



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

**Minutes of August 26, 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 Members – Rick MacMillan and Drew Mason; Alternate Member – Bill Moseley.

Belanger led the pledge of allegiance and requested a moment of silence for the 12 U.S. soldiers and the civilians lost in Afghanistan today.

Major explained policies and procedures.

Major appointed Moseley as a voting member for this evening's cases.

By unanimous vote, the Zoning Board of Adjustment found no regional impact for cases ZBA2021-009 and ZBA2021-010.

**ZBA2021-009**

The application of Jeremy & Samantha Gaudet for a Special Exception to Section XII, Non-Conforming Uses, Structures and Lots, paragraph C, Nonconforming Structure of the Zoning Ordinance to construct a 1,161 square foot second-story addition and relocate an existing deck on property owned by Edward Gaudet, located at 9 Flint Pond Dr. (Map 054, Lot 033) in the Recreational Zone.

Samantha and Jeremy Gaudet approached the Board. S. Gaudet said the application is requesting a special exception to allow a 1,161 square foot second story addition and the relocation of a rear deck at their residence where they have lived for roughly 5 years. The home is currently owned by their father-in-law. They had planned to purchase the home from their grandfather who has recently passed from COVID-19. The home is very small, and they would like to add an addition to comfortably accommodate a family of four.

Major asked would the proposed addition be doubling the living area of the home from 1,100 square feet to 2,200 square feet. S. Gaudet replied the existing home is a raised ranch with an unfinished basement and a first level of just under 1,200 square feet where they currently reside. The proposal is to construct a second-floor addition while not expanding the current footprint of the home. The addition would be used for their bedrooms, and the first floor would be opened up to create a formal living space. Major asked how many bedrooms were in the home. S. Gaudet replied 2 bedrooms. The expansion would include 3 bedrooms, 1½ bathrooms, and an office on the second floor.

The home has been in the Gaudet family since it was built; and when her father-in-law moved in, it was a 3 bedroom home. After their children moved out, a wall was removed to create a dining room which changed the home into 2 bedrooms. Major asked what the current septic system was. S. Gaudet replied there was no septic system currently on file with the Town. The septic system was built with the home in 1965 and has been maintained by a septic company for the past 5 years, and there have been no issues. The proposal is to increase the bedroom count back to 3 bedrooms; and since there was no septic system on file, we were advised by the Town to have a septic design completed and approved by the Town and State. Meridian completed the design, and a 3 bedroom septic is on file in case the current

system fails. S. Gaudet hoped the new system would not have to be installed at this time because the loan required for the addition and renovation is large. However, they are prepared to have the system installed if required. Major asked if the current septic system was inspected and if it is fully operational. S. Gaudet replied yes.

Major asked why the existing deck was being moved. S. Gaudet replied the current deck sits in the middle of the home and acts as an additional exit. The existing footings and supports in the basement were not done properly and will have to be relocated and replaced, and the first-floor lally columns will have to be positioned differently. The new columns would have to be relocated to the middle of the current kitchen location. The hope is to relocate the kitchen slightly to the left to avoid the new column placement and to accomplish this, the door and deck would have to be moved 10 feet to the left of their current location, which would not further infringe upon the existing side setback.

MacMillan asked would the applicant be willing to go ahead with the project if a condition was imposed that the approved septic system be installed. S. Gaudet replied yes, however, the loan would have to be modified. MacMillan said he would have reservations approving the application without the installation of the new septic system since there are no records for the current septic system. Belanger disagreed since there is an approved septic design on file in case the current system fails, and the home was constructed as a 3 bedroom.

Belanger asked how far the home was from the property line. Edward Gaudet approached the ZBA and replied approximately 10 feet. Belanger asked was the addition expanding the current footprint of the home. S. Gaudet replied no. Mason asked the 10-foot left side setback was that the reason for the non-conforming lot. S. Gaudet replied yes also the lot was not 2 acres.

Major asked what the height of the existing structure was. E. Gaudet replied approximately 15 feet. Major asked if the topography in the area is fairly level. S. Gaudet replied the home is on a small hill. Belanger brought up an aerial view of the home and asked the applicant to point out the location of the property. E. Gaudet approached the ZBA to verify the location of the home.

Belanger asked if the applicant could see the closest residence from the home. S. Gaudet replied during the summer no, however, in the winter months yes. Belanger asked if the applicant discussed the project with their neighbors. S. Gaudet replied yes, the neighbor parallel to them called and congratulated them after receiving the notice and had no issues with the application. They had not spoken with the neighbor across the street. Belanger asked if after the notices went out, did they receive any feedback opposing the proposal. S. Gaudet replied no. Belanger asked about the current status of the well. S. Gaudet replied there has been work done to the well. MacMillan asked what the problem was with the well. E. Gaudet replied Flint Pond Well Company installed a new well. S. Gaudet stated due to the nature of the lot, a new well would need to be installed since the location would have to change due to the leach field setback requirements from a well.

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

#### **ZBA2021-010**

The application of Raisanen Homes Elite, property owner for a Special Exception to Section XI, General Provision, paragraph K. Accessory Dwelling Unit of the Zoning Ordinance to construct a 620 square foot Accessory Dwelling Unit, located at 50 Keyes Hill Rd, (Map 029, Lot 001-010) in the Rural Land Zone.

Michael Ploof from Meridian Land Services presented ZBA2021-010 on behalf of Raisanen Homes Elite, property owner. Ploof said the application is requesting approval for the construction of a Single Family Home with an attached 620 square foot Accessory Dwelling Unit (ADU) located at 50 Keyes Hill Rd.

Criteria #1 - The construction of the proposed ADU will not result or have any impact to the character, environment, scenic value, health, safety, or general welfare of the Town. The proposed ADU has been designed to meet all of the requirements and limitations as outlined in Section IX.K of the Hollis Zoning Ordinance. The building has been designed to have the appearance of a single-family home and will provide for adequate on-site improvements such as

access, parking, and a septic design that will support the ADU and principal dwelling.

Criteria #2 - The construction of the ADU will not materially affect the traffic or physical conditions on the Town's roads. The traffic associated with the ADU is minimal and will not be noticeable to the surrounding properties.

Raisanen Homes Elite is proposing to develop Map 029, Lot 001-010 with a principal dwelling and an ADU for an interested buyer. The ADU will not alter the character or appearance of the principal dwelling unit as a single-family home. The proposed residence and ADU have been designed to meet the objectives of this ordinance as its appearance will be a single-family structure. The ADU is not considered an additional dwelling unit and the subject lot size is conforming. The proposed ADU has been designed to be attached to the principal dwelling. The ADU has been designed to consist of 620 square feet, which is 18% of the total living area of the structure and is far less than the 30% maximum. The ADU has been designed so it could be reincorporated into the principal dwelling and with the internal access to the principal dwelling unit, the ADU will share internal access through a heated common wall. The septic system for the property has been designed, approved, and meets all local and state requirements. The property is designed to have adequate off-street parking and to provide adequate ingress and egress and vehicle maneuvering. The proposed ADU does not contemplate transient occupancies or short-term rentals.

Ploof reviewed the large plans with the ZBA showing the total ADU, including the heated common wall, the secondary entrance used by the ADU and the primary dwelling, and the separate entrance for the ADU located in the rear of the home. Mason said the elevations were helpful because the supplied plan does not show the exit from the ADU to the outside. Moseley asked would the approved septic plan be installed. Ploof replied yes. Belanger said since there was a bathroom in the ADU and a bathroom in the hallway outside of the ADU and the door leading to the hallway bathroom it was Belanger's opinion that the hallway area looks like it would be part of the ADU. Ploof replied that area was not part of the ADU. MacMillan said the doorway for the bathroom located in the mudroom has a right-hand swing and asked why. Ploof replied he was not sure. Belanger said if the hallway bathroom was to be used for the primary dwelling the door would open inwards. Major asked if the bathroom and hallway area were to be calculated as part of the ADU, would the ADU be under the 800 square-foot maximum. Ploof replied yes. Mason said the plan does not show a doorway between the primary kitchen area and the hallway. Mason agreed with Belanger the area could be considered part of the ADU. MacMillan said if a doorway was installed between the primary kitchen area and the hallway there would be a dramatic separation between the units.

Belanger asked if the septic system was approved. Ploof replied yes. Belanger asked was adequate parking considered and approved. Ploof replied the home has a three-car garage in which the vehicles could be parked inside, and there is an area outside of the garage that vehicles can park. Belanger asked what the separate house number was for the ADU. Ploof replied he was not sure. Setaro answered if approved, the house number would be 50A Keyes Hill Rd. Belanger asked would the address be posted on the street. Ploof replied yes.

Major asked if the development was a HOSPD and was Raisanen developing the entire HOSPD. Ploof replied yes. Major asked were all of the lots 1 acre. Ploof replied the lots range from 1 acre and larger. Major asked if it was contemplated that all of the homes would have ADU's. Ploof replied no. Major asked was the proposal for an individual client. Ploof replied yes. Major asked if the ZBA ever approved an ADU in a HOSPD development. Moseley replied yes in the same development last year. Major said page 85 of the Hollis Zoning Ordinance states "*the density of dwelling units in a HOSPD shall be no greater than one dwelling unit per 2 Acres of net tract area.*" and the ordinance further reads "*the number of dwelling units permitted in a HOSPD shall be no greater than the number of units that would be possible if the parent parcel were wholly subdivided in a conventional manner...*" Major was concerned if an ADU could be approved in a HOSPD based on the ordinance. Mason said page 14 of the Hollis Zoning Ordinance states "*an ADU shall not be considered to be an additional dwelling for the purpose of determining minimum lot size.*" Major agreed and his concern was addressed.

MacMillan noted the ADU entrance is behind the house and asked if the idea was for the occupants to walk around the house, up the stairs, and through the slider. Ploof replied yes, however, the occupants can also gain access through the garage, enter into the hallway to gain access. Mason asked was there an exterior door in the garage. Ploof replied no.

MacMillan agreed with Belanger's statement that the hallway area was part of the ADU. Major asked what the total square footage of the ADU would be with the hallway area included. MacMillan replied the total would be under 800 square feet which satisfies the ordinance. Condra said the house is designed with a common entrance to the primary and ADU. The door exiting the garage enters the common hallway where the occupant of the ADU goes across the hallway to enter the ADU and the primary occupants go to the right entering into the kitchen of the primary dwelling unit. The ZBA members agreed that the hallway area is not part of the ADU.

**No one spoke in favor of the application.**

**Spoke neither in favor nor against the application:**

**Joseph Garruba, 28 Winchester Drive**

Garruba stated he was not anticipating commenting on the application and has not reviewed the ADU ordinance in quite a while. Garruba recollects there needs to be one specific shared wall that is allowed to be in common with the primary dwelling. The concept of a common area where the occupants split off to the different unit may not satisfy the ordinance. Garruba also believes there is language in the ordinance concerning the door or the access to the ADU which may not be closed or permanently locked. Major asked what Garruba's position on the application was. Garruba replied he has no position on the application. After he heard the testimony, he just wanted to make sure the applications are reviewed properly since his items were not discussed. Belanger replied to Garruba's door concern noting that the common door can't be mandated to be locked per the RSA.

**Not in favor of the application:**

**Pamela Hicks, 8 Maple Knoll Drive**

Hicks said she would not be in favor of any application which makes these projects more attractive to complete if they were used for rental purposes or to bring more children into the school system. There should be caution in approving things that should not be approved. Major asked if Hicks liked the ADU ordinance. Hicks replied not really. Major said the Town's voters voted on and passed the ordinance. Hicks agreed and said there may have been more around the vote and how it was worded. Mason said ADU can't be used for short-term rentals. Belanger said ADUs also cannot be turned into condos. Belanger added that Paragraph 3 in the State RSA states "*an interior door shall be provided between the principal dwelling and the ADU, but a municipality shall not require that it remain unlocked.*"

Hicks asked if the applicant needs to identify the number of children since the unit is only one bedroom. Major replied no. Belanger said the ADU is typically used as an in-law apartment. Major said there are so many ADUs in Town and for the most part you could not even tell the ADU was present.

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

**DELIBERATIONS AND DECISION**

**ZBA2021-009**

The application of Jeremy & Samantha Gaudet for a Special Exception to Section XII, Non-Conforming Uses, Structures and Lots, paragraph C, Nonconforming Structure of the Zoning Ordinance to construct a 1,161 square foot second-story addition and the relocation of an existing deck property owned by Edward Gaudet, located at 9 Flint Pond Dr. (Map 054, Lot 033) in the Recreational Zone.

Belanger had no issues with the application. Belanger understands the concern about the septic system; however, the applicant has an approved septic plan and the area to install the new system in case the current system fails. MacMillan agreed only if the applicants had a plan for a 3 bedroom septic system currently on file. The ordinance is very specific

about guarding against groundwater contamination and making sure there is an adequate septic system for a 3 bedroom home. Major said it is in the homeowner's interest not to have the system fail. McMillan asked Condra if the Town had inspected the current septic system and found it was adequate for the intended use. Condra replied he did not know. Major stated a condition was never placed on an application for an expansion in the past as long as there was an approved plan on file in case of a failure. Mason said the Town could require the approved system to be installed based on the ordinance. In this case, the testimony was the house was occupied by five people before and the applicant has been living there for the past 5 years with no issues. Moseley said in this situation, as long as the applicant has an approved plan in case the current system fails, Moseley would be satisfied. Major said if the ZBA required a new septic system it would put a substantial financial burden on the applicants. Belanger said state law states there must be a plan in place in case of failure, which the applicant has done. Mason said it would be in their best interest to at least have the system inspected. Major said a condition could be imposed to have Tom Mercurio inspect the current system.

The ZBA discussed the septic system further and decided that as long as there was an approved 3 bedroom septic design on file and if the current system fails, the approved design would be installed, the ZBA had no further concerns.

*Mason moved for a finding-of-fact.*

*1. The Board finds there is an approved 3 bedroom septic system design on file.*

*Belanger seconded.*

*Motion unanimously approved.*

#### 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
Major	Yes	Yes	Yes	3	0
Belanger	Yes	Yes	Yes	3	0
MacMillan	Yes	Yes	Yes	3	0
Mason	Yes	Yes	Yes	3	0
Moseley	Yes	Yes	Yes	3	0

**THEREFORE, THE SPECIAL EXCEPTION WAS GRANTED WITH THE FOLLOWING FINDING-OF-FACT.**

**1. The Board finds there is an approved 3 bedroom septic system design on file.**

#### **ZBA2021-010**

The application of Raisanen Homes Elite, property owner, for a Special Exception to Section XI, General Provision, paragraph K. Accessory Dwelling Unit of the Zoning Ordinance to construct a 620 square foot Accessory Dwelling Unit, located at 50 Keyes Hill Rd, (Map 029, Lot 001-010) in the Rural Land Zone.

Belanger said his main concern with the application was the bathroom and hallway being part of the ADU. After the discussion, even if the hallway area was included in the ADU calculations, the ADU would still be under 800 square feet. Belanger also had a slight concern about making sure the common heated wall had access to the main dwelling unit and said it does have access. Most people think the common wall between the ADU and the primary unit is all that is needed, but it's not. It needs to have access to the primary unit from the ADU. MacMillan agreed saying he had the same issues that Belanger had, but all the questions have been answered. MacMillan couldn't find any reason not to grant the application.

The ZBA briefly continued the discussion and found the application has met the criteria of the ordinance in full.

### Questions/Special Exception

Question #1 Is the Exception specified in the Ordinance?

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Board Member	Question #1	Question #2	Question #3	Total-Yes	Total-No
Major	Yes	Yes	Yes	3	0
Belanger	Yes	Yes	Yes	3	0
MacMillan	Yes	Yes	Yes	3	0
Mason	Yes	Yes	Yes	3	0
Moseley	Yes	Yes	Yes	3	0

**THEREFORE, THE SPECIAL EXCEPTION WAS GRANTED.**

### Review of Minutes

*Belanger moved to approve the minutes of June 24, 2021.*

*Seconded by MacMillan.*

*Motion unanimously approved.*

### Other Business

#### Discussion of scenic road setbacks.

Major asked Belanger to give the background and reasons that the scenic road setback requirement was instituted.

Belanger said he was unaware whether the 100-foot setback was in state law. The reason for designating scenic roads was because the Town wanted money to help repair the roads, and the State had a law that said if a town had scenic roads, the DAR had funds available. The Town named some scenic roads and received funds from the State to repair some of those roads. Currently, there are no more funds available and the reason why Hollis had scenic roads is probably not valid. The 100-foot setback has become a problem for homes being expanded, especially those in congested areas that were constructed before the 2-acre zoning requirement and the scenic road designation. Existing houses were built closer to the road and after the 100-foot scenic road setback was imposed, those houses do not conform to the current setback requirements. If the roads were not designated scenic with the 100-foot setback property owners would have an easier time making changes to their existing homes. The discussion seems to be not to eliminate the scenic roads but to adjust the 100-foot setback requirement. Moseley asked was it a fact, that when scenic roads were designated, it was a way to get monies for the State. Belanger agreed. Major asked when scenic roads were adopted. Belanger replied they started around 1970. Moseley said Baxter Road was designated in 2003.

Major said the important thing about scenic roads is there is nothing historic about scenic roads. Historically, if you were a farmer, you would not want to build a house any further from the road than what was required. Hypothetically, if you owned a confirming 2-acre lot of average description the last thing you would do is build the house close to the road. Moseley agreed.

MacMillan said the ordinance has helped. When people are building a house being setback does have a different view than one close to the road. The ZBA has been mindful to grant some relief from the 100-foot setback if the ZBA sees fit. The process has worked well so far. Major said he does not think we have to do this. The problem is an application has to meet the variance standards which, makes for some juggling and balancing to grant a variance.

If 50 feet is an acceptable setback for 90% of the Town. The 100-foot setback requirement puts an additional burden on those designated roads. For example, Rocky Pond Road is a scenic road, and you would be hard-pressed to find any

structure on Rocky Pond Road that conforms to the 100-foot setback requirement. Hollis is currently built up, there are very few roads in Town that are not substantially built. If someone has a lot, they want to build on it makes no sense to require them to construct a home 100 feet from the road. MacMillan said his wife's family just sold the last portion of the Worcester Farm located on the corner of Worcester Road and North Pepperell Road if those houses were 50 feet from the road the appearance would not be good. MacMillan said the variance process has been working and we have granted some relief from the setback. MacMillan is willing to have the Town vote on the proposed change.

Mason asked if a variance is too high of a bar. Major agreed. MacMillan said some ZBA members are asking to standardize the front setback requirement and personally MacMillan does not agree. Mason said the determination in favor of substantially could be if the neighbors on both sides are at a 50-foot setback then the lot in question should be at 50 feet but there still would not be a hardship.

Mason asked would the Planning Board (PB) be likely to approve the change and would the voters. Moseley said the change would be worthy of a discussion however, Moseley on no opinion on the outcome. When a new subdivision comes before the PB the subdivision is pushed back from the road so the 100-foot front setback would not be an issue for new development. Major said if you require a developer to be 100 feet from the road, they would be apt to cut the trees down. Belanger said the 100-foot setback requirement was not part of the State Law. Belanger wonders how the setback was imposed. MacMillan was not in favor of changing the setback since green space should be preserved.

Moseley said from a PB perspective, the scenic roads' setback requirement is a good thing because it protects those roads when Eversource needs to remove or cut back trees, they need to submit a plan to the PB for approval.

The majority of the members present were not in favor of submitting a change to the PB.

#### **Pamela Hicks, 8 Maple Knoll Drive**

Hicks felt that the board was promoting building within the Town and granting too many variances. She expressed her concerns with certain individuals on the board, stating that she did not have confidence in their abilities to serve the Town's best interest. She would like to see an increase in persevering the historic nature and rural character of the Town, which she felt was not currently being done by the Town's boards. She would also like, the Town to consider purchasing more land to maintain the rural character and beauty of the Town.

Vice Chair, Belanger clarified that the Board was discussing the 100-foot setback, but not removing the scenic road designations from the Zoning Ordinance.

#### **Joseph Garruba, 28 Winchester Drive**

Garuba stated that the Housing Appeal Board is a threat to the Town. The Town needs to consider keeping all the tools it has to deter development and not allow Concord to remove more of the Town's authority to regulate development as the State has already done with the removal of building rights and the institution regulations on workforce housing. Garuba felt the 100-foot scenic road setback limits development in those areas and was not in favor of any change. The Town should also take steps no matter what the cost, to repeal the newly created Housing Board of Appeals.

#### **Meeting Adjourned**

The ZBA meeting adjourned at 8:30 pm.

Respectfully submitted by:

Donna Lee Setaro, Building and Land Use Coordinator