

Town of Jackson, NH

Zoning Board of Adjustment

Notice of Decision

Meeting Date: June 9, 2021

Case 2021-02: Application for a Variance to allow construction of a new three-bedroom residential structure. The proposed work is located on Sugar Hill Lane, on the property owned by William and Francis O'Shea (The Applicant). The property is shown on Map V-4, Lot 8 of the Town of Jackson Zoning Map.

Five of the five members of the Board were in attendance.

Background

- 1) The Applicant is the owner of the above-referenced parcel.
- 2) The Applicant wishes to construct a new three-bedroom structure on the site. Floor plans for the residence are currently not available.
- 3) The lot was previously permitted for a septic system for a three-bedroom residence, the permit having since expired. The plan re-submitted was denied by the Town due to recent changes to septic requirements regarding the quantity of bedrooms allowed per lot size.

Submittals in Record

- 1) Site plan showing the proposed septic system; denying the building permit based on non-conformance to the current Jackson Zoning Ordinance, Section 6.1.5 and 6.1.7 lot size in relation to the proposed number of bedrooms and septic system capabilities of the site, per Town Code.
- 2) Filing from the Applicant, requesting a variance to the above Sections.
- 3) A list of abutters.

Public Testimony

- 1) The Applicant's representative described the reason for the variance request: citing that the code requirements had changed from the time that the septic system permit had originally been issued. The current provisions of the Code will allow not more than a two-bedroom residence.
- 2) Since the septic permit was granted prior to the adoption of the new regulations, and the proposed design is in accordance with current State of New Hampshire NHDES regulations, the applicant is requesting this variance.

Findings

- 1) The Board finds that the grant of the variance would not be contrary to the Public Interest - given that the proposed building meets the former permitted standard.
Voted: 4-0 in favor.

- 2) The Board finds that the Spirit of Ordinance would be observed.
Voted: 3-0 in favor.
- 3) The Board finds that the benefit to the applicant in constructing the new structure would constitute Substantial Justice and would not be outweighed by any harm to the general public or other individuals.
Voted: 5-0 in favor.
- 4) The Board finds that the new construction will not diminish the value of surrounding properties.
Voted: 5-0 in favor
- 5) The Board finds that literal enforcement of the current zoning ordinance in this case would result in an unnecessary hardship, given that the property was originally purchased and the septic system permitted with the intent to build a three bedroom home. The specific application of the Ordinance in this case does not have a fair and substantial relationship between the purpose of the Ordinance and its specific application to this property.
Voted: 5-0 in favor.

Decision

Given the findings cited above, by a vote of 4-0 in favor, the Board of Adjustment grants the requested variance.

This decision may, for 30 days, be subject to a motion for a re-hearing from any party of interest or the Selectmen. It should not be considered final until lapse of that period.

Copies of this decision will be provided to the Applicant, the Planning Board, Board of Selectmen, Town Clerk, Assessor, and Building Inspector. Pursuant to 674:33-I-a, this variance shall be invalid if not exercised within 2 years of the date of final approval.

ZBA Members in Attendance

Frank Benesh,
Huntley Allen
Dave Matesky
Dave Mason
James B. Gleason, Chair