Town of Sullivan
Zoning Board of Adjustment
Public Hearing for Huddleston Variances
April 10, 2025, 7:00 pm

Present: Aimee Fador, Laura Lewandowski, Stephen Parker, Brad Smith, Bob Switzer, BJ Wahl, Clerk, Gary Kinyon, Counsel
Public: Kevin Bohannon, Bruce Bohannon, Dave Jakway, Selectman, Jonathan Boutin, counsel for the applicant and Cynthia Theriaut, engineer for applicant's driveway

- The meeting was called to order at 7:01 pm as a continuation of the public hearing held on March 6, 2025.
- On a motion from Brad, seconded by Stephen, Bob was nominated to continue as Chair for another year. All aye.
- On a motion from Brad, seconded by Stephen, the minutes of the last meeting were accepted. All aye.
- Mr. Boutin introduced the engineer, Cynthia Theriaut, who used a map to explain the layout of the proposed driveway to the Huddleston property. She used old maps, tax maps, and the GIS system to lay out the driveway along the curved section of the upper road, where the grade is about 15% and follows the old Cannon Road. Kevin Bohannon said he thought it would cost half a million dollars to put a driveway in there, with clear cutting involved, and that he is concerned about water runoff onto the section he uses. The engineer said that that was something she would address, and that also it was under the purview of the Planning Board, not the ZBA.
- Dave Jakway asked if Mr. Huddleston has or will get a DOT driveway permit, like Kevin had to do. He feels that Mr. Huddleston will have to get his own permit. He is also concerned about a subdivision being built. Mr. Boutin reiterated that only a single family second home will be built on the property and that the easement did not apply to a subdivision. Dave says he is not sure you can get two permits for the same area and that this needs to be addressed. Mr. Boutin replied that the DOT permit is not in the purview of the ZBA.
- Kevin Bohannon asked how Mr. Huddleston could get a driveway on a landlocked piece of land that crosses Ayotte's property. Bob replied that they have a court granted easement. Bob also said that the stone wall is Kevin's property line so that the old road and proposed driveway is not on his land. His property line is not the centerline of the old Cannon Road.
- Brad asked about what would need to be done to create the new driveway. The engineer explained that a pull off would be built for emergency vehicles as the length is greater than 300 feet, and that it would be widened to approximately 15-25 feet, with 15 feet vertical clearance, which is what Al Henry, the fire chief, requested. There is a stone wall on the south side of the old road so the road would be expanded northwards. Mr. Boutin said that if his client gets the variances he may or may not build the driveway, depending on the cost to do so. He also feels that it is not in the purview of the ZBA, but Brad said that the driveway may impact our judgment on the 5 criteria that have to be voted on.

- Gary Kinyon asked about the black areas on the driveway drawing. Cynthia explained that that was where it needed to be widened within the easement corridor. Kevin asked about the grade of the road as the deputy fire chief Mike Blanchard thought it was too steep, but that was for the straight section and not the curved section that will be used. BJ asked if fire trucks can go up a 15% grade and Mr. Boutin replied that Al Henry is comfortable with that.
- Dave asked about plowing during the winter, so that emergency vehicles would have access. Mr. Boutin is not sure but suspects that it would be plowed in winter. It would be whatever the Planning Board wants.
- Mr. Boutin commented about the State statute 674:41 and didn't think it would apply to the ZBA's decision. Bob mentioned 674:41,II which allows for a driveway appeal to the ZBA, but it was agreed that it doesn't apply here.
- Mr. Boutin reiterated that the lot was there before the town's adoption of the 200 foot frontage zoning requirement, and that the easement is adequate to use for access. He touched again on the 5 criteria and thought that they should all be approved.
- Kevin asked how could this lot be built on when the Ayotte's lot could not. Bob explained that on 9/15/2008 the ZBA granted a variance for 200 feet of frontage which allows them to build on their lot. The Ayotte property does have a small road frontage on Centre Street, although less than 200 feet, hence the variance that was granted.
- As for the appeal on the driveway denial, Mr. Boutin understands that the application was never accepted by the Planning Board and so the ZBA doesn't have to deal with that request.
- Dave reiterated that a new DOT permit will be necessary if the driveway enters onto a public state road. Kevin wants to know about the driveway apron cost, and feels that the culvert that is in place will not support large trucks and will break. This is in the Planning Board's jurisdiction, not the ZBA's.
- Bob moved to close the public hearing, seconded by Stephen. All aye.
- Gary reminded the Board that it needs to deliberate loud enough for the public to hear.
- On the first requested variance, direct access onto a Class V or better road, the Board went through the 5 criteria:
    - Will denial of the variance cause unnecessary hardship? Aimee asked if Mr. Huddleston knew the property was landlocked when he bought it in 2023. He did. Brad thinks that if he knew it was not buildable then a denial is not an unnecessary hardship. Aimee concurs. A motion was made by Aimee, seconded by Stephen, that it will not cause an unnecessary hardship. All aye.
    - Will there be no decrease in surrounding property values if the variance is granted? Bob agreed that this would be true. Brad said that as long as the driveway does not cause flooding or damage than it would not. On a motion by Brad, seconded by Stephen, it was voted that it would not decrease property values. All aye.
    - Will the granting of the variance benefit the public interest? Bob thinks that it would. Aimee thinks that it goes against the public interest because it violates the town's Master Plan. Brad thinks that it is not in the spirit of the ordinance, but it would not alter the character of the neighborhood unless the driveway causes problems. Bob moved, seconded by Stephen, that granting the variance would benefit the public interest. All aye.

- Is the proposed variance in the spirit and intent of the Community Planning Ordinance? The Master Plan clearly states that the town wishes to maintain the rural character of the town and does that by requiring 200 feet of road frontage on a Class V road or better. Brad is guided by that, as is Aimee. Stephen also feels that it is not in the spirit of the ordinance. Laura agreed. Aimee moved, seconded by Stephen, that the variance is not in the spirit of the ordinance. All aye.
- Will substantial justice be done by granting the variance? Will the loss to the individual be outweighed by the gain to the general public? Bob thinks that substantial justice would be done by granting the variance. Brad said that Mr. Huddleston knew that the lot was not buildable when he purchased it. The Board feels that it needs legal clarification so Bob moved to return to a public meeting for a legal consultation, seconded by Stephen. All aye.
  - Brad asked Gary about the substantial justice aspect. Brad wondered if the Board should look at justice for the applicant or the town. Gary thinks that if the variance is granted, then the variance does substantial justice for the applicant, and is not outweighed by an injustice to the town. Mr. Boutin said there is no gain to the public if it is denied. He is concerned that no variance would ever be granted by a zoning board if we use the argument that Mr. Huddleston knew the property was landlocked, a self created hardship. Gary agreed to a point. This was called “coming to a hardship” in the past and was a strong argument to deny. The Supreme Court now says you can’t rely on that as an exclusive reason to deny a variance, but it is a factor to consider.
  - Bob made a motion, seconded by Aimee, to again close the public meeting. All aye.
  - Aimee says that does not change her opinion, especially since this is a seasonal home. Bob said that he doesn’t think it being a second home should be considered. He thinks that this would not do an injustice to the town. Brad thought it is not justice to go against the Master Plan. The Board agreed it is a balancing act, and that there is some injustice to the town if the Board goes against the ordinance. Bob thinks that it is more an injustice to the applicant if it is denied. Brad and Stephen wondered how granting the variance would impact the neighbors. There would be cars and trucks using the driveway. Kevin would be impacted. Laura agreed with Stephen. He also wondered about setting a precedent but Bob explained that all lots are unique and it legally does not set a precedent. Stephen feels uncomfortable granting the variance and thinks that Kevin’s concerns are legitimate. Aimee can see both sides of this. Brad still feels that it is germane that the town thinks that back lots should not be buildable, so that this is an injustice to the town. Brad made a motion, seconded by Stephen, that substantial justice would not be done by granting the variance. All aye.
  - So for granting a variance on access to a Class V road or better, 3 out of the 5 criteria were denied. Bob made a motion, seconded by Brad, that the variance of access of a Class V or better road be denied. All aye.
- On the second requested variance, that the property have 200 feet of road frontage, the Board again went through the 5 criteria:
  - Will denial of the variance cause unnecessary hardship? Brad said it would not. The applicant has no road frontage at all. Being landlocked does make it different

than surrounding properties, but the town does not want backlots developed. Aimee moved that it would not be an unnecessary hardship if the variance were denied, seconded by Stephen. All aye.

- Will there be no decrease in surrounding property values if the variance is granted? The Board agreed that no decrease would result. Brad moved, seconded by Aimee, that granting the variance would not diminish the value of surrounding properties. All aye.
- Will the granting of the variance benefit the public interest? Does it alter the character of the neighborhood? Brad thinks that public health and safety would not be an issue. It would alter the essential character of the neighborhood to a degree. But again, this property has no frontage at all. However it won't cause any congestion. On a motion by Aimee, seconded by Brad, that granting the variance would not be contrary to the public interest, there were 4 aye votes and one abstention.
- Is the proposed variance in the spirit and intent of the community ordinance? There is the back country situation. There will be no overcrowding however, in terms of the road frontage. Brad thinks that the ordinance was written to protect backlots from development to preserve the values and rural character of the town, and that granting this variance will be inconsistent with the goals of the Master Plan. Aimee and Stephen think that also. Bob moved, seconded by Aimee, that the variance is not then in the spirit and intent of the ordinance. All aye.
- Will substantial justice be done by granting the variance? But it is not in keeping with the Master Plan and ordinances, with zero road frontage. Brad moved, seconded by Aimee, that substantial justice is not done by granting the variance. There were 4 aye votes and one abstention.
- So for 3 of the 5 criteria, the Board voted against the variance. Bob moved, seconded by Aimee, to deny the 200 foot road frontage variance.

- Bob moved, seconded by Stephen, to adjourn the meeting. All aye. The meeting was adjourned at 8:38 pm.

Submitted by BJ Wahl, Clerk