

**Zoning Board of Adjustment**  
**December 15, 2020**  
**Minutes**

**Members Present via Zoom:** Scott Lees, John Krebs, Craig Niiler, Jake Stephan, Karl Ogren, Denny Anderson (A)

**Members Absent:** Tim Cupka (A), John Quigley (A)

**Others Present:** Janice Zecher, Recording Secretary, Anne Cunningham – Planning Board

Scott called the meeting to order at 7:00 pm, Roll call completed, and Scott reviewed rules of procedure for the meeting.

Minutes of the December 1, 2020 meeting were reviewed by the board: Motion to accept minutes as written made by Scott, seconded by Craig. Roll call to accept:

John Krebs – Yes  
Karl Ogren – Yes  
Jake Stephan - Yes

Anne Cunningham, Chair of the Planning Board was present to review potential Zoning Ordinance Changes for Warrant Articles for 2021 Town Meeting.

The first item was for home occupation. There was a request to exclude auto repairs shops which is written in section 1505 “Exclusions”. The proposed new section reads:

*1505.1 By nature of the investment or operation, the sales, rental, maintenance, or repair of automobiles, motor vehicles, or small engines have a potential to rapidly increase beyond the limits specified in section 1504 for home occupations and impair the use, value, and quiet enjoyment of adjacent residential properties. Therefore, these uses shall not be permitted as a Home Occupation.*  
*1505.2 Any uses specifically allowed by special exception (excluding major home occupation) shall not be approved as a home occupation.*

John Krebs asked if the first portion of the sentence “by nature of the investment or operation”... is necessary. Anne and the rest of the board agreed so Anne will strike that portion of the sentence.

The next topic is that when a setback variance is approved, one of the conditions is that a foundation survey is required. The suggestion is that the condition be turned into a requirement that will direct the applicant to expect that they would have to provide this information rather than finding out after they get the approval. Article 21, “Administration and Enforcement”, Section 2101 “Zoning Permit” was the appropriate location for this communication. The proposed new section would read:

*“2101.2.3 Foundation/footing requirements for structures shall establish conformance with setback and/or variance requirements without requiring a full lot survey. The certification must be prepared by a NH licensed land surveyor and the location of the foundation/footings shall be approved by the zoning officer before the pouring of concrete.*

*2101.2.3.1 In any case where the zoning officer is uncertain if a structure on a plot plan meets setback requirements, he/she has the authority to require a boundary/footing certification.*

*2101.2.3.2 In any case where the Zoning Board of Adjustment grants a variance to place a structure into any setback, the applicant shall have a foundation/footing certification. Note: Variances are granted to the furthestmost point of the structure, so footings must be recessed to accommodate overhangs or other features.”*

This would make it clear to the applicant that the Zoning Officer or the Building Inspector would have to come and confirm.

Denny asked if the 25% is necessary or should it be required for all. John Krebs would like to broaden the description, calling it “footing/foundation certification. In any case that the Zoning Officer has any question as to the location of the foundation, they have the authority to require one. But furthermore, that any variance approved that permits a reduced setback shall have a foundation certification.

John: Yes, and I might say (footings). It is easier to check it when the footings are poured rather than wait for the walls.

Anne: In any case where the zoning officer has a question about the location of footings, he/she has the authority to require a footing certification prepared by a NH licensed land surveyor.

John: Any structure permitted by variance shall automatically require a footing certification. Maybe put a footnote or \* that says “The variance granted is for the farthest most point of the structure(s) of the house”. Or something self-explanatory.

Paul Olzerowicz from the Planning Board asked if the survey required is only for the area being developed or for the entire property.

John: the certification would have to be only for the side where they are encroaching.

Anne will write up the new wording after presenting it to the Planning Board on the 17<sup>th</sup> and send it back to the ZBA members. There will be one more public meeting on this subject in January.

## **Public Hearings**

### **Case # 01-01-01-20 Devin & Lance Bolduc**

Applicant seeks an appeal for a Variance under Article 4, Section 406 as it pertains to septic tank or leach field being closer than 125 feet to a wetland. The applicant wishes to subdivide 3.32 acres from lot 01-01-01, construct a septic system and 2 bedroom garage/apartment on the new lot.

Mark and Jake McConkey represent the Bolducs and presented the article. Mark asked who the voting members would be. Scott named: Scott Lees, John Krebs, Karl Ogren, Jake Stephan, Craig Niiler. Mark said the property that will be going before the Planning Board for a minor subdivision from the - Bolduc’s 194 acre parcel (Map 1, Lot 1-1) is across the street from, and between the Becht (Map 24, Lot 7-2), and Panagiotakos (Map 24, Lot 7-1) properties. The parcel to be subdivided has a tremendous amount of wetlands on the lower section. Mark will be asking for relief to cross a wetlands, but for now, is working on the septic system.

There have been 3 different plot plans submitted between September and November. The September plot plan was for the 3.32 acre lot as it will be subdivided in the future. The November plot plan is for the current 194.7 acre lot. Scott asked what the difference was between the plan that was denied by the Zoning Officer in September, and the plan submitted to the ZBA in November. Mark said there is one plan has more color, the other is that the proposed subdivision lot lines were etched wrong to the plot, so they removed that from this plan. It makes no difference to the septic systems, it is the wetlands. Scott asked for confirmation that the buildings, driveways, septic systems are all in the same location.

Mark confirmed that they are. Scott also asked for confirmation that the only difference is the color and the removing of the proposed lot lines. Mark confirmed this. John Krebs asked if the idea of turnaround was to drive through the building, then turn around? Mark confirmed saying the eventual purpose is to park an RV and a car or two.

Karl asked Mark about the term delineated. Mark said the wetlands on the plan were delineated by Gary Flaherty, a licensed registered wetlands scientist, and are marked on the plan. Karl asked Mark how much of the lot is wetlands. Jake said 1.22 acres is wetlands. Denny asked how far it was from his well. Jake said about 130 feet. Scott said if Mark is going to put the septic where it is shown on the Subdivision Plan, he will have to get a permit to cross the wetlands. Mark feels they have sufficient good land on the side of the building to not have to cross wetlands for the well.

Scott asked where the retaining wall would be. Mark said with input from Scott Brooks, the retaining wall will be just inside the wetlands. Scott said it would be considered a structure and will need a setback variance. John asked that if the board got to a conditional approval, would Mark be willing to have a certified wetlands specialist sign and stamp the plan and to have Paul King stamp the plan certifying that he field located the wetland flags and that this is accurate? Mark said he would do that. John asked if they could push the building back another 10 feet because the driveway is right up against the edge of the wetlands and in time, will spread and will eventually fill in the wetland. Mark said they can consider that.

Mark will show where the well will be located, apply for a setback variance for the retaining wall, certification from a wetlands scientist and Paul King.

Steve Robacher, abutter spoke and said he has no issue with the application. Steve Becht, abutter asked how he can look at the plans other than the shared screen. Scott verified with Janice that anyone can call the office and we will make arrangements for him to come review the file. Mr. Becht also asked Mark what the purpose of the retaining wall is. Mark said the wall will prevent runoff from the driveway into the wetland. Mr. Becht has concerns about drainage because this is directly across the street from him. He is concerned that drainage will be forced by the retaining wall across Haverhill Street. There were no members of the public to speak to the application.

John Krebs suggested having the first 20 feet of the driveway be graded to ensure no runoff goes into, or across the street. Mark will have Paul King engineer something to address the concerns. John also suggested having the driveway tip so the runoff goes into the wetland rather than the roadside ditch. Scott asked about the top of the retaining wall showing 8 feet. Jake said it should be more like 5 feet and he will make the change. John asked if the retaining wall will sit on redi-rock and not on footings.

Mark said it hasn't been finalized yet. John also requested better detail on the wall to keep cars from sliding off the edge.

Karl asked Mark what variance he is asking for with this specific application. Mark said the setback from wetlands to the septic field and septic tank. He will now be requesting a variance for the retaining wall setbacks. Karl confirmed that he will need both a front and side setback variances for the retaining wall.

Sherry O'Keefe, an abutter to the Bolduc's sandpit asked if this would impact her property. Mark explained that it would not, but because the subject property is so large, there are many abutters. She asked if anyone is addressing wildlife, specifically whippoorwills. Mark said that would come in with a conversation with the state.

There were no further questions from Mark or the board. Scott verified that the deadline for the January 26<sup>th</sup> meeting is January 11. Scott asked Mark to let the office know if he cannot make the deadline and we will move him to the February meeting.

A motion was made by Scott to continue the application to January 26, seconded by John. Roll Call: Craig – Yes, Karl – Yes, Jake – Yes, John – Yes, Denny – Yes.

John asked if Eric Whitehouse could be contacted about attending the meetings. Scott will get in touch with Eric.

There being no further business before the board, Scott made a motion to adjourn, seconded by Craig. Meeting was adjourned at 8:30 pm.

Respectfully Submitted,

Janice Zecher