

Sullivan Zoning Board of Adjustment
Minutes of Public Hearing
11/17/22

Present:

Board Members: Richard Hotchkiss (Chair), Stephen Parker, Roger Sweet, Bob Switzer, BJ Wahl (Clerk)

Absent: Laura Lewandowski

Public: Kimberly and Nils Ahlberg (Applicants), Ann Sweet, Milton Trimitsis, Wendy Pelletier, Darrell and Cheryl Arlen, Paul Bolduc

- The meeting was called to order at 7:22 pm.
- The applicants seek a variance to build a septic system 75 feet from from a wetland rather than the Town required 100 feet. Kim stated that the lot was approved in 1987 by the Town and the State and became noncompliant in 2004, when the Town adopted the Wetland Conservation District Ordinance. Kim read from the Community Planning Ordinance to say that the lot was grandfathered in, but Rick said that Article IV paragraph E only applied to the lot width and area.
- Kim expressed concern that when she spoke to Rick on Sept.29th, Rick had said that there was no way the Town or Board would approve this variance and that the Board rarely approved any variance. Kim was very upset by Rick's tone and attitude.
- Rick apologized and said that the Board is reluctant to approve variances and that not many have been granted.
- Roger asked about the size of the pond and the ditches. The pond was described as being very small and the ditch has never been seen to have water in it, but that the spillway did after a heavy rainstorm. The proposed well is in a dry area in the back of the lot. Bob asked if the back of the lot is at a higher elevation, which it is.
- Rick asked about the pond overflow spillway. Kim replied that it was dry all summer except after rainstorms. The pond is usually a foot or so below its overflow point.
- Rick asked about the size of the trench. It is just a little one foot swale rather than a trench. Rick felt that the swale and spillway might not actually be considered wetlands.
- Bob asked about why the septic designer thought the trench was a wetland. If it's not, then the septic system could be slid over a bit to meet the 100 foot requirement.
- Rick reiterated the definition of a wetlands as having wetland plants, hydric soil, and standing water for at least 2 weeks a year.
- Rick asked if the borders of the property had been walked. Kim replied that she had walked it and knew where all of the pins were. Kim also stated that the pins were flagged.
- Rick asked why the septic system was put where it is. Kim replied that it was because of the house location, which is necessary because other areas have too much stone, and because the soil was not good elsewhere.
- Roger thought that the system could perhaps be moved 30 feet to be in compliance, but the soils are not good elsewhere. The applicants had discussed other locations with the septic designer and test pits were dug.
- Wendy asked why 4 unlicensed people were questioning the septic designer's knowledge and experience? He is licensed to do this work, the Board is not.
- Stephen asked why the Town adopted the 100 foot requirement in 2004. Rick explained that the State advised towns to increase the 75 foot distance and to create wetlands conservation ordinances. Many towns did so. The Sullivan Planning Board

and Conservation Commission recommended this change and it was voted on by the Town and approved by the voters.

- Roger said that he was sorry that this application had gotten so adversarial.
- Darrell Arlen said that he supported the applicants. He has walked the property and it seems ok to be built on.
- Bob asked the elevation difference from the pond to the septic system. It is about 5 feet.
- Hugh Carroll, an abutter, sent a text to Rick which reads as follows:

Text Message
Received 15/November/2022

Hello Richard,
My name is Hugh Carroll at 142 Centre St. I received the notice for a hearing concerning the septic for map 6 lot 22 sub lot 1. I'm abutting the property. I can not make the meeting due to work. I don't approve of this variance due to the wetlands. Can my voice be heard without attending? If not is there any means for my opinion to be considered?
Thanks for your help in this matter.
Regards,
Hugh

- Rick wondered if a licensed wetlands scientist should look at the land to determine if wetlands actually exist. Wendy wondered if we'd then have to ask for a third opinion to break any tie?
- Nils said that he really needed to construct on this lot and would put in a propane toilet if necessary. They need a place to live this winter.
- Bob said that he thought the variance should be granted as the pond is uphill from the septic system. Stephen concurred.
- Rick stated that the septic designer had not put any dimensions from the benchmarks or the property lines. Rick would like to see those. Each corner of the septic system should have lines from the benchmarks.
- Rick described the Enviro Septic system design. Wendy observed that this system is not approved for this town.
- Rick said that the shed and well need to be moved to allow for a 50 foot buffer from the pond, overflow area, and swale. Kim is willing to move the shed. Wendy stated that it is not in the ZBA's purview to require this.
- Rick explained that if this variance is approved, it would be with conditions. Rick handed out the Variance Criteria Guidelines.
- Rick made a motion that the Board give conditional approval to the 75 foot variance for the septic system, but maintain the 50 feet for the structures. Roger seconded it.
- The Board voted on the 5 Variance Criteria Guidelines.
 - #1 - all 4 agreed
 - #2 - Rick disagreed, other 3 agreed
 - #3 - all 4 agreed
 - #4 - all 4 agreed
 - #5 - because of the specific characteristics of the property, the variance should be granted - all 4 agreed
- Roger said that granting this variance should not imply that other variances would be granted. It should not set precedence.
- Rick suggested the following conditions for approval:
 - That a new plat from the septic designer be required which shows distances from the benchmarks to the corners of the leach field and the new location of the shed

- That the Ahlbergs enter into an agreement with the Select Board that the shed be moved to be in compliance
- That the well's protective radius be within the boundaries of the property.
- On a motion from Rick, seconded by Stephen, the meeting was adjourned at 8:19 pm.

Respectfully submitted,
BJ Wahl, Clerk