicant has met Questions 5a(1) and 5a(2) or Question 5b by a majority vote to pass. If any one of Questions 1-4 fails and variance fails.

**Case ZBA 2021-003**

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 128.51 feet of frontage (required 200 feet) located on Broad Street (Map 026, Lot 048) in the Residential/Agricultural Zone.

Following is a recap of the voting results from March 25, 2021, and the results from Question 5b, which was voted on this evening.

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). The proposed use is a reasonable one.  
Question 5b. The property cannot be reasonably used in strict conformance with the ordinance, and a variance is, therefore, necessary to enable a reasonable use of it.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question #5a(2)	Question #5b	Total Yes	Total No
Major	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Belanger	No	No	No	Yes	No	Yes	No	2	5
Mason	Yes	No	Yes	Yes	No	No	Yes	4	3
West	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Moseley	Yes	No	No	Yes	No	Yes	No	3	4

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

The Board had a lengthy discussion and imposed the following findings of fact:

*Moseley moves for a finding of fact for Question 1:*

1. *The Board finds that the permitted uses in this area include single-family residences. Building a house on this lot will not change the character of the neighborhood. There would be no material effect on traffic, as Broad Street is an arterial street. The public interest is served by replacing the approved agricultural driveway permit with a permit for a residential driveway.*

*Mason seconded.*

*Motion passed 4-1 with Belanger against.*

*Moseley moves for a finding of fact for Question 2:*

2. *The Board finds that the purposes of the ordinance, per RSA 674:17, include (e) to prevent the overcrowding of land and (f) to avoid undue concentration of population. For unknown reasons, this lot was created as a nonconforming lot in 1964 because of inadequate frontage and lot size. While the applicant has been able to increase the lot size and also done what he can to increase the frontage, the new frontage is still less than the amount required in 1964, and the minimum in the ordinance has been increased since then. The zoning provisions on frontage exist in part to support this purpose. A variance from this frontage provision to allow a lot that has about 35% too little frontage allows overcrowding and concentration and does not observe the spirit of the ordinance.*

*Belanger seconded.*

*Motion unanimously approved.*

*West moves for a finding of fact for Question 3:*

3. *The Board finds that there are several lots in the immediate area that are nonconforming lots for frontage, although the only lot with this little frontage on Broad Street is just across the street at Map 20 Lot 30. That lot does have plenty of frontage on Nutting Lane. Substantial justice is served by allowing a house on this lot similar to others in the area.*

*Moseley seconded.*

*Motion approved 4-1 with Belanger against.*

*Moseley moves for a finding of fact for Question 4:*

4. *The Board finds that this is a neighborhood of single-family houses. Allowing another single-family house on this property will not change the character of the neighborhood and will have no material effect on property values.*

*Mason seconded.*

*Motion unanimously approved.*

*Mason moves for a finding of fact for Question 5a(1):*

5. *The Board finds that literal enforcement of the provisions of the ordinance would not result in an unnecessary hardship since the lot has been recognized and assessed as a non-buildable lot for many years and others uses for the lot are viable. The lot was created as a nonconforming lot.*

*Moseley seconded.*

*Motion unanimously approved.*

*West moves for a finding of fact for Question 5a(2):*

6. *Board finds that notwithstanding noncompliant road frontage, the use of the lot as a single-family residence is reasonable.*

*Major seconded.*

*Motion passed 4-1 with Mason against.*

*Mason moves for a finding of fact for Question 5b:*

7. *The Board finds that the property cannot be reasonably used in strict conformance with the ordinance because the size of the lot precludes its effective use for agriculture or a wood lot in a residential area.*

*Moseley seconded.*

*Motion unanimously approved.*

#### **No further discussion**

#### **Case ZBA 2021-004**

The application of John Halvatzes, Jr., for a Variance to Section XG, Zoning District, Paragraph 4.g, Building Area, Section VIII Definitions, Building Area of the Zoning Ordinance to permit the construction of a Single Family Home where the building box encroaches on both side setback and encroaches on the wetland buffer (where no encroachment of the building area may be located within the building setbacks or wetland buffer), located on Broad Street (Map 026, Lot 048) in the Residential/Agricultural Zone.

Following is a recap of the voting results from March 25, 2021:

#### **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). The proposed use is a reasonable one.  
Question 5b. The property cannot be reasonably used in strict conformance with the ordinance, and a variance is, therefore, necessary to enable a reasonable use of it.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question #5a(2)	Question #5b	Total Yes	Total No
Major	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Belanger	No	No	No	Yes	No	Yes	No	2	5
Mason	Yes	Yes	Yes	Yes	No	No	Yes	5	2
West	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	0
Moseley	No	No	No	Yes	No	Yes	No	2	5

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

The Board had a lengthy discussion regarding the purposes for a building box, including protection of wetlands and to prevent overcrowding, and imposed the following conditions of approval and findings of fact:

**CONDITIONS:**

*Moseley moves for a condition of approval:*

1. *All improvements shall be constructed within the portion of the building box area which does not impinge upon the side yard setbacks or wetland buffers of the property.*

**Discussion:**

The ZBA discussed the condition and decided it also applies to the construction of all accessory structures such as sheds and garages.

*Mason seconded.*

*Motion unanimously approved.*

*Mason moves for a condition of approval:*

2. *The building is restricted to no more than a three (3) bedroom single-family residence.*

*Major seconded.*

*Motion unanimously approved.*

**FINDINGS OF FACT:**

*Moseley moves for a finding of fact on Question 1:*

1. *The Board finds the variance will not be contrary to the public interest because, in addition to the general purposes from RSA 674:17, the specific purpose of the building box is to ensure there is adequate acceptable land on the parcel to fit a house, driveway, septic system, leach field, and a well with appropriate spacing and setbacks. The applicant has demonstrated that despite the limited area, these can be fit in, so the public interest is observed.*

*Mason seconded.*

*Motion unanimously approved.*

*Moseley moves for a finding of fact for Question 2:*

2. *The Board finds the spirit of the ordinance is observed because, in addition to the general purposes from RSA 674:17, the specific purpose of the building box is to ensure that there is adequate acceptable land on the parcel to fit a house, driveway, septic system, leach field, and a well with appropriate spacing and setbacks. The applicant has demonstrated that despite the limited area, these can be fit in, so the spirit of this provision of the ordinance is observed.*

*Mason seconded.*

*Motion passed 4-1 with Belanger against.*

*Moseley moves for a finding of fact for Question 3:*

3. *The Board finds that there are several lots in the immediate area that are nonconforming lots. Substantial justice is served by allowing a house on this lot similar to others in the area.*

*West seconded.*

*Motion unanimously approved.*

*Moseley moves for a finding of fact for Question 4:*

4. *The Board finds that this is a neighborhood of single-family houses. Allowing another single-family house on this property will not change the character of the neighborhood and will have no material effect on property values.*

*West seconded.*

*Motion unanimously approved.*

*Moseley moves for a finding of fact for Question 5a(1):*

5. *The Board finds that the special condition of this property is that the frontage is too short. This condition arises only because this is how the lot was initially created. The general public purposes of the ordinance include preventing overcrowding of the land. The buildable area available on this lot is only about 73% of the required amount in the ordinance, which is a substantial overcrowding of the setbacks both from wetlands and from abutters. This provision is directly applicable to this property.*

*Belanger seconded.*

*Motion unanimously approved.*

*Moseley moves for a finding of fact for Question 5a(2):*

6. *The Board finds notwithstanding the lack of compliance with the building box requirements of the ordinance, the proposed use of the property as a single-family residence is reasonable.*

*West seconded.*

*Motion passed 4-1 with Mason against.*

*Major moves for a finding of fact for Question 5b:*

7. *The Board finds that the property cannot be reasonably used in strict conformance with the ordinance because the size of the lot precludes its effective use for agriculture or a wood lot in a residential area.*

*Mason seconded.*

*Motion unanimously approved.*

### **Meeting Adjourned**

The ZBA meeting adjourned at 8:50 pm.

Respectfully submitted by,

Donna Lee Setaro, Building and Land Use Coordinator