



ZONING BOARD of ADJUSTMENT
Town of Hollis
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Minutes of December 16, 2021

The Zoning Board of Adjustment 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 –Drew Mason; Alternate Members – Kat McGhee, Bill Moseley, and Meredith West.

Belanger led the Pledge of Allegiance.

Major explained the procedures for cases ZBA2021-011 and ZBA2021-012. The applications submitted are motions for rehearing from an abutter, Barrett Warhola of 156 Broad Street. The rules and procedures state there shall be no public input from the applicant or Ms. Girard. Instead, the Board shall vote on the motions based solely on the documentation submitted with the motions.

Major asked Warhola if he would like to proceed with cases ZBA2021-011 and ZBA2021-012 that evening despite a full board not being present, and three affirmative votes are required for a motion to prevail. Warhola approached the Board and agreed to proceed with the cases this evening.

Major said the policies and procedures for case ZBA2021-013 will follow the usual process.

Major said the voting members for ZBA2021-011 and ZBA2021-012 would be Mason, McGhee, Moseley, and West. Major said the voting members for ZBA2021-013 would be Major, Belanger, Mason, McGhee, and Moseley.

Major and Belanger recused themselves from ZBA2021-011 and ZBA2021-012
Mason assumed the chair.

By unanimous vote, the Zoning Board of Adjustment (ZBA or Board) found no regional impact for cases ZBA2021-011 and ZBA2021-012.

ZBA2021-011

Discussion of the Motion for Rehearing - The application of Vivian Girard, Timber Post Bed and Breakfast, property owner for a Special Exception to Section XG Residential & Agricultural District, paragraph(s) 2.m, Bed and Breakfast of the Zoning Ordinance to expand the ZBA's approval of the Bed and Breakfast dated December 19, 2013, located at 162 Broad St. (Map 054, Lot 017) in the Residential & Agricultural Zone.

ZBA2021-012

Discussion of the Motion for Rehearing - The application of Vivian Girard, Timber Post Bed and Breakfast, property owner for a Variance to Section XG.1, Permitted Uses to allow small events, located at 162 Broad St. (Map 054, Lot 017) in the Residential & Agricultural Zone.

Mason said to be consistent with State law and the ZBA rules of procedures that motions for rehearing shall be considered by the Board solely on the written application without receiving testimony from the public, nor the applicant and/or his/her agent(s) or representative(s). Mason asked the Board if they would like to consider each

case individually or together. The members agreed to consider the cases together seeing that was the process during the October meeting.

West said she read through the cases, minutes, and motions from the October 2021 meeting, and she had no questions. McGhee and Moseley also stated that they had no questions. Mason asked whether the changes which the ZBA approved for the Bed and Breakfast at the October 2021 meeting must go before the Planning Board (PB) regardless of the motions for rehearing. Moseley replied yes if the ZBA denies the motions for rehearing then the Bed and Breakfast would be required to obtain PB approval. The members discussed the motions for rehearing and found that most, if not all, issues raised in the motions were the purview of the PB and not the ZBA.

Mason asked whether, excluding the PB issues, the ZBA should be concerned with any other issues raised in the motions. The members replied no.

*West moves to approve the Motions for Rehearing for cases ZBA2021-011 and ZBA2021-012.
McGhee seconded.*

The voting results on the motion were as follows:

	Yes	No
Mason		No
McGhee		No
Moseley		No
West		No

Therefore, the motion to rehear cases ZBA2021-011 and ZBA2021-012 was denied. Failed 4-0.

Major assumed the chair.

By unanimous vote, the ZBA found no regional impact for case ZBA2021-013.

ZBA2021-013

The application of Anthony Bullock, property owner, for a Variance to Section XG Residential & Agricultural District, paragraph(s) 4.d, Minimum Side Yard Setback of the Zoning Ordinance to demolish 570 square feet of the existing structure and construct a 1,128 square foot addition (consisting of a breezeway, two-car garage, and living space) 23 feet from the property line in the side yard (required 35 feet), located at 68 Broad St., (Map 053, Lot 011) in, the Residential & Agricultural Zone.

Bullock explained when he purchased the 900 square foot home, it was adequate for his needs. However now, Bullock is married, has two children and a German Shepherd; and the home is too small to accommodate his growing family. The application is to construct a 1,128 square foot two-floor addition consisting of a new breezeway with an attached two-car garage with three bedrooms and two bathrooms on the second floor. The two existing bedrooms in the home will be converted into a great room and family room by removing the walls to create an open concept family area. Therefore the home will only have three bedrooms. A three-bedroom septic system has been designed and approved. McGhee asked if the addition would exceed the current footprint of the carport (alternately referred to as a lean-to in the meeting). Bullock replied no. Major asked Condra what the building department's position would be to comply with the setbacks for carports. Condra replied if the structure was being built from the ground up the structure would have to meet the setback requirements. If the structure is existing and does not exceed the current setback, a variance would not be required. Mason asked why the application for a variance, and not a special exception for a nonconforming lot. West asked if it was the applicant's testimony that the entire addition was in the same footprint as the existing structure, including the carport. Bullock replied yes, except the addition would be a little deeper than the existing footprint, but this area meets the required side yard setback.

Belanger asked if there would be a basement under the new addition. Bullock replied no. The addition would be on

a cement pad. Major asked what, if any, effect the addition would have on the neighbors. Bullock replied he discussed the proposal with the neighbors, and they were in favor of the applications and the way the design is being done the addition would be in keeping with the surroundings. Referring to the layout provided in the application, Mason asked how much further did the carport extend from the marked blue-green area. Bullock replied the carport extends roughly ten feet from the blue-green area. Mason asked if the addition's side yard setback would be twenty-one feet, and whether the existing setback, including the carport, is 23-feet. Bullock replied yes. Major asked if the addition be more than twenty-three feet from the property line towards the rear seeing how the property line towards the south is on an angle. Bullock replied yes, only a portion of the addition located in the existing garage and carport area would sit within 23-feet from the property line. Major asked when was the carport constructed? Bullock replied he built the carport roughly 5 years ago. Major asked Setaro was a permit issued? Setaro replied yes, the carport was approved in compliance with the 15-foot setback based on its total square footage, and because it was not living area, it did not have to comply with the 35-foot setback requirement. Major said the determination made seems strange. Setaro said according to her research, the former building inspector, Dave Gagnon determined the required setback for the carport when issuing the building permit. This determination of this application was made based on the existing setback being 31 feet and the new setback of the addition would be 23-feet. The new addition would be considered a principal structure and would have to meet the 35-foot side yard setback. West said since the garage and the carport are attached to the house it appears that it should have been considered a principal structure, not an accessory structure. Mason said the building inspector at the time made that determination. Major agreed and asked Condra if someone came in today and wanted a carport, would Condra make the same determination as Gagnon that it would be considered an accessory structure with a 15-foot setback. Condra replied no since the structure was attached to the home, it would have to meet the 35-foot setback requirement.

Mason asked Bullock what he would consider the hardship if the application were approved. Bullock replied the lot is an existing nonconforming lot and has constraints due to its size and location of the septic system. The way the living area was constructed eliminates the possibility of adding a second floor above it. The septic is located on the east side, and the rear of the lot also has setback issues. Mason said referring to the property map submitted, it appeared in his opinion, there was room behind the home for the addition. Bullock replied the way the home is situated on the lot, the submitted design would be the only way the addition would be functional, make sense, and be aesthetically pleasing. West said if the addition was constructed and located towards the back of the property, it may interfere with the orchard property.

Major said the ZBA could consider the hardship being it would not be reasonable to restrict the home to 900 square feet since the home is and was built nonconforming. Belanger asked what the structure was located at the rear of the property. Bullock replied a shed.

Spoke in favor of the application.

Ed McSweeney, 69 Broad St.

McSweeney was 100% in favor of the application. The proposed design of the addition is aesthetically pleasing and is functional with the paved driveway.

Eliza Lecours, 4 Pine Hill Rd.

Lecours was in favor of the application. The house is tiny and could not support a young growing family. Hollis has become tremendously expensive, and this is a way to retain younger people.

No one spoke in opposition to the application.

Mason asked Bullock how far was the edge of the carport from the neighbor's home on the east side. Bullock replied roughly 90 feet. Mason asked whether the trees and/or vegetation be retained between the houses. Bullock replied yes. Belanger said if approved, a stipulation may be imposed that if the trees come down, they would need to be

replaced.

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

DELIBERATIONS AND DECISION

ZBA2021-013

The discussion of the application of Anthony Bullock, property owner, for a Variance to Section XG Residential & Agricultural District, paragraph(s) 4.d, Minimum Side Yard Setback of the Zoning Ordinance to demolish 570 square feet of an existing structure and construct a 1,128 square foot addition, to include a breezeway, 2 car garage with living space above located 23-feet from the side yard property line (required 35 feet), located at 68 Broad St., (Map 053, Lot 011) in the Residential & Agricultural Zone.

Moseley said he has no issues with the application especially since there is no footprint change and the obvious constraint of the nonconforming lot. West said it appears to her that the applicant does not need a variance, however, if a variance is required, the applicant is minimizing the intrusion, and the property has constraints on both sides of the lot. McGhee said the request is reasonable. Mason said the closest neighbor is 90 feet away, the setback is being widened from the existing one, there is a tree buffer between the properties, and the lot is only a 6th of an acre. Belanger's only concern was the buffer between the properties should be maintained. There should be a condition of approval that if the trees come down or are cut, some type of vegetation should have to be planted to replace them.

Major's opinion was the application does not require a variance, and the ZBA should have a finding that the prior permitted construction is an existing nonconforming use of the property. If the application is dismissed, a condition concerning the buffer cannot be imposed. Mason said the ZBA needs to deal with the fact that the ZBA disagrees with the findings of the prior building inspector for the carport and by allowing a new nonconforming structure to be built without a variance could the decision come back to the ZBA. Major said the existing structure is pre-existing, permitted, and completed. The legality of whether or not the existing structure should have been approved and whether the current building inspector would have approved the structure should have no bearing on the application. The reason for not requiring a variance is would not set a precedence on future cases. West agreed the applicant is mitigating an existing nonconforming structure. Major said if the determination is made a condition of approval cannot be imposed. If the case is dismissed, there would be no need to determine the hardship, finding, which is less clear. Mason said hardship has been found in much more challenging cases than this one. The applicant is trying to raise a family on a tiny lot in a section of the town that has tiny lots. McGhee said the hardship if needed is that the applicant cannot stay at the location.

Moseley moves for a finding of fact:

The Board finds the applicant does not require a variance for the proposed use. The proposed addition does not exceed the existing side yard intrusion.

McGhee seconded.

Motion approved 4 to 1 with Mason opposed.

Other Business

Recommendation for alternate ZBA member.

Due to a member's illness, the alternate recommendation will occur at the next ZBA meeting.

Discussion on alternate meeting attendance

The extreme rise in COVID cases in the state combined with the lack of masking requirements for attendees is deterring Board members, and which may be deterring residents, from attending ZBA meetings. The Board is requesting the BOS to consider alternate ways in which members and residents can participate in ZBA meetings, including allowing members and the public the option to attend via Zoom. Major asked Setaro to type up the request and send it to him for approval before sending the request for consideration to the BOS.

Review of Minutes

Belanger moved to approve the minutes of October 28, 2021.

Seconded by Mason.

Motion unanimously approved with Major abstaining.

Meeting Adjourned

The ZBA meeting adjourned at 8:15 pm.

Respectfully submitted by:

Donna Lee Setaro, Building and Land Use Coordinator