

**Zoning Board of Adjustment
27 School Street
HILLSBOROUGH, NH
May 13, 2019**

DATE APPROVED: 07/08/2019

TIME: 7:00 p.m. – 8:45 p.m.

CHAIRPERSON: David Rogers

VICE CHAIRPERSON: Roger Racette

MEMBERS: Russell Galpin Dana Brien and Nancy Torres

PLANNING DIRECTOR: Robyn Payson

ALTERNATES: Larry Baker and John Segedy

ABSENT: Nancy Torres, Larry Baker

Present: Dana Brien, David Rogers, Roger Racette, Russel Galpin, John Segedy, Robyn Payson

Also Present: John Reguera, Mark Phillips, Garrett Schiles, Nicholas Tirune

CALL TO ORDER:

Chairman Rogers called the meeting to order at 7:00 p.m. Chairman Rogers appointed Mr. Segedy to vote for Mrs. Torres who was absent.

MEETING MINUTES

Mr. Racette made a motion to delay the minutes until after the public hearings, seconded by Mrs. Brien. The motion passed unanimously.

PUBLIC HEARINGS

Variance from Setback Requirements- Loon Pond Ordinance

50 Grimes Cottage Road (Map 05 Lot 105)

John Reguera & Marcia Maxfield

Mrs. Payson stated that this application is requesting two variances one for a failed septic system and one for the small extension of the deck.

Mr. Galpin pointed out an error on the public notice regarding the measurements of the proposed decking. The notice should have read 10' x 18' x 30'6" not 30.6". Mr. Segedy asked for a plan of the lot with placement and measurements, one was not provided for the deck.

The Board will hear the septic variance first. Mr. Reguera stated that the septic system is not faulty but it is not good and could fail. Also, the location is not ideal. His request is to put in a completely enclosed system with preprocessing and put the leach field way up outside the 200

feet. The only place for the holding tank is not outside the 200 feet. DES has not yet approved the plan.

Criteria:

2A. Granting the proposed Variance will not be contrary to the public interest because:

Replacing the existing septic system is not contrary, but will benefit public interest. The current system is old and is not working as well as it could be. It needs replacement.

2B: Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance because: The septic system is faulty. Replacing it is a necessity to ensure stable and clean ground water.

2C: Granting the proposed Variance will do substantial justice because: Adding a new state of the art septic system will only add value to the neighborhood and will not diminish value. It will increase the ability of this owner to use and enjoy the property with minimal environmental impact.

2D: Granting the proposed Variance will not diminish the values of the surrounding properties because: The proposed variance will not affect the surrounding properties because of the distance from the property lines. It will in fact, if anything, increase the surrounding property values.

2E: Literal enforcement of the provisions of the ordinance will result in an “unnecessary hardship” because: This house is already located within the set back. The property does not have easy access to the front without significant disturbance of the environment. The septic, as is, will harm the environment and is contrary to the spirit of the ordinance.

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 reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because: The house and existing septic on this property is already located in the setback Relocation of the septic will make use of the home environmentally sound.

The Board reviewed Loon Pond Variance. **§ 160-7 Variances.**

A. Any person aggrieved by this chapter may petition the Hillsborough Zoning Board of Adjustment for a variance from the terms, which variance shall be granted upon showing by the petitioner and finding by the Board of the following.

(1) The proposed building or structure is to replace a building or structure existing on March 11, 1980, or is appurtenant to said existing building or structure; The age on the current septic is unknown, the building was built in 1950.

(2) The proposed construction will not cause or contribute to actual or potential pollution of the waters of Loon Pond; This is why I am doing this. I don't want it to fail. Let's fix it before anything happens.

(3) Any existing waste disposal system, however the same may be described or referred to, on the premises subject to petitioned construction or a proposed waste disposal system shall have been examined and found not to cause or contribute to actual or potential pollution of the waters of Loon Pond. Yes, we are doing everything we can. We are having it sealed, preprocessing will be done and pumping it out as far away as we can.

The public hearing was closed after seeing no one wished to make a public comment. The Board went into deliberations. Mr. Filmore, the designer of the system could not attend the meeting due to an emergency.

2A: Granting the proposed Variance will not be contrary to the public interest. Roll call vote: Mrs. Brien – yes, Mr. Chairman – yes, Mr. Racette – yes, Mr. Galpin – yes, Mr. Segedy – Yes.

2B: Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance. Roll call vote: Mr. Chairman – yes, Mr. Racette – yes, Mr. Galpin – yes, Mr. Segedy – yes, Mrs. Brien – yes.

2C: Granting the proposed Variance will do substantial justice because: Roll call vote: Mr. Racette – yes, Mr. Galpin – yes, Mr. Segedy – yes, Mrs. Brien – yes, Mrs. Chairman – yes.

2D: Granting the proposed Variance will not diminish the values of the surrounding properties. Roll call vote: Mr. Galpin – yes, Mr. Segedy – yes, Mrs. Brien – yes, Mr. Chairman – yes, Mr. Racette – yes.

2E: Literal enforcement of the provisions of the ordinance will result in an “unnecessary hardship”. Roll call vote: Mr. Segedy – yes, Mrs. Brien, - yes, Mr. Chairman - yes, Mr. Racette – yes, Mr. Galpin – yes.

Loon Pond Ordinance 160-7

A. Any person aggrieved by this chapter may petition the Hillsborough Zoning Board of Adjustment for a variance from the terms, which variance shall be granted upon showing by the petitioner and finding by the Board of the following.

(1) The proposed building or structure is to replace a building or structure existing on March 11, 1980, or is appurtenant to said existing building or structure. Roll call vote: Mr. Racette – yes, Mr. Galpin – yes, Mrs. Brien – yes, Mr. Segedy- yes, Mr. Chairman – yes.

(2) The proposed construction will not cause or contribute to actual or potential pollution of the waters of Loon Pond. Roll call vote: Mr. Galpin – yes, Mr. Segedy – yes, Mrs. Brien – yes, Mr. Chairman – yes, Mr. Racette – yes.

(3) Any existing waste disposal system, however the same may be described or referred to, on the premises subject to petitioned construction or a proposed waste disposal system shall have been examined and found not to cause or contribute to actual or potential pollution of the waters of Loon Pond. Roll call vote: Mr. Segedy – yes, Mrs. Brien – yes, Mr. Chairman – yes, Mr. Racette – yes and Mr. Galpin – yes.

Mr. Segedy made a motion to approve the variance request with replacement of septic system as presented conditioned on approvals from DES, seconded by Mrs. Brien. The motion passed unanimously.

Chairman Rogers advised applicant to post pone the hearing for the Deck until a plot plan is available and when he the Department of Environmental Services approval. continued to June. Mrs. Brien made a motion to continue the hearing for the deck to June 10, 2019 seconded by Mr. Galpin. Motion passed unanimously.

**Special Exception-Storage Facility in the Central Business District
37-55 Henniker Street (Map 24 Lot 92)
Mark G. Phillips**

Mr. Philips explained to the Board that he would like to convert the vacant interior space into commercial storage. No changes will be made to the exterior of the building. Inside conversion only to climate control storage lockers.

Criteria

2A: The ZBA shall hear and decide requests for Special Exceptions that are specifically authorized in Table 4 Chart of Uses: A commercial storage facility is an allowed use in the central business district by special exception.

2B: The requested use will not create undue traffic congestion or unduly impair pedestrian safety: This request is simply a change of use to a very low traffic business.

2C: The requested use will not overload any public or private water, drainage, or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets: The storage use does not require water or sewer and uses very little parking.

2D: The requested use will not create excessive demand for municipal police, fire, protection, schools or solid waste disposal services: There should be no demands for police, fire, schools or solid waste services.

2E: Any requirements and standards for the specific use as set forth in the Zoning Ordinance are fulfilled: The only change to the exterior of the building would be signage.

2F: The requested use will not create hazards to the health, safety or general welfare of the public, nor be detrimental to or out of character with the adjacent neighborhood: Storage is a very benign activity that does not create dust, noise, glare, traffic problems or other disturbance to neighbors.

2G: The requested use is consistent with the spirit and intent of this Ordinance and the Master Plan: This use will improve the currently half vacant building into a healthy productive property once again, with no negative impact to the neighborhood.

Having no further questions or public input, the Chairman closed the public hearing. The Board went into deliberations. Mr. Segedy made a motion to approve the Special Exception, seconded by Mr. Galpin. The motion passed with 4 yays and one nay. The Applicant must now appear before the Planning Board for further instructions.

MINUTES

January 14, 2019

April 8, 2019

Mr. Segedy passed out his written suggestions for changes to the January 14, 2019 minutes. Mr. Segedy made a motion to accept the minutes with the edits he indicated along with adding the word “potential” before due process violation on page 3. Mr. Racette seconded the motion. All were in favor with the exception of Mr. Rogers who abstained. Motion passed. January 14, 2019 minutes approved as indicated.

Mr. Segedy had a correction on the April 8, 2019 minutes, page 3 top paragraph. Mrs. Segedy should be changed to Mr. Segedy. Mr. Segedy made a motion to accept the minutes with the stated correction, seconded by Mrs. Brien. Minutes were approved with all yays and one abstention.

OTHER BUSINESS

Chairman Rogers stated that Mrs. Torres was not present at the meeting this evening but sent a letter stating that her term was up this year and she would like to continue to serve on the ZBA. Mrs. Brien also stated she would like to continue to serve. After some discussion the Board voted to recommend to the Board of Selectmen to have Mrs. Brien reappointed to the ZBA. All voted in favor. All in favor in recommending Mrs. Torres to the Board of Selectmen for reappointment, all voted in favor with one abstention.

Chairman Rogers asked about re-election of officers of the Board. Mrs. Brien made a motion to leave as is Mr. Racette seconded the motion. Mr. Rogers as Chairman, Mr. Racette as Vice Chairman. Motion passed with 4 in favor and one abstention.

The Board discussed the Loon Pond Ordinance.

Having no further business, the meeting was adjourned at 8:45 by motion.

Respectfully Submitted,

Dianne Rutherford
Administration/Land Use Secretary