



Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, January 23, 2024 at 6:30pm
Town Hall, 231 Atlantic Avenue

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: Bill Clifford, Vice Chair; Members Larry Miller, Mark Janos, and Phelps Fullerton; Alternate Member Jonathan Howe; and Recording Secretary Rick Milner.

I. Preliminary Matters.

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

Mr. Howe seated for Ms. Reid.

Mr. Clifford presented the minutes of the September 26, 2023 meeting.

Mr. Miller moved that the ZBA accept the minutes of the September 26, 2023 meeting as written.

Second by Mr. Janos. The vote was 2-0-3 in favor of the motion with Mr. Clifford, Mr. Janos, and Mr. Fullerton abstaining.

II. New Business.

1. Case #24:01 – Applicant: Nichols Environmental, LLC, 102 Chester Road, Fremont, NH 03044. The Applicant requests a variance from Section 203.1 Yard and Lot Requirements of the Town of North Hampton Zoning Ordinance to allow placement of a septic system with a raised leach field within the rear and side yard lot line structure setbacks. Property Owners: Christine Neville and Gary McEntee, Trustees, Neville-McEntee Family Revocable Living Trust, 5 Alden Avenue, North Hampton, NH 03862; Property Location: 5 Alden Avenue, North Hampton, NH 03862; M/L: 007-134-000; Zoning District: R-1 High Density District.

In attendance for this application:

Christine Neville and Gary McEntee, property owners; Joseph Nichols, septic system designer.

All potential witnesses sworn in.

Mr. Nichols addressed the Board. Mr. Nichols presented a septic system design plan for the non-conforming, 0.36 acre property at 5 Alden Avenue. The proposed plan included the following items:

- a. a septic system rated for a three bedroom home with one tank, one pump, and a raised leach field contained within a mound that rises two feet above the current grade of the land at the rear northeasterly corner of the property,
- b. property lot lines, property topography, and wetlands area in the vicinity of the property,
- c. location of existing home with deck and concrete slab extensions off the back of the home,
- d. location of homes on abutting properties to the north and east,

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- e. existing water and electrical utility lines, driveway, trees, and boulder on the property, and
- f. structure lot line setbacks and structure wetlands setbacks.

Mr. Nichols stated that the applicant is requesting approval of a variance for installation of the raised leach field mound structure approximately 10 feet from the easterly rear lot line and 20 feet from northerly side lot line where structure setback distances of 25 feet are 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. The location and design for the proposed septic system meets State of New Hampshire regulations and has been approved by the State of New Hampshire Department of Environmental Services (NHDES). Per NHDES regulations, the high water table in the area requires the installation of a raised leach field to allow enough space to adequately treat the wastewater effluent before it is dispersed into the groundwater. The proposed septic system location meets wetlands setback regulations.

Mr. Nichols further stated that the proposed raised system will be placed in the same location as the current failed system. Placing the proposed septic system in this location at the rear of the property will allow the natural flow of water run-off toward the northeasterly wetlands to remain unchanged and provide a less obtrusive visual presentation by better blending into the natural contours of the land. Placement of the proposed septic system at other locations on the property are inhibited by:

- a. existing water and electrical utility lines,
- b. existing trees and boulder, and
- c. existing home deck and concrete slab extensions.

Also, placement of the raised septic system in another location on the property would change the natural flow of the water run-off on the property.

Mr. Nichols 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 an existing older, failed septic system will be replaced by a modern system that will adhere to current treatment standards and provide a cleaner effluent that is dispersed into the groundwater.
- b. The spirit of the ordinance is observed in that an appropriate separation distance to the seasonal high water table will be achieved by the new septic system design.
- c. Substantial justice is done in that surrounding properties, area groundwater, and the surrounding environment will be better protected by installation of a modern septic system.
- d. The values of the surrounding properties are not diminished in that the rear corner location of the proposed raised septic system will not change the visual impact on the neighborhood.
- e. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship in that an existing residential use would not be allowed to continue. The size and conditions of the older property do not allow for conformance to the town's zoning ordinance.

Mr. Clifford asked if there were any public comments.

Abutter Michael Saal addressed the Board. Mr. Saal stated that he lived at the property on Hampshire Road to the east of the subject property. Mr. Saal explained that there are current adverse water flow conditions which create flooding on his property. He stated his concern that the proposed raised septic system close to the back of his property would create a larger flooding issue on his property.

Mr. Nichols stated that the existing natural contours of the land in the area currently directs water run-off towards the wetlands at the rear of Mr. Saal's and the subject property. The installation of the

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proposed raised septic system will not increase the amount of water flowing in the current direction or change the direction of the water flow. Placement of the proposed septic system at other locations on the subject property would most likely direct water run-off toward the roadways.

Mr. Miller asked Mr. Nichols to explain the history of the old, failed septic system and how the new system would improve the quality of the effluent being dispersed into the groundwater.

Mr. Nichols explained how the failed 1967 septic system most likely provided no effluent treatment during high water events. The new enviro-septic septic design which will be raised the appropriate distance above the high water table will provide much enhanced wastewater treatment prior to dispersal of the effluent into the groundwater.

Mr. Howe asked Mr. Nichols to confirm that the proposed raised septic system will not increase the amount of water flowing in the current direction or change the direction of the water flow.

Mr. Nichols confirmed that the proposed raised septic system will not increase the amount of water flowing in the current direction or change the direction of the water flow.

Mr. Clifford asked Mr. Nichols to confirm that placement of the proposed septic system at other locations on the property are inhibited by the existing natural conditions on the property.

Mr. Nichols confirmed that placement of the proposed septic system at other locations on the property are inhibited by the existing natural conditions on the property.

Mr. Clifford closed the public hearing at 6:57pm.

Mr. Fullerton stated that, based on his experience, the proposed enviro-septic system design works well. The proposed grading and location of the new septic system appear to address any visual aesthetics and water flow concerns. The proposed enhanced treatment of wastewater effluent is a benefit to the public health and welfare.

Mr. Miller stated that, given the neighborhood's age and space limitations, the applicant's proposal is the best option to enhance wastewater treatment in the area.

Mr. Janos stated that the applicant's proposal was the best option to correct a failed septic system and retain the pre-existing residential use on the property.

Mr. Janos 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 rear and side yard lot line structure setbacks as represented in the application and plans presented to the Board. Second by Mr. Fullerton. The vote was unanimous in favor of the motion (5-0).

Mr. Janos moved to adjourn the meeting at 7:01pm. Second by Mr. Fullerton. The vote was unanimous in favor of the motion (5-0).

Respectfully submitted,
Rick Milner, Recording Secretary