



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

Minutes of December 22, 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 7:14 pm.

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

MEMBERS ABSENT: Regular Members – Cindy Robbins-Tsao, Rick MacMillan; Alternate Member – Kat McGhee.

STAFF PRESENT: Kevin Anderson, Town Planner & Environmental Coordinator; Donna Setaro, Building and Land Use Coordinator.

J. Belanger led the Pledge of Allegiance.

B. Major stated that the voting members for case ZBA2022-020 will be: J. Belanger, D. Mason, B. Moseley, M. West, and S. Swerchesky.

B. Major stated that the voting members for case ZBA2022-021 will be: B. Major, J. Belanger, B. Moseley, M. West, and S. Swerchesky.

B. Major explained the policies and procedures.

Determination of Regional Impact

By unanimous vote, the Zoning Board of Adjustment (ZBA) found no regional impact for cases ZBA2022-020 and ZBA2022-021.

ZBA2022-020

Application of Edward Campbell, for a Special Exception to Section IX; General Provisions, paragraph K; Accessory Dwelling Unit, of the Zoning Ordinance, to construct a 658 square foot Accessory Dwelling Unit in an existing attached 2 car garage, located at 244 Silver Lake Rd., (Map 035, Lot 049) in the Residential/Agricultural District.

Applicant: Edward Campbell, contractor for the homeowners. Stated that the Accessory Dwelling Unit or in-law apartment would be constructed in an existing two-car garage underneath a family room above – all of which is attached to the main house. The area is in the back of the house and cannot be seen from the street. They are looking to construct a 658 square foot unit, which will take up the two-car garage space. They have been through the construction process and building permit process with D. Setaro and the Building Department, and have had a site inspection with the Building Inspector and Fire Marshall. They believe that everything is in order, per the Zoning Ordinances.

B. Major asked E. Campbell to discuss the heated common wall, to which E. Campbell responded that there is a

finished basement in the main part of the house that is fully heated, with forced hot water. They will be creating a doorway from that finished basement into the new living space. That will be the heated common wall, as well as the egress into the main part of the house. Regarding the percentages, E. Campbell stated that the main house is 2900 square feet or so – he doesn't have the exact percentage numbers in front of him, but they did the math and went through all that with the Building Department. D. Setaro confirmed that it is eligible, per the Building Department.

Regarding the parking, E. Campbell stated again that this is an existing two-car garage; the driveway goes around the side of the house, and down right in front of the existing two-car garage. It is paved and even has a turn-around, so there is plenty of parking without the need for any additional space to be created.

Regarding how the ADU could eventually be re-incorporated into the main residence, E. Campbell responded that it could be remodeled back into a two-car garage, if need be, or it would be a nice space for, say, a teenager. They will not be changing the area structurally, so it could be returned to a garage space.

J. Belanger pointed out that E. Campbell had stated that he is representing the homeowners, John and Maria, but that John and Maria are not on the application. E. Campbell replied that John and Maria are the homeowners, the parents of Andrea, who is on the application.

J. Belanger mentioned the heated basement in the main area of the house, and asked if it was used as a living space. E. Campbell said that yes, it is – there is a family room down there. It is all finished and carpeted, and the laundry room is down in that area, as well. It is used daily.

J. Belanger asked whether there is a plan for adding a garage to the property later on, as this one will be in separate use. E. Campbell answered that there has been talk about it, but nothing on the books. Down the road, they're thinking of building a detached two-car garage on the property.

B. Moseley asked, to get it on the record, whether the same number of bedrooms will be maintained, and whether it's correct that there will be no septic work necessary. E. Campbell confirmed that is correct – they have been through that with the Building Department, and there will be no changes in that respect. He confirmed that the septic system is functional now as it is.

B. Major asked why the door shown on the plan will be going into the bathroom and not into the bedroom. E. Campbell answered that it's because, since the basement family room is in use, they would like the kids in the house to be able to use that bathroom. The bathroom will have two entrances – that egress entrance, and then the entrance into the bedroom itself.

D. Mason asked to confirm that the Applicant will not be making any changes to the exterior footprint of the building, and E. Campbell stated that that is correct. D. Mason asked what is the setback of the house from the road; E. Campbell answered that the house was built in 1747, and was originally very close to the road. It was less than 50 feet from the road. The previous owner moved it back, and then constructed this garage space, which is under discussion, in the 1990s. The house is now about 100 or 100+ feet from the road. The space that they will be building in is in the back.

K. Anderson asked to confirm that the driveway dips down as it goes back toward the garage area, and asked if there is any concern about water – are they planning any site improvements? E. Campbell confirmed that the driveway does dip down, and stated that they are going to put a block wall system right where the two garage doors are, and it will be built up a little bit for any kind of water issues. The plan was that in the spring they would put in some type of drainage system, maybe a few feet out from the new entryway. Right now, there is an existing deck out over the garage, and they will be installing a gutter system underneath the deck to run water away from that area as well.

S. Swerchesky asked about the small, existing garage right at the street in front; E. Campbell confirmed that there are no plans to do anything with that, and that it is in use.

B. Major asked K. Anderson if the Town has anything to add regarding this application. K. Anderson stated that the application fits all of the requirements as far as the Planning Department is concerned; he raised the question about the site work to see if any excavation would be necessary or required. He did notice on some of the recorded plans that there is an edge of wetland delineated – but since no addition to the structure is proposed, and it is a simple drainage improvement, there is no need to raise concerns.

No one spoke in favor or against the application.

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

ZBA2022-021

Application of Austin DeSantis, for a variance to Section XG; paragraph 5.c, Minimum Front Yard Depth, of the Zoning Ordinance, to construct a 24' x 26' 2-car garage with a 10' x 24' rear attached lean-to, 52 feet from the front property line (required 100 feet) property owned by Beth Harper, located at 57 Federal Hill Rd., (Map 061, Lot 007) in the Residential/Agricultural District.

D. Mason recused himself from this case.

Applicant: Austin DeSantis, grandson of the property owners. Stated that he is a general contractor by trade, and here to help the homeowners get a two-car garage. They recently retired, and are looking to keep snow off their cars in the winter as this will be their forever home. The house was built in 1788, so it is far inside the 100-foot setback. They want to maintain the character of the home with this new garage. There will not be any new curb cuts for the driveway; they will use the existing one. They have set the garage at an angle so that plowing will be easy, and kept it up the hill, in the setback, in order to stay off the steep topography toward the back side of the house. They want to do as little invasive excavation as possible.

Regarding the hardship on this application, B. Major pointed out that there are other places that the Applicant could put the garage on the property and comply with the Scenic Road setback. A. DeSantis confirmed that that was correct, but that it would require significant earthwork. B. Major stated that the proposal would comply if it were not on a Scenic Road, as the construction is to be more than 50 feet from the road. He asked A. DeSantis to explain how the Scenic Road portion of the Ordinance, which requires a 100-foot setback, makes no sense with regard to this specific property, given the layout of the property, the layout of the home that is already on the property, and other homes in the area. A. DeSantis replied that right at the 50-foot mark is about where the top of the hill starts, and there is a steep decline. The topography makes it incredibly difficult to put the structure further back. Additionally, right behind where the proposed garage would go is the septic leach field. They would essentially have to build a road down a mountain, in order to comply with the setback.

B. Major asked why they wouldn't build the garage to be attached to the house. A. DeSantis responded that there are utilities on the side of the house which would require a lot of relocation. They actually did get an approval for a special exception in 2014 for an attached garage, but insofar as invasive work, excavation, earthwork, and destroying the character of the house and surrounding area would go, they figured that this would be a better route.

B. Major asked how far the garage would be from the home. A. DeSantis answered that it would be about 50 feet. There are a couple of trees between them. They placed it in an area that would cause the least amount of disturbance.

B. Major asked how far the existing home is from the property line, and A. DeSantis stated that it is 8.5 feet from the property line. B. Major asked about the neighborhood, and how far other existing homes are from the road. A.

DeSantis responded that directly across the street is a detached barn, which is about 10 feet off the right of way. This proposed garage would be much further back than that.

B. Major pointed out that the property is unusually configured.

K. Anderson stated that this property is located right across from the new Keyes Hill development – a very large, new development.

B. Major asked if the architectural plan for this construction will be consistent with the home itself. A. DeSantis stated yes. They will stick with wood siding, and their goal is to make it match the house. B. Major asked about the purpose of the lean-to out back, and A. DeSantis stated that it was for dry storage, and for trash storage – the homeowners have had a couple of instances in which a bear has broken through their screen porch.

B. Moseley asked about the steep topography of the lot, and where the septic tank is located. A. DeSantis replied that there is one flat part in the northern area of the lot where the leach field is located; the septic tank is pretty close to their house. Outside of the leach field there is no flat area on that lot.

B. Major asked if it's possible to drive down to the lake from this property. A. DeSantis replied that in the very southern portion there is a gravel road that exists in the setback, and that is the only way to access the lake. You can't drive down from the house. You have to go out to the road, and drive down to the access road, to get to the lake. B. Major asked if the rear of the property does abut Silver Lake; A. DeSantis answered that it's like a dog leg – it goes down and turns toward the lake.

For the record, B. Major stated that the lot is 3.5 acres in size.

B. Moseley stated that it would have been helpful to have a topographical map of the lot, particularly as the Applicant is claiming that much of it can't be built on due to the topography.

J. Belanger asked about the ages of the homeowners, to which the answer was 63 and 73. One of the homeowners uses a walker all the time. J. Belanger asked if the Applicant had considered asking for a medical hardship for a variance. A. DeSantis stated that they had not known about that option.

S. Swerchesky asked if the home still has a well in the kitchen; the answer was yes.

Spoke in favor the application:

Drew Mason, 61 Baxter Rd. Stated that he is familiar with the property, and that from the back of the house it really does go down all the way to the lake. It is not a gentle slope. You couldn't put a leach field in there.

Ann Tucker, 44 Federal Hill Rd. Lives across from the Applicant's property. Stated that this is an ideal place for the garage, in terms of them accessing it and in terms of the relationship to the house. It would be a flat location, they wouldn't have to deal with the hill, it would be set back and would complement the house.

No one spoke against the application.

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

DELIBERATIONS AND DECISION

ZBA2022-020

Application of Edward Campbell, for a Special Exception to Section IX; General Provisions, paragraph K;

Accessory Dwelling Unit, of the Zoning Ordinance, to construct a 658 square foot Accessory Dwelling Unit in an existing attached 2 car garage, located at 244 Silver Lake Rd., (Map 035, Lot 049) in the Residential/Agricultural District.

The ZBA had no issues or concerns with the application. The application meets the ADU ordinance in its entirety.

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
J. Belanger	Yes	Yes	Yes	3	0
D. Mason	Yes	Yes	Yes	3	0
B. Moseley	Yes	Yes	Yes	3	0
M. West	Yes	Yes	Yes	3	0
S. Swerchesky	Yes	Yes	Yes	3	0

THEREFORE, THE SPECIAL EXCEPTION WAS GRANTED.

ZBA2022-021

Application of Austin DeSantis, for a variance to Section XG; paragraph 5.c, Minimum Front Yard Depth, of the Zoning Ordinance, to construct a 24' x 26' 2-car garage with a 10' x 24' rear attached lean-to, 52 feet from the front property line (required 100 feet) property owned by Beth Harper, located at 57 Federal Hill Rd., (Map 061, Lot 007) in the Residential/Agricultural District.

M. West stated that this is one case in which we have a very clear, defensible hardship.

B. Major stated that he'd go beyond that: what are we protecting with the Scenic Road setback? His understanding is that it's primarily something that the State imposed for economic reasons. If the house is already 8 or 10 feet from the road, and the house across the street is 10 feet from the road, and the houses have historical merit, what are we protecting by insisting that the garage be 100 feet back from the road? He thinks that they could do it, but it would look stupid. It's not going to serve the Ordinance at all, and, basically, if we're not protecting anything, we have to ask whether, if it were not for the Scenic Road setback, this would be a case. He does not think we're protecting anything by denying the variance.

B. Moseley stated that in this case, with the existing home being where it is, with other homes in that neighborhood being where they are, with the topography that exists – he does not see a big issue with it.

B. Major pointed out that we have testimony from neighbors who agree with the proposal, as well.

J. Belanger moves for a finding-of-fact;

1. The Board finds the topography and the depth of the lot from the road to the back portion of the lot creates a hardship for any construction on the lot.

B. Moseley seconded.

Motion unanimously approved.

Regarding a potential medical hardship, B. Major pointed out that it has to be removed once the need for it no longer exists – so that would not provide a permanent solution for this application.

B. Moseley moves for a finding-of-fact;

2. *The Board finds the proposed construction is consistent with the existing dwellings and structures in this area.*

B. Major seconded.

Motion unanimously approved.

B. Moseley moves for a finding-of-fact;

3. *The Board finds the proposed construction is consistent with the rural character of the area.*

M. West seconded.

Motion unanimously approved.

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
B. Major	Yes	Yes	Yes	Yes	Yes	Yes	6	0
J. Belanger	Yes	Yes	Yes	Yes	Yes	Yes	6	0
B. Moseley	Yes	Yes	Yes	Yes	Yes	Yes	6	0
M. West	Yes	Yes	Yes	Yes	Yes	Yes	6	0
S. Swerchesky	Yes	Yes	Yes	Yes	Yes	Yes	6	0

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

1. **The Board finds the topography and the depth of the lot from the road to the back portion of the lot creates a hardship for any construction on the lot.**
2. **The Board finds the proposed construction is consistent with the existing dwellings and structures in this area.**
3. **The Board finds the proposed construction is consistent with the rural character of the area.**

Other Business

Follow-up discussion on the appointment of members.

S. Swerchesky asked if B. Major had heard anything further regarding the appointment of an Alternate Member.

B. Major stated that he has prepared a draft of a letter to the Select Board. He does not want to stir up a storm over this, but it does need to be drawn to a conclusion. ZBA members who are absent at this meeting may want to have some input on the letter, and whether we might want to request a sit-down with the Select Board.

B. Moseley stated that a mitigating factor is that there will be a meeting of Chairs in January; he suggested that we

go to that meeting first.

J. Belanger pointed out that candidates for Board membership used to go to the Select Board first, prior to appointment. It was the Select Board that would interview candidates for membership, not the individual Boards. B. Major concurred, and stated that the process was changed 15 or 20 years ago.

B. Moseley pointed out that it has been an inconsistent system; interviewing potential candidates may be done one way for the Planning Board, another way for the ZBA.

M. West pointed out that key issues for Board members are commitment to the position, and the ability for members to respectfully get along with one another. Those things matter. No one other than the Board can say with whom they will best be able to work.

Review of Minutes

J. Belanger moved to approve the minutes of October 27, 2022.

Seconded by B. Moseley.

Motion unanimously approved with M. West abstaining.

Meeting Adjourned

The ZBA meeting adjourned at 8:00 pm.

Respectfully submitted by:

Donna Lee Setaro, Building and Land Use Coordinator,
and Aurelia Perry, Recording Secretary.