

**Zoning Board of Adjustment  
27 School Street  
HILLSBOROUGH, NH  
June 10, 2019**

**DATE APPROVED:** 07/08/2019

**TIME:** 7:00 p.m. – 8:10 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:** Larry Baker, Russ Galpin

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**Present:** Nancy Torres, Dana Brien, David Rogers, Roger Racette, John Segedy, Robyn Payson

Also Present: John Reguera & Marcia Maxfield

**CALL TO ORDER:**

Chairman Rogers called the meeting to order at 7:00 p.m. Mr. Segedy was appointed to sit in for Mr. Galpin who was absent.

**MEETING MINUTES  
05-13-2019**

Mr. Segedy made a motion to table the minutes until next meeting to give the Board a chance to review, seconded by Mrs. Torres. The motion carried unanimously.

**PUBLIC HEARINGS- Continued  
Variance from Setback Requirements- Loon Pond Ordinance  
50 Grimes Cottage Road (Map 05 Lot 105)  
John Reguera & Marcia Maxfield**

Chairman Rogers reviewed the application, the Board approved the replacement of the septic system at last meeting and continued the variance for constructing a deck. Chairman Rogers asked if the Water/Sewer Commissioned had been notified. It was stated they had.

Mr. Reguera explained he has not started with his application to DES yet. Ms. Maxfield stated they will have to have a contractor help with the water mitigation aspect of their DES application. The proposed area of the new deck is 572 square feet. The purpose of the deck is to have access from the back of the house. There are several boulders on the property making it difficult to pass. The Board inquired about adding stairs to the deck and the applicant stated they

do not have official plans but would like to have access from the deck down but it would not be further than the end of the deck, they would set back the deck. They have to work around the large boulders. The applicants don't have official plans as of this date.

Chairman Rogers stated this application is here for a variance because it is within the 200' set back. The Board reviewed Loon Pond Variance 160-7 Variance.

Criteria:

2A. Granting the proposed Variance will not be contrary to the public interest because: Extending the deck will ensure less disturbance and environmental impact of the land. It will not detract from the use and character of the neighborhood by the abutters or public.

2B: Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance because: Adding a deck will help mitigate damage to the surrounding environment and watershed.

2C: Granting the proposed Variance will do substantial justice because: Adding a deck will only add value to the neighborhood and will not diminish other property owners' values. The variance 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 and 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: The house is already located within the set back. The property does not have easy access to the front without significant disturbance of the environment. A deck is a reasonable use accessory and is not 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 is already located within the setback. The access around the house from the back to the front is treacherous due to large boulders and wet conditions on the property watershed. Additions of a deck would create easier access with limited disturbance of this fragile environment. This is not a self-created hardship and is a reasonable use accessory.

The Chairman closed the public comment session. After some discussion the Board voted on the criteria.

2A. Granting the proposed Variance will not be contrary to the public interest. Roll call vote: Mrs. Brien – no, Mr. Chairman – no, Mr. Racette – yes, Mrs. Torres - yes, Mr. Segedy – no.

2B: Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance. Roll call vote: Mr. Chairman – yes, Mr. Racette – yes, Mrs. Torres – yes, Mr. Segedy – no, Mrs. Brien – no.

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

2D: Granting the proposed Variance will not diminish the values of the surrounding properties. Roll call vote: Mrs. Torres – yes, Mr. Segedy – yes, Mrs. Brien – yes, Mr. Chairman – yes, Mr. Racette – yes, Mr. Segedy - no

2E: Literal enforcement of the provisions of the ordinance will result in an “unnecessary hardship”. Roll call vote: Mr. Segedy – no, Mrs. Brien, - no, Mr. Chairman - yes, Mr. Racette – yes, Mrs. Torres – yes.

Mrs. Brien made a motion to deny the request for a variance, seconded by Mr. Segedy. Motion carried with a 4 to 1 vote to deny the variance.

#### 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, Mrs. Torres – 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: Mrs. Torres – yes, Mr. Segedy – yes, Mrs. Brien – yes, Mr. Chairman – yes, Mr. Racette – no.

(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: Not applicable.

Mrs. Torres made a motion to grant the variance for the Loon Pond Ordinance, seconded by Mr. Racette. The motion carried with a 3 to 2 vote in the affirmative.

Chairman Rogers stated the variance has been denied.

**OTHER BUSINESS**

Having no further business, the meeting was adjourned at 8:10 by motion.

Respectfully Submitted,

Dianne Rutherford  
Administration/Land Use Secretary