

10/19/15

**HILLSBOROUGH ZONING BOARD**  
Meeting Minutes  
October 19, 2015

Date Approved: November 9, 2015

Present:

Members: Chairman Roger Racette, Russell Galpin, Michael McEwen, John Segedy and Nancy Torres

Alternates: None Present

Planning Director: Robyn Payson

Absent: Larry Baker

Members from the Public: Michael Pascale, John Holland, Patricia Holland, Otto Peucker, Judy Peucker, Paul Ruggiero, Terry Yeaton and Brett Cherrington

Chairman Racette called the meeting to order at 7:02 pm.

**MINUTES:**

**July 13, 2015:**

Chairman Racette made a correction to Page 2, Paragraph 1, Line 2 changing “would” to “could”.

Mr. Galpin made a motion to approve the minutes of July 13, 2015 as amended. Mr. McEwen seconded the motion. The Board voted all in favor.

**August 10, 2015:**

Chairman Racette made a correction to Page 2, Paragraph 2, changing the last word from “interiorly” to “internally” and on Page 4, Paragraph 4, Line 1 changing “one” to “on”.

Mr. Segedy questioned the wording of Mr. Cherrington’s objection to Tractor Supply’s request for additional height to their pylon sign. He would like Mr. Cherrington’s objection amended to add “because it didn’t meet the letter or spirit of the ordinance” this would clarify his objection.

Mr. Segedy made a motion to approve the August 10, 2015 minutes as amended. Mr. Galpin seconded the motion. The Board voted all in favor.

**September 14, 2015:**

Mr. Segedy made a motion to approve the minutes September 14, 2015 as presented. Chairman Racette seconded the motion. The Board voted all in favor except for Mrs. Torres who abstained.

**PUBLIC HEARING:**

**Variance Application**

**79 Marina Road, Map 19, Lot 28 owned by John K & Patricia E. Holland**

Chairman Racette said the request is for a variance from Hillsborough Zoning Ordinance Section 229:10 in order to permit an existing three-bedroom house located at 79 Marina Road to be demolished and replaced by a year-round house. The current structure is set back approximately 59' from the lakefront and the proposed structure will be more centrally located on the property with a setback of approximately 62.5' from the lakefront.

Mr. Holland thanked the Board for its time. He explained that they had considered just renovating the house but found that a total demolishing would be better. He said this would allow the house to be moved away from the side lot line and into the center of the lot. He added the house itself would be approximately 72.5' from the lake but the deck would be the 62.5'. He said due to an existing deeded right-of-way across the property the house can't be moved back any further.

Chairman Racette asked how much of the lot would be covered by impervious material.

Mr. Pascale said 13% of the lot would be covered by impervious material, the limit is 30%.

Mr. Galpin asked where the location of the water supply and sewer system are on the plan.

Mr. Pascale pointed out the locations on the submitted plan.

Chairman Racette read from the Town Ordinances regarding the size of septic systems and the Board found that the existing system could accommodate the new house.

Chairman Racette asked if any abutters would like to speak.

Mr. Peucker spoke in favor of the project. He added that the right-of-way indicated on the map has never been used.

Mr. Cherrington pointed out that even though a deck could be pervious the plans indicate a patio beneath the deck which maybe impervious. He said by granting this variance the Board could be setting a precedent.

Mr. Pascale said the patio is included in the 13% impervious coverage previously discussed.

Chairman Racette said the Board needs to address the five criteria for approval of a variance:

**CRITERIA:**

- A. Granting the proposed Variance will not be contrary to the public interest because:
  - 1. While the setback variance requested (62.5') is less than the minimum (75'), the proposed house location is farther from the lake than the current structure (59');

2. This request, if granted, makes certain that the egress from the road side of the house is a safe and reasonable distance from the road (right-of-way).
3. The taxable value of the home will likely increase.

Mr. Galpin pointed out that number three was not a valid argument.

- B.** Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance because: Granting the variance does not alter the character of the neighborhood. It will also allow the proposed structure to be located at a safe distance from the road that services the three houses at the end of Mariana Road. Children and young adults that occupy and move among these homes will have a buffer exiting the house before reaching the road. It will also allow us to center the living structure on the property. Also, granting the variance will increase the side setback so that it conforms with current zoning.

Mr. Segedy asked about the setback from the right-of-way not meeting the 25' minimum and he wanted to know if the building could be moved over.

Mr. Pascale said the building can't be moved because of vegetation the Department of Environmental Services wants them to leave.

- C.** Granting the proposed Variance will do substantial justice because: The property at 79 Marina Road has been in the (Morganroth) Holland family since 1977. I will allow my wife Patricia Morganroth Holland (66) and I (67) to retire and live in Hillsborough year round, a dream of ours for almost 40 years. I believe that granting the variance is right and just. The home will become more energy efficient, safer and consistent with overall neighborhood aesthetics.

- D.** Granting the proposed Variance will not diminish the values of the surrounding properties because: We believe that granting the proposed variance will result in no diminution of the values of the adjacent properties and will likely enhance the values. The proposed house will be more structurally sound than the existing house and will be more aesthetically pleasing from both the road and lake sides.

- E.** Literal enforcement of the provisions of the ordinance will result in an "unnecessary hardship" because:
- (1) Owing to special conditions of the property that distinguish it from other properties in the area: (i) 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; and (ii) The proposed use is a reasonable one because:
- a. The safety issue presented by the home's exit on the road side of the proposed structure is unique to the property because the deeded right-of-way for the abutters is immediately present;
  - b. There is a great deal of activity among the three houses located around the right-of-way. As with other lakeside properties, the subject property promotes constant outdoor activities. The active individuals include the grandchildren of the applicant (now 4 and 18 months) who visit, and other children who occupy

and visit abutting homes. If the minimum setback (75') is enforced in this case, we are very concerned that maintaining safety would be a burden;  
c. In addition, the woodland buffer will be altered.

(2) If the criteria in subparagraph E (1), immediately above, are not established, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonable used in strict conformance with ordinance, and a variance is therefore necessary to enable a reasonable use of it because: a variance is necessary to enable the reasonable use of the property because of the safety concerns described above.

Mr. Segedy said the safety issues have nothing to do with zoning.

Chairman Racette closed the public hearing at 8:00 p.m. and the Board began deliberation.

Chairman Racette had a concern regarding the increase in the impervious surface area and where it is being moved to in regards to the deeded right issues and vegetation issues which pretty much prevent the use if any other location on the lot. He is satisfied with NHDES taking the impervious area into account when giving their approval.

Mr. Segedy said that is fine except the State's setback is 50' and the Town's is 75'.

Mr. Galpin thought the overall proposal was a good one.

Mr. Segedy had a concern about setting precedent and where do we draw the line on approving variances for setbacks.

Mr. McEwen agreed with Mr. Galpin that the proposal is an improvement and is in favor of it.

Mrs. Torres made a motion to vote on the five criteria with one single vote. Mr. Galpin seconded the motion. The Board voted all in favor except for Mr. Segedy who abstained.

Mr. Galpin made a motion to approve the application as presented. Mrs. Torres seconded the motion.

Chairman Racette asked if there were any conditions to attach and seeing none he asked for a vote on the motion to approve the application as presented.

The Board voted unanimously in favor of the motion to approve the application as presented.

#### **OTHER BUSINESS:**

Mr. Galpin asked why Ordinance 229:36 mentions minimum frontage of 50' for a water lot and Ordinance 229 attachment 1:1 says 100'.

Mrs. Payson will look into the issue.

Mr. Galpin asked Mrs. Payson to mail him hard copies of future applications rather than emailing them or he could come in and pick it up.

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Paul Ruggiero was present to express his interest in being appointed to the ZBA as an Alternate. Mr. Ruggiero voiced his interest in becoming an alternate to the Board but said that his shift may soon change to second shift, which would make serving prohibitive.

After a short conversation Mr. Segedy made a motion to recommend Mr. Ruggiero to the Board of Selectmen as an alternate to the ZBA. Mr. Galpin seconded the motion. The Board voted all in favor.

Chairman Racette suggested Mr. Ruggiero attend the Selectmen's meeting next Tuesday, October 27 to introduce himself to the Board.

Mrs. Payson will inform the Selectmen of the ZBA's recommendation.

Chairman Racette said he would also try to attend the meeting.

Chairman Racette said the Board needs to elect a Vice Chairman. He read the duties of the Vice Chairman and asked for nominations. He nominated Mr. Galpin.

Mr. Galpin declined the nomination and Mr. McEwen felt that as the junior member he hadn't been on the Board long enough.

Mr. Segedy volunteered to serve.

Chairman Racette nominated Mr. Segedy as Vice Chairman. Mr. Galpin seconded the motion. The Board voted in favor of the motion except for Mr. Segedy and Mrs. Torres who abstained.

**ADJOURNMENT:**

Chairman Racette announced the meeting adjourned at 8:30 p.m.

Respectfully Submitted:

Iris Campbell  
Land Use Administrator