

Present: John Deleire, Chairman; Steve Bryant, David French, Members; Mark Call, Alternate; Susan Ayer, Secretary; Mark Sikorski, Building Inspector

Absent: Frank Perry, Vice Chairman; Larry Job, Member; Peter Robart and Patricia Young, Alternates

The Chairman opened the public hearing at 7:00 PM.

Mark Call was appointed a voting member for this evening, in the absence of Frank Perry. J. Deleire offered to continue the case to the December meeting should the applicant prefer a full Board; applicant Micah Denner chose to be heard at this meeting.

Case #16-05: Application from Micah Denner, Septic Designs of NH, LLC, for variance to the terms of Article III, Section 7.7.1, to permit installation of a septic system to replace an existing failed system in Zone A, for property located at 4 Taylor River Road, Map 5 Lot 35.

M. Denner distributed paperwork showing 3 different types of septic systems he had considered for this property, but rejected in favor of the plan submitted with his application. He said he included the other plans just to illustrate why he did not choose them.

M. Denner then showed on the plan that there was an area where it looks like he may have been able to squeeze the septic system within the 25 foot setback, but the test pit in that area failed.

The only test pit that passed is the one shown.

The new system will be farther from the property line than the old, failed one. The old septic will be capped and “abandoned in place”; it will drain out over time.

Asked to go through the five criteria for granting a variance, M. Denner reviewed the information given on his application:

1. The variance will not be contrary to the public interest: “If we were to design the system further away from the property lines the septic would be within the well radius for the house. This would put the septic in the area of the drinking water supply.”
2. The spirit of the ordinance is observed, in that “there is no other location on the property that can meet the setbacks. The current design is in the location furthest from the property line that it can be.” It was noted that the Building Inspector has received the results of all test pits, and documentation of failures. D. French asked what the next option would be if this one fails. M. Denner said it is possible to place the new system in the old location, but to dig a test pit he would have to dig through the old leach field, which is difficult to do if the system is still in use; pipes could be broken.
3. Substantial justice is done: “The lot is a non-conforming lot to present day code. The lot is only .58 acres in size. Because of the small size there is no way to design the system while meeting property line setbacks.” D. French asked if it would be possible to move the swimming pool and put the septic in that area. M. Denner said that he usually treats above- and in-ground pools the same way, and this above-ground pool has a frame and landscaping, and took some effort to install. He also noted that any pool needs to be a certain distance from the septic if it is at the same or higher elevation.
4. Granting a variance will not diminish the values for the surrounding properties, as “it is a septic install in the back yard and would be blended into existing slope to minimize an unsightly mound.”

5. Special conditions that exist such that literal enforcement of the provision of the ordinance would result in unnecessary hardship include: "The lot is a non-conforming lot of .58 acre. Because of the small size there is nowhere else to put the system without disturbing the drinking water supply by putting it into the well radius."

The Chairman asked the Building Inspector if he felt this was the best alternative for replacing the septic system on this property. M. Sikorski answered that he did, and his only concern is a large willow tree in the proposed area of the new septic. M. Denner said that he feels the tree is far enough away, but if he finds big roots when excavating, he may tell the owner he needs to remove the tree.

In their review of the five criteria, there were no further comments or questions from the Board.

MOTION: To approve the request from Micah Denner, Septic Designs of NH, LLC, and to permit the installation of a septic system to replace an existing failed system in Zone A, for property located at 4 Taylor River Road, Map 5 Lot 35, as the applicant has satisfied the Board that the variance will not be contrary to the public interest, the spirit of the ordinance is observed, substantial justice is done, the values of surrounding properties are not diminished, and literal enforcement of the provision of the ordinance would result in an unnecessary hardship.

MOTION: S. Bryant

SECOND: J. Deleire

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OTHER BUSINESS

Case #16-03: Application from Stephen and Maryann Zagieboylo, for variance to the terms of Article III, Section 7.7.1 (Yard Requirements), to permit a wheelchair accessible garage within 50' of the property lot line in Zone A, for property at 23 King Street, Map 4, Lot 27.

J. Deleire informed the Board that he has received new information about the property at 23 King Street since Case #16-03 was heard on October 27. The house is on the market to be sold, with language indicating that it has the added marketability of seeking a permit to build a garage. Stephen and Maryann Zagieboylo have already moved; they cannot be reached at the phone number given on their application, and the decision letter sent to 23 King Street was returned with a sticker indicating a forwarding address in Texas.

J. Deleire said he feels the applicants misrepresented their situation, and that one reason the Board approved the variance was that it was for handicapped access for M. Zagieboylo. Having spoken to Town Counsel about the situation, the Chairman asked the Board to decide whether they want to reconsider the decision, and place it on the agenda for December.

MOTION: With regard to Case #16-03, to reconsider the Board's decision of October 27, 2016 to grant a variance to the terms of Article III, Section 7.7.1 (Yard Requirements), to permit a wheelchair accessible garage within 50' of the property lot line in Zone A, for property at 23 King Street, Map 4, Lot 27.

MOTION: S. Bryant

SECOND: J. Deleire

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A rehearing of Case #16-03 will be legally noticed and placed on the agenda of the December 22, 2016 meeting of the Board.

REVIEW AND APPROVAL OF MINUTES OF PREVIOUS MEETING: October 27, 2016

MOTION: To approve the minutes of October 27, 2016 as written.

MOTION: S. Bryant

SECOND: J. Deleire

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MOTION: To adjourn at 7:35 PM.

MOTION: S. Bryant

SECOND: J. Deleire

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NEXT MEETING SCHEDULED DECEMBER 22, 2016