



ZONING BOARD of ADJUSTMENT
Town of Hollis
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Minutes of June 24, 2021

The ZBA 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 – Cindy Robbins-Tsao and Drew Mason; Alternate Members –Bill Moseley.

Major explained the policies and procedures.

Major said the voting members for tonight's case are; Major, Belanger, Tsao, Mason and Moseley.

By unanimous vote, the Zoning Board of Adjustment (ZBA) found no regional impact for case ZBA2021-008

Case ZBA 2021-008

The application of Kurt Mathias, property owner, for a Variance to Section XI Zoning Districts, Paragraph(s) I.5.c, Minimum Front Yard Depth of the Zoning Ordinance to permit the construction of a 42' x 39' three car garage 70 feet from the front property line (required 100 ft., scenic road), located at 16 Merrill Lane., Map 013, Lot 031 in the Town Center Zone.

Kurt Mathias, property owner, explained he was seeking a variance from the 100 foot scenic road setback to construct a 42' x 39' three car garage. The existing two car garage is in disrepair as the the foundation has crumbled and needs to be removed. The existing garage also was constructed in 1952 when garage doors were narrower and the doors will not accommodate the size of today's vehicles. The new garage will be designed to mimic the existing style with the exception of an additional door. As shown in the application there are several structures along Merrill Lane which don't conform to the 100 foot scenic road setback.

Major asked Mathias to explain the criteria for granting a variance and why the proposal should be granted. Mathias replied, as shown in the application there are several structures along Merrill Lane which don't conform to the 100 foot scenic road setback and are even closer than our proposal. The variance being requested is to allow the three car garage to be placed fourteen feet closer than the original garage which is still further away from the road than some of the existing structures along Merrill Lane.

Major said Mathias would have a vested right to construct the garage as is at its current location. Major asked why the 100 foot setback interferes with a reasonable use of the property. Major asked if a new two car garage was built would a variance be required. Mathias replied yes due to the fact, the garage doors would have to be constructed wider to meet the current construction standards. Major said there was testimony and a map attached to the application with measurements verifying there are many structures and homes along Merrill Lane which violate the 100 foot setback. Mathias agreed.

Major said the scenic road setback was established in the 1970's to protect the rural character of Hollis. Mathias replied the goal of the proposal is to protect and preserve the historic character of the Historic District. The proposal is to create a garage in-keeping with the original design, accommodate the construction standards of today and have a garage which is more useful than the original. Tsao asked how wide the garage doors are currently and what size doors are standard today are. Mathias replied currently the doors are 8 feet wide and current standards are 9'3" wide.

Major asked what size was the current garage. Mathias replied 30' x 38'. Belanger asked was the current garage constructed within the 100 foot setback. Mathias replied yes. Mason asked was there a small breezeway between the garage and the home. Would some of the breezeway be absorbed into the new garage? Mathias replied yes.

Moseley asked if the corner of the existing garage (the pink line shown on the plan) was that distance the same as the proposed garage. (the blue line shown on the plan) If that is the case a special exception would apply. Mathias replied the new garage would be closer than the original. Major asked if the special conditions of the property were in fact the current garage was functionally inadequate to today's standards. Mathias replied yes. Major asked if the proposed garage could be moved back. Mathias replied there is substantial ledge in that area.

Moseley said since the parcel is large could the proposed garage be placed in a different location where ledge was not anticipated, wet areas or any other areas which would be inaccessible. Mathias replied due to the placement of the house, barn and the anticipated ledge the proposed location is the only location the garage could be placed. Moseley asked would the proposed garage be in-keeping with the architectural features of the home and the current garage. Mathias replied yes.

Major asked was Historic District Commission (HDC) approval required. Mathias replied yes. Tsao asked since there were double windows on the second floor shown on the plan would there be living space on the second floor. Mathias replied no the area would be used for storage. Major asked was there vegetation or trees roadside which would mitigate some of the view. Mathias replied yes and added no trees would be removed the only vegetation which would need to be removed are landscaping bushes around the garage which would be replaced once the proposed garage is finished.

Mason said to grant a variance a hardship needs to be determined. Mason is wrestling with what the hardship would be. Major agreed however, the scenic road setback was established to receive state funding and those funds do not exist currently. Mathias said another reason for the garage is to eliminate the view of a car being parked in the driveway. The car not being in the driveway gives more appeal to the home and the town. Mathias said he does understand the hardship criteria does need to be met and his reasoning may not be considered a hardship.

Major said if the variance request was for a two car garage a variance would also be required since the garage would have to be built to current standards. Major said when the house was purchased the property already violated the setback requirement, the house was built prior to the scenic road setback ordinance and currently the existing two car garage needs to be rebuilt. If the applicant wants to re-build the existing two car garage to current codes and standards the garage would still violate the setback requirements. Mason asked if there was any wetlands on the property. Mathias replied the only wetlands is the stream which runs down the street behind the soccer fields.

Major said the argument for hardship could be the ledge to the rear eliminating moving the garage back and if the garage could be moved back the HDC could have a problem with the visual aspects of the project and even if the two car garage was re-built to current standards the proposal would still need a variance. Mason said the applicant is moving the proposed garage closer to the home to reduce the encroachment. If the Town didn't have the scenic road setback on Merrill Lane there would be no need for a variance.

The Zoning Board of Adjustment (ZBA) reviewed the drawings of the property showing the placement of the original and the new garage with the applicant to verify the actual measurements from the property line. The ZBA discussed that either a two car or three car garage would in fact violate the ordinance, and with either size garage built to current standards the encroachment would be minimal.

Major said the scenic road setback ordinance was created so that the Town could receive State funds. Those funds are no longer available. Belanger agreed.

Moseley asked Mathias to confirm that the proposed garage will not be used for additional living space and would

have no inside water. Mathias replied yes however, his wife may put a piece of workout equipment in the area and there would be an outside water spicket on the garage to water the gardens.

No further questions from the Board and none from the floor – The hearing portion of the case closed.

DELIBERATIONS AND DECISION

Case ZBA 2021-008

The application of Kurt Mathias, property owner, for a Variance to Section XI Zoning Districts, Paragraph(s) I.5.c, Minimum Front Yard Depth of the Zoning Ordinance to permit the construction of a 42' x 39' three car garage 70 feet from the front property line (required 100 ft., scenic road), located at 16 Merrill Lane., Map 013, Lot 031 in the Town Center Zone.

Mason said if Merrill Lane was not a scenic road a variance would not be required. Major said because there have been no State funds available for some time maybe the ZBA should consider adjusting the ordinance since in past cases including the present case the ordinance is effecting older homes in Hollis. Belanger said in the past there were efforts to remove the scenic road setback form the ordinance but the residents voted against the change.

Belanger moves for the following findings-of- fact;

- 1. The Board finds the existing garage is non-conforming with the 100 ft. scenic road setback.*
- 2. The Board finds the 14 foot increase in the encroachment in this neighborhood will not significantly impact the scenic quality of Merrill Lane.*
- 3. The Board finds that modern garage structures are significantly different than structures built when the original garage was erected.*

Discussion:

The ZBA discussed modifying the third finding-of-fact to read:

- 3. The Board finds that modern garage structures built to current standards are significantly different than structures built when the original garage was erected in 1952.*
- 4. The Board finds since the existing garage is not structurally sound and has to be replaced the new proposal is sound and reasonable.*
- 5. The Board finds restricting the garage to a smaller structure based on the minimal intrusion creates a hardship to the resident's expected enjoyment of living on this 10 plus acre lot.*
- 6. The Board finds the applicant has demonstrated the garage can't be moved to the northwest due to ledge.*
- 7. The Board finds the applicant has agreed to move the garage closer to the home to minimize the intrusion on the 100 foot scenic road setback.*
- 8. The Board finds the applicant has demonstrated that many of the surrounding properties also encroach on the 100 foot scenic road setback.*

Major seconded.

Motion unanimously approved.

Questions - Variance

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| 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)	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
Moseley	Yes	Yes	Yes	Yes	Yes	Yes	5	0

THEREFORE, THE VARIANCE WAS GRANTED WITH THE FOLLOWING FINDINGS OF FACT;

- 1. The Board finds the existing garage is non-conforming with the 100 ft. scenic road setback.**
- 2. The Board finds the 14 foot increase in the encroachment in this neighborhood will not significantly impact the scenic quality of Merrill Lane.**
- 3. The Board finds that modern garage structures built to current standards are significantly different than structures built when the original garage was erected in 1952.**
- 4. The Board finds since the existing garage is not structurally sound and has to be replaced the new proposal is sound and reasonable.**
- 5. The Board finds restricting the garage to a smaller structure based on the minimal intrusion creates a hardship to the resident's expected enjoyment of living on this 10 plus acre lot.**
- 6. The Board finds the applicant has demonstrated the garage can't be moved to the northwest due to ledge.**
- 7. The Board finds the applicant has agreed to move the garage closer to the home to minimize the intrusion on the 100 foot scenic road setback.**
- 8. The Board finds the applicant has demonstrated that many of the surrounding properties also encroach on the 100 foot scenic road setback.**

Review of Minutes

Tsao moves to approve the minutes of May 27, 2021 as submitted.

Moseley seconded.

Motion unanimously approved

Meeting Adjourned

The ZBA meeting adjourned at 7:50 pm.

Respectfully submitted by,

Donna Lee Setaro, Building and Land Use Coordinator