

**Zoning Board of Adjustment**  
**27 School Street**  
**HILLSBOROUGH, NH**  
January 9, 2017

**DATE APPROVED:** April 10, 2017

**TIME:** 7:00 p.m. – 7:45 p.m.

**CHAIRMAN:** Roger Racette

**VICE CHAIRMAN:**

**MEMBERS:** Russell Galpin, David Rogers, Dana Brien and Nancy Torres

**PLANNING DIRECTOR:** Robyn Payson

**ALTERNATES:** Larry Baker

**ABSENT:** Larry Baker

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**PRESENT:** Terry Large from Eversource, Floyd Murphy, Marlene Murphy, Jennifer Zdon, Jennifer Ducharme from Eversource, Nicholas Golon from TFMoran and Jeremy Belanger from TFMoran.

**CALL to ORDER:**

Chairman Racette called the meeting to order at 7:00 p.m.

Chairman Racette welcomed Mrs. Brien to the Board.

**MINUTES:**

Chairman Racette entertained a motion to accept the minutes of October 17, 2016.

Chairman Racette made a motion to approve the minutes of October 17, 2016 as presented. Mrs. Torres seconded the motion. The Board voted all in favor.

Chairman Racette entertained a motion to accept the minutes of April 11, 2016.

Mrs. Torres made a motion to approve the minutes of April 11, 2016 as presented. Mr. Galpin seconded the motion. The Board voted all in favor.

**PUBLIC HEARING:**

**Variance:**

Map 11G, Lot 307 – 8 Sawmill Road – Eversource Jackman Hydro – Owned by Eversource (PSNH) – submitted by Nicholas Golon, PE at TFMoran, Inc.

Chairman Racette said the application is for variance from section 229-21 “Dimensional Standards”, “Table 3-Setback coverage and Building Heights”.

Mr. Golon made the introductions of the Eversource team and the members of the TFMoran team. He turned to Mr. Large for an explanation for the application.

Mr. Large explained that PSNH is getting out of the power generating business and owning power generating facilities. He said the power generating facility would be owned by one person and the power distribution facility would be owned by Eversource.

Chairman Racette asked how the lot line delineation was arrived at.

Mr. Golon explained there are underground components which are required for the transmission of power located approximately three feet beyond the fence so the lot line will follow the fence line but will be offset by three feet.

Mr. Golon read from the application the description of the project/proposal: As part of Eversource's required divestiture of generation assets, we are seeking Planning Board approval for subdivision of the subject lot to separate the transmission/distribution substation from the generation assets at the Jackman Hydro Facility. The proposed property line has been strategically located at the limits of the electrical substation grounding grid and gravels which provides the most appropriate location for clear separation of operations between the future owner of the hydro electric building and Eversource's current and future operating needs for the remainder of the parcel.

Mr. Golon read the Variance Request: The undersigned hereby requests that the Board of Adjustment grant a variance from Hillsborough Zoning Ordinance Section 229-21 in order to permit the following: A subdivision of land at the existing Eversource Jackman Hydro with a side yard setback less than the required 20'. The location of this reduction is between the existing hydro generation building and the existing transmission/distribution substation. The need for the 2-lot subdivision is due to the mandate to divest generation assets, and is not meant to facilitate development but to provide clear separation of operations between the future owner of the hydro generation building and Eversource's current and future operating needs for the remainder of the parcel.

Mr. Golon then read the criteria and the explanation for each:

A. Granting the proposed Variance will not be contrary to the public interest because: The proposed reduced side yard setback between two existing compatible uses will not alter the essential character of the site or the surrounding area as the nature of both the uses and the distance between them has already been defined. Granting the variance would not threaten the public health, safety or welfare as appropriate safeguards currently exist with the existing operation of the public utility facility and redefining the limits of the property line in order to accommodate the requirement to divest Eversource's generation assets will not frustrate the purpose of the ordinance in that the overriding factor of public safety is observed.

B. Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance because: Yard setbacks provide for the circulation of light and air, permit access to the perimeter of buildings for emergency personnel, provide a fire break between structures and ensure adequate privacy and buffer between uses.

As the site elements requiring relief are existing, the proposed subdivision will not change the access to or operation of the facility. In that the existing configuration of the hydro generation building and electrical substation will not jeopardize fire safety, privacy or buffering of use, it would not be contrary but would observe the spirit of the Hillsborough Zoning Ordinance.

C. Granting the proposed Variance will do substantial justice because: It will permit the subdivision of the property in a manner that is most efficient to separate the generation assets from Eversource's current and future operating needs associated with the remainder of the parcel.

The gain to the public in moving the proposed property line to provide the required 20' side yard setback from the existing hydro generation building does not outweigh the harm to the applicant as the public is protected equally in either case. As such, locating the proposed property line no closer than 10' from the existing building would do substantial justice.

D. Granting the proposed Variance will not diminish the values of the surrounding properties because: Specific to the variance requested, Eversource has continuously operated the site as an electrical substation and hydro electric facility dating back to at least the 1950's. As the industrial character of the site has already been established, the value of the surrounding properties is already reflected, and the proposed subdivision would not alter this condition. Therefore, no diminution in value would be expected from the authorization of the requested variance.

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: The zoning restriction burdens the property in a manner that is distinct from other similarly situated properties due to the existing geometry and location of the hydro generation building and electrical substation and the need to divest the generation asset associated with the facility. The proposed property line has been strategically located at the limits of the electrical substation grounding grid and gravels which provides the most appropriate location for clear separation of operations between the future owner of the hydro building and Eversource's current and future operating needs for the remainder of the parcel. The full side yard setback restriction on the property is not necessary in order to give full effect to the purpose of the ordinance in that the overriding criterion is to protect the public health, safety and welfare, which the location of the proposed property line will not adversely influence. Full application of the side yard setback for this particular property is not necessary to promote a valid public purpose. Denial of the variance would result in an unnecessary hardship for the owner.

The location and existing use of the property as an electrical substation and hydro electric facility make the continued use of this property, to support the electrical infrastructure needs of the community and surrounding area, an appropriate selection. The location of the proposed property line is reasonable given the compatibility of the continued use and locating it otherwise would create an economic hardship for the applicant.

Chairman Racette asked if 10' would be the closest the facility would be to the lot line.

Mr. Golon answered yes as the lot line further away in other areas.

Chairman asked if there were any questions from the audience or the Board, hearing none he closed the public portion of the hearing.

Chairman Racette opened the deliberation portion of the hearing.

Mrs. Brien said since there has always been an issue with the space between the building and the grid isn't this a good time to fix that.

Chairman Racette said the issue isn't the location of the building to the distribution but the need to subdivide the lot and by doing that it creates a setback issue.

Mrs. Brien asked if the existing facility could be leased instead of doing a subdivision and selling.

Mr. Golon said the most cost efficient method is to sell so the new owner will own all the components of the business.

Mr. Rogers said selling is a cleaner and long term solution rather than leasing.

Mr. Galpin asked if the two lots being created meet the size requirement.

Mr. Golon said the property is located in the Lower Village Residential District and the minimum lot size is 40,000 sq. ft. which both lots are.

Chairman Racette asked if anyone had any questions, seeing as no one did he asked if the Board was ready to vote. He asked if the Board wanted to address each criteria separately or vote on all the criteria at once.

Mr. Rogers made a motion to grant the variance all inclusive as opposed to going individual through each criteria. Mrs. Torres seconded the motion. The Board voted all in favor.

The variance requested was approved.

#### **ELECTION OF VICE CHAIRMAN:**

Chairman Racette said the last business tonight is the election of a vice chairman.

Mrs. Torres made a motion to nominate Mr. Rogers as the vice chairman. Mr. Galpin seconded the motion.

Mrs. Torres said with his background and history he is more than qualified and she is very comfortable he would make a good vice chairman.

Chairman Racette agreed as long as Mr. Rogers accepts the nomination.

Mr. Rogers accepted the nomination if it is the will of the Board.

The Board voted all in favor except for Mr. Rogers who abstained.

#### **OTHER BUSINESS:**

Mrs. Payson distributed the meeting schedule for 2017. She moved the October meeting to the third Monday because Columbus Day falls on the Board's regular meeting night.

The Board discussed the need for having a set schedule considering that most meetings are canceled due to the lack of an application or the need to meet.

Mrs. Brien made a motion to accept the meeting schedule as presented. Chairman Racette seconded the motion. The Board voted all in favor.

Chairman Racette commented that according to an RSA new members of the ZBA have to attend a training session within one year of being appointed.

Mrs. Payson said there is usually two session held during the year, one in the Spring and Fall. She will pass on the information when she receives it.

**ADJOURNMENT:**

Chairman Racette entertained a motion to adjourn.

Mrs. Torres made a motion to adjourn. Mr. Rogers seconded the motion. The Board voted all in favor.

Meeting adjourned at 7:45 p.m.

Respectfully Submitted:

Iris Campbell  
Recording Secretary