

ZONING BOARD OF ADJUSTMENT MEETING
APRIL 7, 2016

PRESENT: David Lage, Vice Chairman, Marianne Graham, Edwin Somero, Stanford Long, Joanne Meshna

The meeting was called to order at 7:00 p.m. at the Town Office.

Albert Vale, 261 Page Hill Road: Mr. Vale explained he wanted to open a gun shop in his house. He has a gun shop in Brookline that he would like to move to New Ipswich. He does not have a retail shop or have people working for him. He advertises on line and sells on line. There will be no sign or employees. The Board reviewed Article XIII. B. Professional Use and Customary Home Occupations and Article XIII. M. Minimal Impact Home Occupation of the Zoning Ordinance.

The Board determined that based on the definition of Minimal Impact Home Occupation, Mr. Vale's business was a Minimal Impact Home Occupation and he did not need to apply for a special exception.

Matthew Boulay – Public Hearing for a variance application:

Mr. Boulay owns 8 Upper School Street, lot 11/154, Village District II, Mr. Kirk Stenersen from Higher Design explained Mr. Boulay's septic system was in failure and needs to be replaced. The lot is approximately one third of an acre and has frontage on Route 123/124, Upper School Street, and Lower School Street. The house has four bedrooms. The new system will not meet setback requirements. It will be located approximately 15 feet from Upper School Street, approximately 17 feet to Turnpike Road, and approximately 24 feet to Lower School Street. The bed will be raised about two and a half feet and the retaining wall will be removed. Waivers from the State will be required for distance to the well radius, for the slope off the side of the system, and the distance to the catch basins on Route 123/124. The water from the catch basins run down the hill and into Furnace Brook.

Abutters were invited to speak. Mr. Joe Fionda questioned if the water flow would change and Mr. Stenersen stated there would not be any change.

The variance criteria was reviewed:

1. The variance would not be contrary to the public interest - There is an existing 4 bedroom home on the property which currently has a septic system that is in borderline failure. The system is being pumped every few months. It is in the public interest to have a septic system that functions properly in order to protect the public health from sewage effluent. Due to the small size of the existing property, the septic system needs to be within the front setback.
2. The use is not contrary to the spirit of the ordinance - Part of the spirit of the ordinance is "to promote and conserve the health, safety, convenience and general welfare of the inhabitants of the town of New Ipswich,..." Allowing for a septic system that is in borderline failure to be replaced with a new modern system promotes and conserves the health, safety and general

welfare of the inhabitants of the town. Failed systems can be a detriment to the health of those living nearby.

3. Granting the variance would do substantial justice – The property owners should be allowed to have a properly functioning septic system like all other residents in the Town of New Ipswich. The system is located so as to balance, to the best extent possible, the distance from the well to the septic system, the steepness of the side slopes of the system and the distance from the septic system to existing catch basins in the N.H. Route 123/124 right of way.
4. The proposed use would not diminish property values – It will clean up a potential eye sore and health hazard of having a failed system with sewerage effluent running over the ground. Property values not only will not be diminished but a strong argument can be made that they will be increased by having a system that is working properly over a system that is in borderline failure.
5. Literal enforcement of the ordinance would result in unnecessary hardship to the owner... - This property is a very small property, 0.34 acres, and is also very narrow as it ranges from 69.69 feet to 80.00 feet in width (east to west). The property is also bordered on the north by N.H. Route 123/124, on the west by Upper School Street and on east by Lower School Street. Due to the narrowness of the property and having front setbacks on three sides of the property, the septic system needs to be located within the setbacks.
 - a. No fair and substantial relationship exists between the general purpose of the Zoning ordinance provision and the specific application of the provision to the property – There are other septic systems within the setbacks in town. Also, allowing for a septic system to be rebuilt on this very small narrow lot is fair to the applicant to allow them to have a properly functioning septic system. Strict conformity to the provision of the zoning ordinance would create an unfair situation not only for the property owner but the abutting property owners who would have to deal with the effects of a failed system.
 - b. The proposed used would be a reasonable one – All homes that do not have the ability to connect to a municipal sewer system require an on-site septic system. Allowing the property owner to have a functioning septic system within the structure setbacks due to the narrow nature of the property is a reasonable one.

At 7:30 p.m. the public hearing was closed and the Board deliberated. All members were in agreement that the five criteria for granting the variance had been met. There are no other choices for replacement of the system.

Stan made a motion to conditionally approve the variance application with the condition of approval from DES for the system. Edwin seconded the motion and it passed unanimously.

Richard and Marilyn Gullege – Submission of a variance application:

Mr. William Jordan from Plumb Crazy presented a letter to the Board from Mr. and Mrs. Gullege giving him the authority to act as their agent. Mr. Jordan explained the Gullege's own 110 Main Street, lot 12/19. Their septic system has failed and the new system will not meet setbacks to wetlands and the

side setback. The septic system will be located within 35 feet to the brook and 13 feet from the road and will be raised two feet. The existing system is being pumped every week.

The application was amended to request a variance from Article XIII. K. and Article XII. A. Marianne made a motion to accept the variance application. Edwin seconded the motion and it passed unanimously. The public hearing was scheduled for May 5 at 7:30 p.m.

7:45 p.m.:

Marianne made a motion to approve the minutes of March 10, 2016. Stan seconded the motion and it passed unanimously.

David made a motion to recommend to the Selectmen appointment of Walker Farrey as an alternate member on the Board. Marianne seconded the motion and it passed unanimously.

The meeting adjourned at 8:00 p.m.

Respectfully submitted,

Joanne Meshna
Town Administrator