



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, July 25, 2023 at 6:30pm
Town Hall, 231 Atlantic Avenue
North Hampton, NH 03862**

These Minutes were prepared as a reasonable summary of the essential content of the Meeting, not as a transcription. All exhibits mentioned, or incorporated by reference, in these Minutes are a part of the official Case Record and available for inspection at the Town Offices.

In attendance: Robin Reid, Chair; Bill Clifford, Vice Chair; Members Larry Miller, Mark Janos, and Phelps Fullerton; Alternate Members Charles Hoyt and Jonathan Howe; and Recording Secretary Rick Milner.

I. Preliminary Matters.

Chair Reid called the meeting to order at 6:35pm.

Ms. Reid presented the minutes of the June 27, 2023 meeting.

Mr. Janos moved that the ZBA accept the minutes of the June 27, 2023 meeting as written. Second by Mr. Fullerton. The vote was 4-0-1 in favor of the motion with Mr. Miller abstaining.

II. New Business.

1. Case #23:06 – Applicants: Corinne Baldwin and Colin Cabral, 9 River Road, North Hampton, NH 03862. The Applicants request a variance from Section 203.1 Yard and Lot Requirements of the Town of North Hampton Zoning Ordinance to allow replacement of a septic system with a raised leach field within the front and side yard lot line structure setbacks. Property Owners: Corinne Baldwin and Colin Cabral, 9 River Road, North Hampton, NH 03862; Property Location: 9 River Road, North Hampton, NH 03862; M/L: 006-155-000; Zoning District: R-2 Medium Density District.

In attendance for this application:

Colin Cabral, property owner; Micah Denner, septic system designer.

All potential witnesses were sworn in.

Mr. Denner addressed the Board. Mr. Denner presented a septic system design plan for the non-conforming, 0.40 acre property at 9 River Road. The proposed plan included the following items:

- a. septic system rated for a four bedroom home with a raised leach field contained within a mound that rises four feet above the current grade of the land at the front southeasterly corner of the property, one pre-treatment tank, and two effluent separator tanks,
- b. wetlands boundaries on and adjacent to the property,
- c. the slope of the mound beginning 66 feet from the wetlands boundary at its closest point, and
- d. the slope of the mound beginning immediately adjacent to the easterly front lot line and southerly side lot line.

Mr. Denner stated that the applicant is requesting approval of a variance for installation of the raised leach field mound structure immediately adjacent to the easterly front lot line and southerly side lot line where structure setback distances of 35 feet (front yard lot line) and 30 feet (side yard lot line) are

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required by the zoning ordinance. The installation of the new septic system is necessitated by the failure of the current, older septic system on the property. Mr. Denner explained that the proposed septic system location is the only location on the lot that is not entirely covered by the Town's wetlands buffer zone. The location and design for the proposed septic system meet State of New Hampshire regulations.

Mr. Denner explained that the home currently has three bedrooms. The applicants are installing a septic system rated for four bedrooms based on the applicants' future plans to add another bedroom to the home. The proposed septic system design plan has received an approval from the Town's professional septic system design consultant at the Rockingham County Conservation District and a wetlands buffer zone conditional use permit approval from the Town of North Hampton Planning Board.

Mr. Denner addressed the five criteria identified in the State of NH RSA's for granting a variance.

a. Granting the variance will not be contrary to the public interest in that the subject lot is an older lot of record that does not conform to present day regulations. The proposed septic system design plan meets State of New Hampshire regulations. Moving the proposed septic system away from the property lines would locate the system too close to the existing home. The fill used for the system would run up to the side of the existing home.

b and c. The spirit of the ordinance is observed and substantial justice is done in that there is no other location for placement of the proposed septic system on the property that will meet Town setback requirements due to the pre-existing, non-conforming size of the property and location of the adjacent wetlands. The proposed location is as far away from the wetlands as possible.

d. The values of surrounding properties are not diminished in that the new septic system will improve the conditions on the property. Other houses in the neighborhood also have septic systems with raised leach fields contained within mounds.

e. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship in that the proposed septic system is a replacement for a failed septic system. The proposed design plan is required to meet State of New Hampshire regulations. If the variance is not granted, the existing failed septic system will have adverse effects on the environment in the neighborhood if it is not replaced promptly.

Mr. Fullerton noted for the record that the design plan incorrectly indicates the required structure setback distance as 25 feet. The plan should indicate 35 feet for the front yard lot line setback distance and 30 feet for the side yard lot line setback distance.

Mr. Fullerton asked Mr. Denner to explain the local and state wetlands setback requirements and how the septic system must be designed and located as proposed.

Mr. Denner indicated the green highlighted area, on a sheet submitted with the application, which depicted the only area on the property that substantially meets both and state local regulations. Mr. Denner also explained how the high water table on the property necessitated the raised leach field.

Mr. Fullerton stated that he agrees that the proposed location for the new septic system is the only feasible location on the property for placement of the system. Also, the septic system must have a raised leach field contained within a mound as proposed due to the high water table in the River Road neighborhood.

Mr. Fullerton asked Mr. Denner to explain how the undersized 9 River Road lot satisfied the State of New Hampshire septic system lot loading land area requirements.

Mr. Denner explained that the State allows an easement to be placed on an adjacent lot in order to obtain enough land area to satisfy the septic system design specifications required by the State's regulations. The applicants own the lot that abuts the rear of the 9 River Road property. Land area from the rear abutting lot will be used to satisfy the State regulations.

Ms. Reid asked if there is any difference in the size of a septic system rated for the existing three bedrooms as compared to a system rated for the proposed four bedrooms within the home.

Mr. Denner stated that the septic system design would be the same for either the existing three bedroom layout or the proposed four bedroom layout of the 9 River Road home. The footprint area of a septic system is affected more by the changes in present day codes than the increase in the number of bedrooms. Septic tank volumes and leach field areas are essentially the same for two, three, or four bedroom septic system designs.

Mr. Miller asked if the failed septic system would be removed from the property.

Mr. Denner stated that the State allows for the older septic system to remain in the ground if the new system is placed in another location as proposed by the submitted plan. The old septic system will be disconnected from the home and crushed to remove any void spaces in the ground.

Ms. Reid asked if there were any public comments.

Mr. Milner read a letter from abutter Robert Wright. Mr. Wright explained the water drainage issues in the River Road neighborhood. Mr. Wright expressed his concern that the proposed septic system meets all health requirements and codes.

Mr. Denner explained that the proposed septic system uses modern, pre-treatment technology that cleans the effluent before it is dispersed to the ground through the leach field. The proposed system, approved by the State of New Hampshire, is a step above more standard technologies and creates a very clean effluent.

Mr. Fullerton stated his opinion that the technology used in the proposed system is more environmentally sound than standard septic system designs.

Mr. Clifford asked if the proposed septic system would minimize contamination of the nearby Little River watershed area.

Mr. Denner stated that the pre-treatment technology to be used in the proposed septic system has proven to enhance the water quality in other locations throughout the State of New Hampshire.

Abutter Brian Holtham addressed the Board. Mr. Holtham stated that he was the owner of the southerly abutting property. The proposed raised leach field mound structure will be located immediately next to the property line that his property shares with the 9 River Road property. Mr. Holtham stated his opinion that the raised leach field mound would be unsightly and will lower his property value and property values of other lots in the neighborhood.

Mr. Holtham also stated his opinion as a professional engineer that there may be other high tech options for the proposed septic system design that may eliminate the need for a mound or enable

re-locating the septic system away from the road and his lot. He suggested that the plan be re-evaluated to see if other options are available for the septic system design.

Mr. Denner stated that, due to the high water table in the neighborhood, there is no location on the property or septic system design that would eliminate the need for a raised leach field contained within a mound.

Ms. Reid noted that she observed two or three other properties in the River Road neighborhood which have raised leach fields contained within a mound.

Ms. Reid closed the public hearing at 7:31pm.

Mr. Fullerton stated that the proposed pre-treatment and dual settling tank septic system design is a great improvement upon the older septic system to create as clean an effluent as possible prior to infiltration into the ground.

Mr. Janos suggested that the applicant consider some sort of screening method to disguise the features of the septic system so close to the road.

Mr. Miller stated that the present conditions associated with the failed septic system must be corrected. The applicant's plan is the best location and design option based on the local and state requirements and the constricted space available on the property.

Ms. Reid stated that she recognizes that the proposed mound is not aesthetically pleasing. However, the features associated with the proposed septic system are necessary due to the conditions of the environment in the River Road neighborhood. Also, since the proposed expansion from three to four bedrooms does not increase the land area needed for the septic system, she is in favor of granting the variance.

Mr. Fullerton moved that the Zoning Board of Adjustment grant a variance from Town of North Hampton Zoning Ordinance Section 203.1 Yard and Lot Requirements to allow placement of a septic system with a raised leach field within the front and side yard lot line structure setbacks as represented in the application presented to the Board. Second by Mr. Clifford. The vote was unanimous in favor of the motion (5-0).

III. Other Business.

Ms. Reid suggested that Board consider reviewing the type of information to be included with an application submittal at a future meeting.

Mr. Janos moved to adjourn the meeting at 7:49pm. Second by Mr. Fullerton. The vote was unanimous in favor of the motion (5-0).

Respectfully submitted,

Rick Milner, Recording Secretary