



# ZONING BOARD OF ADJUSTMENT

Town of Greenland • Greenland, NH 03840

11 Town Square • PO Box 100

Phone: 603.431.3070 • Fax: 603.430.3761

Website: greenland-nh.com

## MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING

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Tuesday, June 19, 2018 – 7:00 p.m. – Town Hall Conference Room

*Members Present:* Liz Cummings, Steve Gerrato, Ron Gross, Leonard Schwab

*Members Absent:* Lindsey Franck

*Staff:* Jim Marchese – Building Inspector

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Chair Cummings opened the Board of Adjustment meeting at 7:00 p.m. and a roll call was taken. The Chair explained the procedures of the Zoning Board of Adjustment, stating that a quorum was present, and the meeting was being recorded. Minutes will be available in accordance with the RSA 91-A, and will also be posted on the Town's website.

Chair Cummings noted that one Board member was absent. Any decision would have to be made by a majority, or three members.

### 1. 57 McShane Avenue – Continued from Tuesday, May 15, 2018

Derek Durbin, Attorney, addressed the Board. Also present were Jenifer Campbell, owner and applicant, Dean Katiniotis, and Mike Sievert, MJS Engineering. Attorney Durbin asked the applicant if she would like to proceed with the meeting understanding the Board was down one member. The applicant opted to proceed.

Attorney Durbin stated that several Variances, most of which were for entry ways, were granted at the May meeting. One Variance, pursuant to Article 18.7.2 of the Zoning Ordinance, was requested for septic tanks in the inland jurisdictional wetlands 75' setback. At the May public hearing, the Board expressed concerns about the location of the septic tanks. After discussion with the applicant, the Board agreed to continue the public hearing to this meeting. Several members of the Board did a site walk of the property with D. Katiniotis and M. Sievert. Since that time, an alternative was found, and plans were submitted to the Town. The tanks were moved outside of the 50' wetland buffer. They are still encroaching the 75' buffer; it was determined that this is the only feasible alternative for the location of the septic tanks.

Attorney Durbin continued that the arguments for the Variance haven't changed from what was presented at the May meeting. He asked that his prior comments and arguments be incorporated in support of the Variance. Attorney Durbin deferred to M. Sievert to discuss the updated septic tank location.

M. Sievert explained in great detail the proposed tank location as well as tank specifics and maintenance. The proposed location gets the tank to the 50' setback and more vertical separation from the brook. One of the drawbacks is that it gets fairly deep into the ground. There will be approximately 7' or more of cover; to the bottom of the tank it will be about 12'. That is the limit to the pumping and

suction pumping, which can only go to the 15' to 22' range. The leach field location hasn't changed, which is in the right-of-way. This proposal was the favorite with the applicant and engineer; it's doable and reasonable at the site. There is truck access for pumping. There will be manholes on the system. Chair Cummings asked if effluent would leak during a flood; M. Sievert responded that it would not. The tanks are 5 ½' to 6' deep and there will be steel manhole covers at the top. Chair Cummings clarified that the tank will be located in the 75' setback; the piping from the house to the tank will be in the 50' setback. M. Sievert agreed, stating it will be an SDR pipe (a rated pipe with a rubber gasket and less prone to leaking) and a DES requirement.

L. Schwab questioned what would happen to the old septic tank once the new one was completed. M. Sievert stated they would be cutting off all flow to the septic tank on the inside, capping and cutting it off. The tank will be either filled in or removed. L. Schwab also asked about the leach field in the easement area and the future when the current owners may not be there. His concern was vehicles being driven over the leach field and how it would be protected. M. Sievert responded that a fence could be put up, adding that lawnmowers and motorcycles wouldn't be terrible. Driving vehicles over it (heavier trucks or cars) could be a problem. It's currently all lawn and no vehicle access. The easement will be in place for perpetuity, and a buyer should be notified when purchasing the property.

Attorney Durbin stated that the easement is drafted; they were waiting for the ZBA's decision before finalizing. It's drafted so that neither party (the benefiting lot nor the burden lot) would be able to impair, in any way, shape or form, the purpose of the easement. In terms of the research they were able to do, the easement was originally intended to serve as an access point before another was developed; it was intended to benefit the applicant.

MOTION: S. Gerrato moved to approve the Variance request for Jenifer Campbell, Tax Map U9, Lot 33, 57 McShane Avenue, with the stipulation that all permissions for the leach field and right-of-way be signed before installation, per the latest revised plan dated 06.08.18, by MJS Engineering. Granting this Variance would do substantial justice for the applicant. Second – L. Schwab

Discussion: Chair Cummings asked the following be added--"that the existing septic tank be either removed or filled". S. Gerrato stated it was not the Board's business. R. Gross suggested that "access to it" be added, rather than "remove". L. Schwab stated that relative to Chair Cummings' comment, the age and quality of the existing tank are unknown; it could be a danger if it caved in. He felt it needed to be at least partially filled. There was a discussion about the leach field being part of the septic system; R. Gross stated the leach field was not in the Board's purview. Chair Cummings noted the leach field is being located on the abutter's property. A Variance couldn't be approved that would grant to one applicant something that affects another. R. Gross disagreed; it wouldn't affect where the tanks were located. A decision on the tanks was not being made based on the location of the leach field. The Board wasn't deciding the leach field, only the tanks. Chair Cummings stated it wasn't changing anything, but adding a condition. S. Gerrato agreed the leach field was part of the septic system. R. Gross responded they Board wasn't approving a septic system, they were approving tanks in a location. J. Marchese explained the septic system approval process to the Board: once approval is granted by the Board, the design would be reviewed by him and he would look at the leach field. He will consult with the Town Attorney regarding the easement description. Once that was met, it would go to the State. R. Gross requested the motion be amended and the stipulation be removed.

AMENDED MOTION: S. Gerrato moved to approve the Variance request for Jenifer Campbell, Tax Map U9, Lot 33, 57 McShane Avenue, per the latest revised plan dated 06.08.18, by MJS Engineering. Granting this Variance would do substantial justice for the applicant. Second – L. Schwab

Chair Cummings reviewed the five criteria. The applicant and their attorney have covered the requirements for granting the Variance in their documentation. Based on their description and information included, each one of the five requirements have been met. The narrative in support of the Zoning relief will be part of the record. S. Gerrato stated this was a unique lot due to the terrain, and the engineer has done a great job.

AMENDED MOTION: S. Gerrato moved to approve the Variance request for Jenifer Campbell, Tax Map U9, Lot 33, 57 McShane Avenue, per the latest revised plan dated 06.08.18, by MJS Engineering. Granting this Variance would do substantial justice for the applicant. Second – L. Schwab; three in favor, one abstain (Chair Cummings). MOTION CARRIED

Chair Cummings stated that she abstained because she felt the septic system should be filled in and that the Board had an obligation regarding the leach field.

## 2. Review of ZBA Guidelines

The Board reviewed the existing ZBA Guidelines and the proposed revisions. Chair Cummings explained what necessitated the review of the application process. Full size plans are needed if the Board is ever taken to court; reduced plans will still be required. Chair Cummings asked the Board to review the proposed changes and submit any additional to the Board Secretary.

R. Gross was concerned with the date of the plan with the wetlands stamp: when is it too old? J. Marchese stated that it depended on which licensed professional was asked, adding that wetlands are always moving. R. Gross recommended there be wording on the age of the plan. J. Marchese added that it makes sense for the applicant to have the option of presenting the Board with a plan that is certified by a Wetland Scientist and an engineered plan which has different notes. L. Schwab noted that Item 9, letters A through D, needed further explanation that the information is a requirement for the plans. The following will be added after Item 9, and before letter A: At a minimum, plans must meet the following requirements.

J. Marchese stated that with Item 8, he tried to allow the applicant the flexibility to choose the appropriate sheet size. He continued that if the applicant could clearly show their request on an 8 ½" x 11" sheet of paper, that should be adequate rather than a 22" x 34" sheet. The applicant would be required to submit a plan to the Board that clearly showed what was being requested (example: a septic plan would have to be on a 22" x 34" sheet; setback relief for a shed could be an 8 ½" x 11" sheet).

The 'Time Line' was discussed. The following will be added: The application must be received five (5) business days prior to the deadline date.

Additional revisions were discussed. Updates will be reviewed at the next meeting.

## 3. Approval of Minutes

MOTION: R. Gross moved to approve the minutes of Tuesday, May 15, 2018. Second – L. Schwab; all in favor. MOTION CARRIED

## 4. Other Business

There was no other business to discuss.

5. Adjournment

MOTION: S. Gerrato moved to adjourn at 8:03 p.m. Second – R. Gross; all in favor. MOTION CARRIED

NEXT MEETING
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Tuesday, July 17, 2018 – 7:00 p.m., Town Hall Conference Room

Respectfully Submitted: Charlotte Hussey, Secretary to the Boards

Approved: Tuesday, July 17, 2018