Approved 5-26-2022

ZONING BOARD of ADJUSTMENT
Town of Hollis
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Minutes of April 28, 2022

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 7:00 pm.

MEMBERS OF ZONING BOARD OF ADJUSTMENT PRESENT: Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Members – Cindy Robbins-Tsao, Rick MacMillan, Drew Mason; Alternate Members – Kat McGhee.

MEMBERS ABSENT: Alternate Members – Bill Moseley, Meredith West and Stan Swerchesky.

STAFF PRESENT: Bill Condra, Inspector/Code Enforcement; Donna Setaro, Building and Land Use Coordinator; Aurelia Perry, Recording Secretary.

J. Belanger led the Pledge of Allegiance.

B. Major explained the policies and procedures.

B. Major stated that the voting members on the cases at this meeting will be the five regular members: B. Major, J. Belanger, C. Robbins-Tsao, R. MacMillan, D. Mason.

By unanimous vote, the Zoning Board of Adjustment (ZBA) found no regional impact for cases ZBA2022-005, ZBA2022-006, ZBA2022-007, ZBA2022-008.

ZBA2022-009 may have regional impact.

ZBA2022-009
Application of Runnells Bridge Realty Trust, property owner, for a Variance to Section XI; Wetland Conservation Overlay Zone, paragraph 3.c, Existing Lots, to construct a 2,508 mixed used structure, located at 88 Runnells Bridge Road, (Map 005, Lot 027) in the Commercial District. May have regional impact.

Applicant: Thomas Hildreth, 15 Broad Street. Stated that this is a very small-impact project, a 2,500 sq. ft. convenience store with a small apartment above it; will have barely more impact than the existing use. It is across the street from the industrial zone in Hollis, which backs up to Sucker Brook – and which is far more impactful to the wetlands buffer than this project could ever be. Stated that the project has no more than 15% impervious surface; they are aware of that requirement, and have already been before the Hollis Planning Board in the Conceptual Review process.

Jason Hill, P.E.,T F Moran, engineer working with Applicant. Mentioned by comparison that there was an abutting parcel which went through the Planning Board process a few years ago as a larger development with a gas station and Phase 2 retail site, which was deemed to have no regional impact.

New Hampshire RSA 36:55 lists six factors which may impact neighboring municipalities, including proximity to the borders of a neighboring community, and proximity to aquifers or surface waters which transcend municipal boundaries. B. Major stated that these points are valid considerations if this were a project of greater magnitude, but this project is so small; half the Town is in the APOZ, and we don't say that every one of those cases is of regional impact.

D. Mason asked what the convenience store would be selling; T. Hildreth answered beer, wine, cigarettes, lottery tickets, and that kind of thing. They are not planning on selling any prepared foods.

As there are a number of cases on the agenda for this meeting, and as there may be regional impact for ZBA2022-009, the Board asked the Applicant if they would be willing to postpone their hearing before the Board until a meeting next week. Applicant agreed.

B. Major moved to table ZBA2022-009 until the next ZBA meeting on Thursday, May 5, 2022, at 7:30pm
Seconded by D. Mason;
Motion unanimously approved.

ZBA2022-005
The application of John Clements, property owner, for a Variance to Section XG: Residential/Agricultural District, paragraph 4.d, minimum side yard setback to construct a construction of a 24' x 40'- 2 story garage, front corner of the structure is 15'.5" and remaining structure is 23'.6" from the side yard width (required 35'), located at 196 Worcester Rd. (Map 007, Lot 002) in the Residential/Agricultural District.

Applicant: John Clements, 196 Worcester Road. Stated that the variance will not be contrary to public interest; the garage would be set back about 140 feet from the road; the footprint of the garage will not encroach the main portion of the abutting property at 198 Worcester Road; the property line that the garage would be closest to is a driveway, and the garage would not even be seen from the adjacent property. The spirit of the ordinance is observed in that the garage is exceeding accessory structure size, but it still has the minimum 15 foot setback for a smaller structure. The garage would be at least 100 feet from any existing structure. The Applicant further stated that substantial justice is done in that placement of the garage on the side of the property maintains the scenic aspect of Worcester Road and respects the 100 foot setback requirement. The placement of the garage is also not exceeding pre-existing landscaping and hardscaping to the property. Applicant stated that the garage would be about four feet from the house; they would have a walkway to the backyard between the house and the garage.

B. Major asked where else on the property the Applicant could put this garage and stay in conformity with the zoning requirements; J. Clements replied that on the east side of their house is the septic and leaching field, and the rear of their property has a significant slope – it would take substantial grading and drainage work to site the garage in that area. The back property area also is home to much wildlife which the Applicant does not want to disrupt. Additionally, putting a garage in the back area of the property would make it more apparent to abutters. Applicant confirmed that it would be a two-car garage, 24 feet by 40 feet, 23 feet and 7 inches tall, single-story with a loft.

K. McGhee pointed out there is a significant portion of the proposed garage that goes toward the back, and asked what that would be used for; J. Clements responded that he and his wife have two young boys, and as the children accumulate things the area would be used for storage – also, he hoped that it would provide a safe place for the children to ride their bikes or work on projects if inclement weather prevents playing outside. He stated that they do currently have a smaller, one-car garage attached to the house which is used for storing their lawn tractor, bikes, and play-things. It is a shallow garage, and if they were to store a car there they would have no room for anything else. He is hoping to have the larger garage to be able to store their cars, and still have the space for the kids' objects and play area. Applicant stated that he had no intention of ever having a business, or engine shop, or anything like that; it would all be for personal use.

K. McGhee asked if there would be any infrastructure, such as water utilities. J. Clements stated that there would only be electricity, with a plan for an electrical heat system in future.

Per D. Mason's question, the Applicant confirmed that the fence shown on the plan is not the property line. D. Mason also asked how close the existing chicken coop is to the property line, and it was determined to be less than 15 feet. J. Clements stated that the coop is a 3 foot by 6 foot structure with a mesh covering and mesh run.

Applicant confirmed that the new garage would not be attached to the house in any manner; it would be a stand-alone structure. Applicant stated that the existing shed was on the property when they purchased the house, and they added the chicken coop last year.

The Applicant stated that he has spoken to their closest abutter about the projected garage, and that they had no objections.

J. Belanger asked about the hardship provision in the variance application; why does the Applicant need that garage? J. Clements stated that they probably could live without it, but it is a quality-of-life issue in terms of being able to have their kids grow up with a safe outside area to play even in bad weather.

B. Major pointed out that this is a substantial request for a variance; it's a 20 foot request, and the Board has to be mindful of what they develop in terms of continuity, and fairness to everyone.

J. Clements added that he didn't know if either of their current vehicles would fit in the existing, shallow, one-car garage, as the door is only 7 feet tall.

D. Mason asked about the chicken coop: was a building permit required? Applicant stated that when they looked into it, they didn't find anything like that; if the coop has to come down, it will come down. D. Mason added that if the chicken coop is a legal structure, at 10 feet from the property line, the Applicant could do what he wants to do by special exception. The coop is 10 feet from the property line; the garage would be 15 feet.

D. Setaro stated that the setback regulation is 15 feet for under 250 square feet – for any structure, not just a shed. So a chicken coop would count.

B. Condra further stated that a chicken coop is looked at as if it were a shed or other supporting structure. The Town of Hollis requires a building permit for everything that you build. They used to have a limitation of 100 square feet to not need a permit, but people would then build their 100 square foot structures on the property lines, not adjacent to the property lines.

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

By unanimous agreement, the Board is hearing cases ZBA2022-007 and ZBA2022-008 together.

ZBA2022-007
The application of Ronald Marchant, for a Appeal from an Administrative Decision made on March 16, 2022 pertaining to the 20 foot road frontage requirement for back lot, property owned by Ronald Marchant, located at Rockhaven Dr., (Map 030, Lot 018) in the Residential/Agricultural District.

ZBA2022-008
The application of Ronald Marchant, for a Variance to Section XG: Residential/Agricultural District, paragraph. 4.h (ii) minimum frontage on a public road 20 feet for each dwelling on a back lot, to construct a Single Family Home without frontage (required 20 feet), property owned by Ronald Marchant, Located at Rockhaven Dr. (Map 030, Lot 018) in the Residential/Agricultural District.

Applicant: Attorney Jay Leonard, for Owner. Stated that the property is two lots that are in the process of being merged into one. They are asking for the right to build a single-family home on a lot that is 12 acres in size. The difficulty is that it does not have frontage on a public road. It is a lot that has been in existence since before zoning was in place. It is an odd-shaped lot off the end of Rockhaven Drive, which is a road that was approved by the Planning Board though it is actually a private road. There is a deeded easement that runs from Rockhaven Drive to this property. Because these are private roads, RSA 674:41,I(c) requires that the Applicant will have to go before the Select Board, which they acknowledge and intend to do.

D. Mason pointed out that RSA 674:41,I(c) requires the Applicant to go to the Planning Board and then to the Select Board; J. Leonard concurred: the Planning Board is advisory while the Select Board will make the decision.

J. Leonard further acknowledged that they will have to abide by the driveway regulations.

B. Major asked how these lots came to be created. J. Leonard responded that they came from the Noah Hardy farm, and were created, with the easement, in 1943, but were separated from the main property in 1917. The right of way to this property pre-exists the Rockhaven Drive subdivision. The reason that this lot was not part of the subdivision is that it was not owned by the same people at the time. The Applicant confirmed that the lot is unusual and unique; the lot pre-exists zoning, and is a non-conforming lot. It was lawfully created before zoning was in place. It was a lot of record in 1943, and it has shown as a separate, taxable lot since then. It continues to be a separate, taxed lot. They are asking for the right to use it for a single family residential home, consistent with the zone. Under the ordinance, Section XII,(B),(2), the non-conforming use, structure, and lot Section, it says that a separate lot which does not conform to the provisions of the ordinance, which is recorded (as this is), and taxed as a lot of record (which this is), at the time of passage of the ordinance (which this has been), may be used for a conforming use. It is therefore the Applicant's position that they don't really need a variance here – it's really covered under that section.

J. Leonard further stated that they know they need to comply with the State statute, which does have frontage requirements, in addition to the local ordinance. They are only speaking to the local ordinance at this meeting. The whole purpose of the State statute is to cover those towns that didn't have complete ordinances – and the State says that no matter what, the Planning Board has to take a look at a road that provides access to a home.

J. Leonard stated that while there is always a concern about septic systems, they have a permitted design for this site.

Additionally, the lot is unique in that it would be impossible to get frontage on a public or private road as the lot is surrounded by Town forest. The only connection is the deeded easement. There is no possible access to any other road.

B. Major asked whether, if Rockhaven Drive was a public road, the Applicant would have the sufficient frontage; J. Leonard answered that there is a bit of question on that point: because it's a deeded easement as opposed to a fee interest, there may be the same question of frontage. However, as a practical matter, the improvements that will access this home are exactly the same as if it were a fee ownership.

J. Leonard stated that one of the things they will address with the Select Board is that there will be an agreement that goes on record that says that Mr. Marchant and all future owners of the property will not hold the Town responsible for either the maintenance of the road, or any liabilities that may come as a result of that road. That is one of the requirements of the State statute.

Of the surrounding lots, the Applicant clarified that they are all Town-owned, and/or Town forest. This lot is the only one with a deeded, confirmatory easement to Rockhaven Drive. It is also the only lot that had access to the right of way that has been showing on plans of the site for a hundred years.

Per a question from B. Major, the Applicant confirmed that a reasonable condition on this variance would be that no other easements could be granted for adjoining properties to access Rockhaven Drive, and that the property is limited to one, single family lot for residential use.

B. Major stated that logically it would make more sense for the property to have a fee interest rather than an easement. J. Leonard answered that this process has been going on for ten years, and he doesn't know why there wasn't a fee interest – but they now have a confirmatory deed for the easement, giving them all the rights, and that the neighbors do not object to what the Applicant hopes to do with the property.

D. Mason confirmed that all of the adjacent lots are Town forest, except for the two that are part of Rockhaven.

J. Leonard stated that he doesn't believe that the Board needs to get to a variance on this case – but if they do, they certainly have special conditions; it's certainly a unique property and there is not going to be another one in Town like this. There is no way to accomplish the zoning requirement. Additionally, it is not going to reduce the value of properties. It is a residential home in a residential subdivision. It is completely consistent with all of the requirements of the Town. It is a large lot; access is exactly like access to other lots, both physically and in terms of construction – so that the spirit of the ordinance and of the requirements is met. Other than the frontage, this qualifies as a back lot. It's a reasonable use because it's a permitted use; it's a very rural use.

J. Belanger asked if the mentioned "easement" and "deeded right of way" are the same thing; J. Leonard confirmed that yes, they are. J. Belanger further asked who owns the land, and the Applicant stated that it's over the Jeffery property, Lot 7-A on the subdivision plan, and it can be seen on plans of the same area historically. The property on which the right of way is located is in the name of the Jeffery Realty Trust, but the deeded easement is in Marchant's name.

J. Leonard confirmed that they don't have any issue with a condition being that it be only a single-family home.

J. Belanger asked how the lots have been taxed: as non-buildable? Housing? Deeded? J. Leonard stated that he wasn't sure.

J. Belanger further asked if the driveway will have sufficient access for fire equipment? J. Leonard answered that yes, it will.

R. MacMillan pointed out that the ordinance says "public road", so in considering this application the ordinance has to be overlooked entirely. J. Leonard answered that he does appreciate that point, and the effort and diligence that the Board puts into making sure that applications meet the rules. However, the whole purpose of a variance is for circumstances in which we need to have relief from the ordinance – and this is exactly such a case, with special circumstances.

J. Leonard stated that there is a helpful essay put out by the Municipal Association which has a number of questions that they ask. They talk about how to look at a variance, asking "Is the restriction on the property necessary in order to give the full effect of the purpose of the ordinance?" "Can relief be granted to the property without frustrating the purpose?" He believes that relief can be granted without any harm to the ordinance, to the scheme of the ordinance, to the neighborhood, to any public interests. He believes that this case is exactly in a circumstance that is appropriate for a variance.

D. Mason asked how long the right of way is, from Rockhaven Drive to the property; Applicant answered that it is about 200 feet – the right of way may be longer than that, but the driveway will be about 200 feet.

In answer to K. McGhee's question, the J. Leonard confirmed that in fact they do not believe that they need a variance, but they want to cover their bases. They believe that it is a non-conforming lot, and can be used for a

permitted use. If the Board does not agree, though, it is still appropriate for a variance because of the special circumstances.

R. MacMillan asked whether, if he has a back lot that is land-locked, and he drives a road through there on his own, and then grants someone a 20 foot right of way, it would be similar to this case. J. Leonard answered that he did not think it would be similar, because of the history here. Additionally, they cannot accomplish the requirement of the zoning ordinance because of the special location and circumstances of this property. There is no other lot in Town that has this. Rockhaven Drive was approved by the Planning Board, and the location of the easement was confirmed by the Planning Board – it was on the recorded subdivision plan. That is a very unusual circumstance.

B. Major mentioned that he didn't think the Planning Board would approve that plan if it were presented today. R. MacMillian concurred; this is something that is fait accompli.

D. Mason added for full disclosure that he lives on Baxter Road, off which Rockhaven Drive is located, and he walked the property last weekend. B. Major asked if D. Mason's observations were consistent with the representations of the application today; D. Mason answered yes.

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

ZBA2022-006

The application of Hollis Pharmacy, for a Variance to Section XIV: Sign Ordinance, paragraph H.2, internally lit signs, to install a Blink Charging Station, property owned by Ararat Realty Co., located at 6 Ash Street, (Map 052, Lot 030) in the Agricultural/Business District.

Applicant: Attorney Gerald Prunier, for Hollis Pharmacy. Stated that they are here this evening because the Applicant is trying to stay up with the times and have an electric-vehicle charger installed at Hollis Pharmacy. It would be a one-pole, two-prong charger, so that they could charge two cars at the same time. The charger has a screen that lights up when the user presses it, and it tells the user how many watts you want and how much it's going to cost. It's just like the gasoline station, which has a larger one when you go to the pump. The fact of the screen being lit while the vehicle is charging is in violation of the sign ordinance for the Town of Hollis in that district. After a car is charged, and the plug has been disengaged, the light dims down. The light is 5 inches by 7 inches. There is already lighting in the parking lot for safety; the light on the charger will hardly ever be seen. This little light is what they are looking for a variance for. And the light is really there for the people using the electrical pump, to see the wattage and how much it's going to cost for that period of time.

B. Major asked if there is a way to shield the screen so that there wouldn't be more light pollution. Applicant answered that there is hardly any light pollution to begin with, and this light is only there to help serve the people who might want to use it.

K. McGhee pointed out that based on the rendering in the application, the charging station would be facing the parking spaces at the Pharmacy, not out into the street, so it would already be obscured.

B. Major further asked whether, if you were driving by, you could see the lit face of the screen; G. Prunier answered that he didn't know, but that you're probably not going to see it.

D. Mason asked if the screen is lit at all when not in use, or if it's completely dark. The Applicant answered that it is just barely lit; it dims down after a vehicle leaves.

D. Mason asked what the hardship is; G. Prunier answered that the hardship is that we have new technology that is not recognized by anyone else, the Applicant wants to serve their clients, and there is nowhere else to go for this

service. If someone with an electric car comes through Town, there is nowhere to go to charge it. He added that he doesn't expect there to be very many of these electrical connections being made, because most people who own an electric car charge them at home in their own garages. They have their own chargers.

J. Belanger added that his note regarding hardship is that the ordinance is not keeping up with technology.

K. McGhee pointed out that the ordinance refers to "any internally lit signs", which is supposed to prohibit lit signs that obscure rural character and so on – but this is a device; this is something different than a sign.

B. Major suggested that if we have a finding that this isn't a sign, then we're done with it; the issue is over.

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

FIVE-MINUTE RECESS.

DELIBERATIONS AND DECISION

ZBA2022-005
Discussion of the application of John Clements, property owner, for a Variance to Section XG: Residential/Agricultural District, paragraph 4.d, minimum side yard setback to construct a construction of a 24' x 40'- 2 story garage, front corner of the structure is 15'.5" and remaining structure is 23'.6" from the side yard width (required 35'), located at 196 Worcester Rd. (Map 007, Lot 002) in the Residential/Agricultural District.

R. MacMillian stated that he is inclined to approve the application, with any conditions that the Board might have. The right of way going by the Applicant's house is 20 feet, there is a 20 foot space between his line and the next property line adjacent to him; he is 140 feet back. He's got 43 feet and 35 feet with that driveway.

Regarding the hardship portion of the application, J. Belanger stated that we may be pushing it to the limit here, but the hardship is the enjoyment of your home. If you have a lot and you want to do the same things that other people do to their lots, and it doesn't infringe on the neighbors, by adding a garage or a swimming pool or something like that, that's what everybody does to their homes. And just because of a minor setback on the side, where the neighbors don't disagree and you're not causing any problems, he believes that that's a hardship. You can't really get the enjoyment of your home the way that other people do without the variance.

R. MacMillan recalled a previous case regarding a car port – they were too close to the neighbor's property; they tore it down and built a garage, and the Board approved it because the hardship was quality of life, they would like to enjoy their property, the neighbors next door said it was fine with them, there were other properties in the area that had garages similar space-wise to the property line. He acknowledged, however, that there have been times when the Board has turned applications down.

B. Major pointed out that the Board needs to be clear on this; this is a 20 foot request. The good facts are the existence of a 20 foot wide driveway in fee that segregates the property from the offended property. The bad facts are that there is already an existing garage on the property, and there are arguments that you could move a second garage to somewhere else on the property.

K. McGhee stated that she thought moving the second garage to another space on the property would be a hardship – in looking at the lot, the suggested location is the logical one. The hardship is the location of the house in relation to that side of the property line and where the current driveway is. You can't put it on the other side because the septic is in the way – and it wouldn't make any sense to put it in the back portion of the property; the back would be a very awkward place for even reselling the property.

C. Robbins-Tsao stated that the hardship portion of the application is difficult for her as she doesn't have a garage, and she doesn't even have a place where she could put a garage.

B. Major stated that no one needs a second garage. You can enjoy your property without a second garage. We're pulling logical strings here – and he is not against doing that, but the Board needs to be clear about why we're doing it, and if we're going to do it then we need to make sure that we have distinguishing facts.

R. MacMillan pointed out that there are two things that make this a difficult case: the 20 feet, and then, again, what is the hardship.

B. Major stated that the Board once heard a case involving a request to construct a three-car garage in a subdivision where the subdivision requirements required a three-car garage – but the third bay of the garage would have been in violation. R. MacMillan recalled that case, and also one in which an applicant wanted to put a barn 15 feet from either corner, he owned the adjacent 20 acres, and we didn't let him do it. C. Robbins-Tsao pointed out that, in such an instance, someone else may own that lot some day.

D. Mason also recalled a case in which an applicant wanted to put a garage in, and it was the right place given the driveway – but it was too close to the lot line, and the Board didn't let him do it. K. McGhee pointed out that the same argument about quality of life would have been applicable in that instance.

B. Major mentioned that the Board needs to be careful of these examples. Here we have a nice applicant, a well-presented case, a sympathetic story – but we need to be careful of the ordinance, too. He was not averse to granting this, but the Board does need to be careful to distinguish it. R. MacMillan agreed; they have turned down other applications many times under the same circumstances.

J. Belanger stated that the problem here is that is that it's setting a precedent.

C. Robbins-Tsao pointed out that when the Applicant mentioned that he needed the garage for storing his kids' things she thought of how she never had a garage, and had to store all of her kids' things in the basement – bikes and everything.

R. MacMillan agreed that it's difficult to come up with a hardship in this case; personally he couldn't come up with one that was viable.

D. Mason suggested that a one-car garage might encroach less.

J. Belanger stated that his answer regarding hardship was quality of life, and that raising children on that lot requires the Applicant to be able to add living space. If the Applicant was trying to expand the house that far, J. Belanger would have a different view.

D. Mason pointed out that the 20 foot driveway is a big factor. If the driveway weren't there, he'd be inclined to disallow the application. K. McGhee concurred.

C. Robbins-Tsao agreed, and stated that it's certainly far enough away from any other residents.

R. MacMillan mentioned that they have an obligation. There might be former applicants out there, remembering what happened to them in front of the Board. We want to be fair. B. Major agreed that this application is on the edge of things.

B. Major moved for the following finding-of-fact;

1. *The board finds that the existing driveway separating the applicant from lot 7-3 effectively*

mitigates the intrusion of the garage in to lot 7-3 by at least 20 feet.

Seconded by D. Mason.
Motion passes 4-1 with MacMillan against.

D. Mason moved for the following finding-of-fact;

2. *The board finds that due to the conditions of the property there is no reasonable place to put a garage other than on the west side of the property.*

Seconded by B. Major.
Motion passed 3-2 with Tsao and MacMillan against.

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)	Total Yes	Total No
Major	Yes	Yes	Yes	Yes	Yes	Yes	6	0
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	6	0
Tsao	Yes	Yes	No	Yes	Yes	No	4	2
MacMillan	Yes	Yes	No	Yes	Yes	No	4	2
Mason	Yes	Yes	Yes	Yes	Yes	Yes	6	0

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

1. The board finds that the existing driveway separating the applicant from lot 7-3 effectively mitigates the intrusion of the garage in to lot 7-3 by at least 20 feet.
2. The board finds that due to the conditions of the property there is no reasonable place to put a garage other than on the west side of the property.

ZBA2022-007
Discussion of the application of Ronald Marchant, for a Appeal from an Administrative Decision made on March 16, 2022 pertaining to the 20 foot road frontage requirement for back lot, property owned by Ronald Marchant, located at Rockhaven Dr., (Map 030, Lot 018) in the Residential/Agricultural District.

D. Mason stated that he doesn't agree. If the Applicant's attorney's argument holds, it would mean that the lot on Broad Street which is a non-conforming lot that only did not meet the frontage requirement would have been acceptable. The main purpose of the ordinance is to enforce certain dimensional requirements. K. McGhee pointed out that Broad Street is a public road, so it's still a different circumstance. D. Mason concurred, but added that the reasoning there is valid here.

J. Belanger stated that frontage on a public road is one thing, and frontage on a cul-de-sac on a private road is something completely different. D. Mason agreed, and pointed out that RSA 674:41 speaks to that directly.

B. Major stated that he believes the building inspector's determination that the application would require a variance was correct. Major asked does the ZBA vote to overturn the determination of the building inspector on Case ZBA2022-007

Voting Results;

Board Member	Yes	No
Major		No
Belanger		No
Tsao		No
MacMillan		No
Mason		No

THEREFORE, THE APPEAL FROM AN ADMINISTRATIVE DECISION WAS DENIED.

ZBA2022-008

Discussion of the application of Ronald Marchant, for a Variance to Section XG: Residential/Agricultural District, paragraph. 4.h (ii) minimum frontage on a public road 20 feet for each dwelling on a back lot, to construct a Single Family Home without frontage (required 20 feet), property owned by Ronald Marchant, Located at Rockhaven Dr. (Map 030, Lot 018) in the Residential/Agricultural District.

D. Mason indicated that this case is relatively straight forward; the Board would be granting a variance that says that they can build onto an easement from a road that has been there since 100 years ago. The hardship is that it's landlocked. There is no other way to do it.

R. MacMillan pointed out that the property is 12 acres; he would not want them to subdivide it additionally. B. Major further stated that that would overburden the easement.

D. Mason stated that he has gone back to the property records, and read the Planning Board minutes for this location, and he believes that they didn't want to create a landlocked lot. He believes that they intended for that lot to be buildable, by having access.

J. Belanger stated that the hardship in this case is that the development around the lot has landlocked it; it used to be available to build on, and now it isn't.

D. Mason added that when this lot was separated from the Rockhaven property, it had no frontage on any road. Then they put in the private road.
B. Major stated that the Planning Board today would not have approved it. D. Mason agreed, unless the lot had joined the planned development that is now Rockhaven.

K. McGhee pointed out that this application is just the first step – they still have to go through further steps, and ultimately before the Select Board to get approval.

R. MacMillan mentioned that it's important in cases such as this for the Board to be unanimous. If they are not uniform, other bodies may make the decision.

B. Major moved for the following condition of approval;

1. *The property may only be used as a Single Family residence with the accessory "uses" allowed by the ordinance.*

Seconded by J. Belanger
Motion unanimously approved.

B. Major moved for the following finding-of-fact;

1. *The Board finds that lot 30-18 was a lot of record as of 1943, at the time lot 30-18 was granted an easement to Baxter Road.*

Seconded by C. Tsao.
Motion unanimously approved.

D. mason moved for the following finding-of-fact;

2. *The Board finds that the lot is completely land locked other than the easement and this creates a hardship to the lot.*

Seconded by C. Tsao.
Motion unanimously approved.

<u>Questions - Variance</u>

Question 5. The variance will not be contrary to the public interest.
Question 6. The spirit of the ordinance is observed.
Question 7. Substantial justice is done.
Question 8. 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	6	0

Belanger	Yes	Yes	Yes	Yes	Yes	Yes	6	0
Tsao	Yes	Yes	Yes	Yes	Yes	Yes	6	0
MacMillan	Yes	Yes	Yes	Yes	Yes	Yes	6	0
Mason	Yes	Yes	Yes	Yes	Yes	Yes	6	0

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

CONDITION:

1. The property may only be used as a Single Family residence with the accessory "uses" allowed by the ordinance.

FINDINGS-OF-FACT:

1. The Board finds that lot 30-18 was a lot of record as of 1943, at the time lot 30-18 was granted an easement to Baxter Road.
2. The Board finds that the lot is completely land locked other than the easement and this creates a hardship to the lot.

ZBA2022-006
Discussion of the application of Hollis Pharmacy, for a Variance to Section XIV: Sign Ordinance, paragraph H.2, internally lit signs, to install a Blink Charging Station, property owned by Ararat Realty Co., located at 6 Ash Street, (Map 052, Lot 030) in the Agricultural/Business District.

Discussion: no vote

B. Major moved for the following finding-of-fact;

1. *The Board finds the proposed charging station is not a "sign" as defined in the ordinance.*

Seconded by J. Belanger
Motion unanimously approved.

B. Major moved for the following finding-of-fact;

2. *Since the Board finds the Blink charging station system to be installed does not have a sign a variance is not required.*

Seconded by R. MacMillan
Motion unanimously approved.

Other Business
Non-Public under RSA 91-A:3, II (c). Reputation

B. Major stated that he will be interviewing some people this coming Saturday, and will let the Board know following the interviews.

Review of Minutes

C. Robbins-Tsao moved to approve the minutes of March 24, 2022.
Seconded by D. Mason
Motion unanimously approved with R. MacMillan abstaining.

Meeting Adjourned

The ZBA meeting adjourned at 9:30 pm.

Respectfully submitted by:
Donna Lee Setaro, Building and Land Use Coordinator,
and Aurelia Perry, Recording Secretary.